



1901 - Environmental Protection Agency Acquisition Regulation Manual (EPAAR)

1990 Edition

ENVIRONMENTAL PROTECTION AGENCY ACQUISITION REGULATION (EPAAR)

Loose-Leaf EPAAR

November 1990 Edition

This edition contains:

The 1984 loose-leaf edition of the EPAAR and changes 1 through 3.

Amendment published in 55 FR 18340, May 2, 1990

Amendment published in 55 FR 24678, June 18, 1990

Amendment published in 55 FR 38806, September 21, 1990

Amendment published in 55 FR 39622, September 28, 1990

Amendment published in 55 FR 48624, November 21, 1990

ENVIRONMENTAL PROTECTION AGENCY ACQUISITION REGULATION

SUBCHAPTER A--GENERAL

Part

- 1501 General
- 1502 Definition of words and terms
- 1503 Improper business practices and personal conflicts of interest
- 1504 Administrative matters

SUBCHAPTER B--ACQUISITION PLANNING

- 1505 Publicizing contract actions
- 1506 Competition requirements
- 1508 Required sources of supply
- 1509 Contractor qualifications
- 1510 Specifications, standards, and other purchase descriptions
- 1512 Contract delivery or performance

SUBCHAPTER C--CONTRACTING METHODS AND CONTRACT TYPES

- 1513 Small purchases and other simplified purchase procedures
- 1514 Sealed bidding
- 1515 Contracting by negotiation
- 1516 Types of contracts
- 1517 Special contracting methods

SUBCHAPTER D--SOCIOECONOMIC PROGRAMS

- 1519 Small business and small disadvantaged business concerns
- 1520 Labor surplus area concerns
- 1522 Application of labor laws to government acquisitions
- 1523 Environmental, conservation, and occupational safety
- 1524 Protection of privacy and freedom of information
- 1525 Foreign acquisition

SUBCHAPTER E--GENERAL CONTRACTING REQUIREMENTS

- 1527 Patents, data and copyrights
- 1528 Bonds and insurance
- 1529 Taxes
- 1530 Cost accounting standards
- 1531 Contract cost principles and procedures
- 1532 Contract financing
- 1533 Protests, disputes and appeals

Part

- 1534 Major system acquisition
- 1535 Research and development contracting
- 1536 Construction and architect-engineer contracts
- 1537 Service contracting

SUBCHAPTER G--CONTRACT MANAGEMENT

- 1542 Contract administration
- 1545 Government property
- 1546 Quality assurance
- 1548 Value engineering

SUBCHAPTER H--CLAUSES AND FORMS

- 1552 Solicitation provisions and contract clauses
- 1553 Forms

Appendix I

PART 1501--GENERAL**Sec.****1501.000** **Scope of part.****SUBPART 1501.1--PURPOSE, AUTHORITY, ISSUANCE**

1501.101 Purpose.
1501.103 Applicability.
1501.104 Issuance.
1501.104-1 Publication and code arrangement.
1501.104-2 Arrangement of regulations.
1501.104-3 Copies.

SUBPART 1501.3--AGENCY ACQUISITION REGULATIONS

1501.301 Policy.
1501.303 Codification and public participation.
1501.304 Agency control and compliance procedures.
1501.370 OMB control numbers.

SUBPART 1501.4--DEVIATIONS

1501.401 Definition.
1501.403 Individual deviations.
1501.404 Class deviations.

SUBPART 1501.6--CONTRACTING AUTHORITY AND RESPONSIBILITIES

1501.602-3 Ratification of unauthorized commitments.
1501.603 Selection, appointment, and termination of
 appointment.
1501.603-1 General.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1501.000 Scope of part.

The Federal Acquisition Regulation System brings together, in Title 48 of the Code of Federal Regulations, the acquisition regulations applicable to all executive agencies of the Government. This part establishes a system of Environmental Protection Agency (EPA) acquisition regulations, referred to as the EPAAR, for the codification and publication of policies and procedures of EPA which implement and supplement the Federal Acquisition Regulation (FAR).

SUBPART 1501.1--PURPOSE, AUTHORITY, ISSUANCE**1501.101 Purpose.**

(a) This subpart establishes Chapter 15, the Environmental Protection Agency Acquisition Regulation (EPAAR), within Title 48, the Federal Acquisition Regulations System.

(b) The purpose of the EPAAR is to implement the FAR where further implementation is needed and to supplement the FAR when coverage is needed for subject matter not covered in the FAR.

1501.103 Applicability.

The FAR and the EPAAR apply to all acquisitions as defined in Part 2 of the FAR, except where expressly excluded.

1501.104 Issuance.**1501.104-1 Publication and code arrangement.**

The EPAAR will be published in (1) the FEDERAL REGISTER, (2) cumulated form in the Code of Federal Regulations (CFR), and (3) a separate loose-leaf form in a distinctive light blue color.

1501.104-2 Arrangement of regulations.

(a) References and citations. This regulation may be referred to as the Environmental Protection Agency Acquisition Regulation or the EPAAR. References to EPAAR materials shall be made in a manner similar to that prescribed by FAR 1.104-2(c).

1501.104-3 Copies.

Copies of the EPAAR in FEDERAL REGISTER and CFR form may be purchased from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402. Copies of loose-leaf EPAAR are distributed within EPA and may be obtained from the EPA Facilities and Support Services Division.

SUBPART 1501.3--AGENCY ACQUISITION REGULATIONS**1501.301 Policy.**

The EPAAR is prescribed by the Director, Office of Administration.

1501.303 Codification and public Participation.

(a) The EPAAR is codified as Chapter 15 in Title 48, Code of Federal Regulations.

(b) Public participation in promulgation of the EPAAR shall be in the same manner as specified for the FAR in FAR 1.501. Where solicitation of public comment on significant EPAAR revisions is impractical prior to promulgation, the revisions may be set forth in temporary regulations. Comments will be solicited on the temporary regulations and considered prior to formulating the final regulations.

1501.304 Agency control and compliance procedures.

(a) The Assistant General Counsel, Contracts and Information Law, and the Head of the Contracting Activity (HCA) shall review all EPAARs prior to promulgation to assure compliance with FAR Part 1.

(b) The EPA representative to the Civilian Agency Acquisition Council (CAA Council) will recommend to the chairperson of the CAA Council any EPA regulatory coverage that should be included in the FAR.

1501.370 OMB control numbers.

The information collection requirements contained in the EPAAR have been approved by the Office of Management and Budget (OMB) in accordance with Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq. The OMB clearance numbers are 2030-0005, 2030-0006, and 2030-0007.

SUBPART 1501.4--DEVIATIONS.**1501.401 Definition.**

A deviation to the EPAAR is defined in the same manner as a deviation to the FAR (see FAR 1.401).

1501.403 Individual deviations.

Requests for individual deviations from the FAR and the EPAAR shall be submitted to the Head of the Contracting Activity (HCA) for approval. Requests submitted shall cite the specific part of the FAR or EPAAR from which it is desired to deviate, shall set forth the nature of the

deviation(s), and shall give the reasons for the action requested. The HCA shall transmit copies of approved individual FAR deviations to the FAR Secretariat.

1501.404 Class deviations.

Requests for class deviations to the EPAAR shall be submitted in advance to the HCA for processing in accordance with FAR 1.404 and this section. Requests submitted shall include the same type of information as required for individual deviations as prescribed in 1501.403. The HCA may approve class deviations to the FAR and the EPAAR and shall transmit copies of approved class FAR deviations to the FAR Secretariat as required by FAR 1.404.

SUBPART 1501.6--CONTRACTING AUTHORITY AND RESPONSIBILITIES

1501.602-3 Ratification of unauthorized commitments.

(a) Definition. "Unauthorized commitment," as used in this subpart, means an agreement that is not binding solely because the Government representative who made it lacked the authority to enter into that agreement on behalf of the Government. The term does not relate to the Agency process for the reservation of funds.

(b) Applicability. The provisions of this section apply to all unauthorized commitments, whether oral or written and without regard to dollar value. Examples of unauthorized commitments are:

- (1) Ordering supplies or services by an individual without contracting authority;
- (2) Unauthorized direction of work through assignment of orders or tasks;
- (3) Unauthorized addition of new work;
- (4) Unauthorized direction of contractors to subcontract with particular firms; or
- (5) Any other unauthorized direction which changed the terms and conditions of the contract.

(c) Ratification approvals and concurrences.

(1) The Chief of the Contracting Office is the ratifying official, provided that he/she has redelegable contracting authority.

(2) For ratification actions which arise in regional offices or laboratory sites, the Chief of the Contracting Office to whom the activity functionally reports is the ratifying official, provided that he/she has redelegable

authority. The responsible Procurement and Contracts Management Division (PCMD) Associate Director is the ratifying official for actions which arise in regional or laboratory sites which do not functionally report to a Contracting Officer.

(3) All proposed ratification actions of \$250,000 or more for which the responsible PCMD Associate Director is not the ratifying official shall be forwarded for review to the responsible PCMD Associate Director prior to approval by the ratifying official.

(d) Procedures.

(1) The program office shall notify the cognizant contracting office by memorandum of the circumstances surrounding an authorized commitment. The notification shall include:

(i) All relevant documents and records;

(ii) Documentation of the necessity for the work and benefit derived by the Government;

(iii) A statement of the delivery status of the supplies or services associated with the unauthorized commitment;

(iv) A list of procurement sources solicited (if any) and the rationale for the source selected;

(v) If only one source was solicited, a justification for other than full and open competition (JOFOC) as required by FAR 6.302, FAR 6.303 and 1506.303, or for small purchases exceeding the competition threshold in FAR 13.106, a sole source justification as required by 1513.170;

(vi) A statement of steps taken or proposed to prevent reoccurrence of any unauthorized commitment.

(2) The Division Director (or equivalent) of the responsible office shall approve the memorandum. If expenditure of funds is involved, the program office shall include a Procurement Request/Order, EPA Form 1900-8, with funding sufficient to cover the action. The appropriation data cited on the 1900-8 shall be valid for the period in which the unauthorized commitment was made.

(3) Upon receiving the notification, the Contracting Officer shall prepare a determination and findings regarding ratification of the unauthorized commitment for the ratifying official. The determination and findings shall include sufficient detail to support the recommended action. If ratification of the unauthorized commitment is recommended, the determination and findings shall include a determination that the price is fair and reasonable. To document the

determination, additional information may be required from the Contractor. Concurrence by the Office of General Counsel is not mandatory, but shall be sought in difficult or unusual cases.

(4) The ratifying official may inform the Inspector General (IG) of the action by memorandum through the Head of the Contracting Activity (HCA). For ratification actions exceeding the small purchase limitation, the ratifying official shall submit a memorandum to the Assistant Administrator for Administration and Resources Management through the HCA for transmittal to the Associate or Regional Administrator (or equivalent level) of the person responsible for the unauthorized commitment. This memorandum should contain a brief description of the circumstances surrounding the unauthorized commitment, recommend corrective action, and include a copy of any memorandum sent to the IG. Submission of a memorandum to the appropriate Assistant, Associate, or Regional Administrator for unauthorized commitments at or below the small purchase limitation is optional and may be accomplished at the discretion of the ratifying official.

(e) Paid Advertisements.

(1) EPA is generally not authorized to ratify improperly ordered paid advertisements. The ratifying official, however, may determine payment is proper subject to the limitations in FAR 1.602-3(c) if the individual responsible for the unauthorized commitment acted in good faith to comply with Agency acquisition policies and procedures.

(2) The paying office shall forward invoice claims received in its office for improper paid advertisements to the cognizant ratifying official for a determination regarding ratification of the action.

(3) If the ratifying official determines that an unauthorized commitment cannot be ratified by the Agency, the ratifying official shall instruct the submitter to present its claim to the General Accounting Office in accordance with the instructions contained in 4 CFR part 31, Claims against the United States, General Procedures.

(f) Payment of Properly Ratified Claims. After the unauthorized commitment is ratified, the contractor must submit an invoice (or resubmit an invoice if one was previously submitted) citing the appropriate contract or purchase order number.

1501.603 Selection, appointment, and termination of appointment.

1501.603-1 General.

EPA Contracting Officers shall be selected and appointed

and their appointments terminated in accordance with the Contracting Officer warrant program specified in Chapter 8 of the EPA "Contracts Management Manual."

PART 1502--DEFINITION OF WORDS AND TERMS

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1502.1--Definitions.

Chief of the Contracting Office means the Branch Chief(s) at the Headquarters Procurement Operations and the Directors of the Contracts Management Divisions at Research Triangle Park and Cincinnati.

Head of the Contracting Activity (HCA) means the Director, Procurement and Contracts Management Division.

Legal counsel means those attorneys assigned to the Contracts and Information Law Branch, Office of the General Counsel and designated by the Assistant General Counsel as contract law specialists.

Procurement Executive means the Director, Procurement and Contracts Management Division.

Responsible Associate Director (RAD) means the individual within the Procurement and Contracts Management Division with the title of Associate Director, delegated responsibility for the contract action, and reporting directly to the Director, Procurement and Contracts Management section.

**PART 1503--IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS
OF INTEREST**

Sec.

1503.000 Scope of part.

SUBPART 1503.1--SAFEGUARDS

1503.101 Standards of conduct.
1503.101-3 Agency regulations.
1503.103 Independent pricing.
1503.103-2 Evaluating the certification.

SUBPART 1503.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL

1503.203 Reporting suspected violations of the
gratuities clause.

SUBPART 1503.3--REPORTS OF SUSPECTED ANTITRUST VIOLATIONS

1503.301 General.

SUBPART 1503.4--CONTINGENT FEES

1503.408 Evaluation of the SF 119.
1503.408-1 Responsibilities.
1503.409 Misrepresentations or violations of the
Covenant Against Contingent Fees.

SUBPART 1503.5--OTHER IMPROPER BUSINESS PRACTICES

1503.502 Subcontractor kickbacks.

**SUBPART 1503.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR
ORGANIZATIONS OWNED OR CONTROLLED BY THEM**

1503.600-70 Scope of subpart.
1503.600-71 Definitions.
1503.601 Policy.
1503.602 Exceptions.
1503.603 Responsibilities of the Contracting Officer.
1503.670 Solicitation disclosure provision.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1503.000 Scope of part.

This Part implements FAR Part 3, cites EPA regulations on employee responsibilities and conduct, establishes responsibility for reporting violations and related actions, and provides for authorization of exceptions to policy.

SUBPART 1503.1--SAFEGUARDS**1503.101 Standards of conduct.****1503.101-3 Agency regulations.**

EPA regulations on Employee Responsibilities and Conduct are contained in 40 CFR Part 3. All personnel involved in acquisition actions shall become familiar with the statutory and regulatory prohibitions. Any problems or questions concerning 40 CFR Part 3 shall be referred to the appropriate Deputy Ethics Official pursuant to 40 CFR Part 3, Subpart B.

1503.103 Independent pricing.**1503.103-2 Evaluating the certification.**

Whenever an offer is rejected under FAR 3.103-2 or the Certificate of Independent Price Determination is suspected of being false, the Contracting Officer shall report the situation to the Inspector General through the Head of the Contracting Activity for referral to the Attorney General in accordance with FAR 3.303.

SUBPART 1503.2--CONTRACTOR GRATUITIES TO GOVERNMENT PERSONNEL**1503.203 Reporting suspected violations of the Gratuities clause.**

EPA personnel, particularly Contracting Officers, shall promptly report, by memorandum, suspected violations of the Gratuities clause in solicitations or contracts to the Inspector General through the Head of the Contracting Activity.

SUBPART 1503.3--REPORTS OF SUSPECTED ANTITRUST VIOLATIONS**1503.301 General.**

The Contracting Officer shall report any suspected violations of antitrust laws to the Inspector General through the Responsible Associate Director (RAD) for referral to the Attorney General in accordance with FAR Subpart 3.3.

SUBPART 1503.4--CONTINGENT FEES**1503.408 Evaluation of the SF 119.****1503.408-1 Responsibilities.**

The Contracting Officer's documentation of the evaluation of the Standard Form 119, Statement of Contingent or Other Fees, conclusions, and any proposed actions shall be reviewed by the RAD in coordination with legal counsel.

1503.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

EPA personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentations, or violations of the Covenant Against Contingent Fees shall report the matter promptly to the Inspector General through the RAD.

SUBPART 1503.5--OTHER IMPROPER BUSINESS PRACTICES**1503.502 Subcontractor kickbacks.**

The Contracting Officer shall report suspected violations of the Anti-Kickback Act to the Inspector General through the RAD.

SUBPART 1503.6--CONTRACTS WITH GOVERNMENT EMPLOYEES OR ORGANIZATIONS OWNED OR CONTROLLED BY THEM**1503.600-70 Scope of subpart.**

This subpart implements and supplements FAR Subpart 3.6 and sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of Government.

1503.600-71 Definitions.

(a) "Regular employee" means any officer or employee of EPA who is employed or appointed, with or without compensation, to serve more than 130 days during any period of 365 consecutive days, including regular officers of the Public Health Service Commissioned Corps and reserve officers of the Public Health Service Commissioned Corps while on active duty.

(b) "Special employee" means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis for not more than

130 days during any period of 365 consecutive days and who actually served more than 60 days during such 365-day period.

1503.601 Policy.

(a) No contract may be awarded without competition to a former regular or special EPA employee (or to a business concern or other organization owned or substantially owned or controlled by a former employee) whose employment terminated within 365 calendar days before submission of a proposal to EPA.

(b) No contract shall be awarded without competition to a firm which employs, or proposes to employ, a current regular or special EPA employee or a former EPA regular or special employee whose employment terminated within 365 calendar days before submission of a proposal to EPA, if either of the following conditions exist:

(1) The current or former EPA regular or special employee is or was involved in developing or negotiating the proposal for the prospective contractor.

(2) The current or former EPA regular or special employee will be involved directly or indirectly in the management, administration, or performance of the contract.

1503.602 Exceptions.

(a) The Assistant Administrator for Administration and Resources Management may authorize an exception, in writing, to the policy in FAR 3.601 and 1503.601 for the reasons stated in FAR 3.602, if the exception would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or EPA regulations at 40 CFR Part 3. The Assistant Administrator shall consult with the Designated Agency Ethics Official before authorizing any exceptions.

(b) This subpart does not apply to subcontracts, that is, agreements to undertake part of the work as an independent contractor. However, where subcontracts essentially create an "employer-employee" relationship, the subpart shall apply. In determining whether such a relationship exists, the Contracting Officer shall generally be guided by the standards of Chapter 304, Subchapter 1-4 of the "Federal Personnel Manual" in distinguishing between employees and independent contractors.

1503.603 Responsibilities of the Contracting Officer.

Before awarding a contract, the Contracting Officer shall obtain an authorization under 1503.602 for any of the reasons stated in FAR 3.603.

1503.670 Solicitation of disclosure provision.

The Contracting Officer shall insert the provision at 1552.203-70, Current/Former Agency Employee Involvement Certification, in all solicitations for sole source acquisitions.

PART 1504--ADMINISTRATIVE MATTERS

Subpart 1504.8--Contract Files

Sec.

1504.804 Closeout of contract files.

1504.804-5 Detailed procedures for closing out contract files.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1504.8--CONTRACT FILES

1504.804 Closeout of contract files.

1504.804-5 Detailed procedures for closing out contract files.

In addition to those procedures set forth in FAR 4.804-5, the contracting office shall, before final payment is made under a cost-reimbursement type contract, verify the allowability, allocability, and reasonableness of costs claimed. Verification of total costs incurred should be obtained from the Office of Audit through the cost advisory group at the contracting office in the form of a final audit report. Similar verification of actual costs shall be made for other contracts when cost incentives, price redeterminations, or cost-reimbursement elements are involved. Termination settlement proposals shall be submitted to the cost advisory group at the contracting office for review by the Office of Audit as prescribed by FAR 49.107. All such audits will be coordinated through the cost advisory group in the contracting office. Exceptions to these procedures are the quick close-out procedures as described in 1542.708 and Unit 2 of the EPA Acquisition Handbook.

PART 1505--PUBLICIZING CONTRACT ACTIONS

Sec.

1505.000 Scope of part.

Subpart 1505.2--Synopsis of Proposed Contract Actions

1505.202 Exceptions.
1505.203 Publicizing and response time.
1505.270 Use of synopses to perform market surveys.
1505.271 Publicizing orders under GSA Schedule
Contracts.

Subpart 1505.4--Release of Information

1505.401 General.
1505.405 Exchange of acquisition information.

Subpart 1505.5--Paid Advertisement

1505.502 Authority.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1505.000 Scope of part.

This part provides instructions on publicizing contract opportunities and response time, instructions on information to include in the synopses of proposed contracts, instructions on publicizing orders under GSA schedule contracts, policy references relative to release of information, and procedures for obtaining information on previous Government contracts.

SUBPART 1505.2--SYNOPSIS OF PROPOSED CONTRACT ACTIONS**1505.202 Exceptions**

(a) The Contracting Officer need not submit the notice required by FAR 5.201 when the Contracting Officer determines in writing that the contract is for the services of experts for use in preparing or prosecuting a civil or criminal action under the Superfund Amendments and Reauthorization Act of 1986.

(b) The Head of the Contracting Activity (HCA) is delegated the authority to make the written determination in FAR 5.202(b).

1505.203 Publicizing and response time.

The Contracting Officer may, at his/her discretion under certain circumstances, elect to transmit a synopsis to the Commerce Business Daily (CBD) of a proposed contract action that falls within an exception to the synopsis requirement in FAR 5.202(a). For those contract actions, the Contracting Officer may provide for a lesser time period than the 15 days required by FAR 5.203(a) and the 30 days required by FAR 5.203(b) or (c), and the 45 days required by FAR 5.203(d). The Contracting Officer must identify the basis for the lesser time periods for response in the synopsis.

(b) The authority for paragraph (a) does not extend to the synopsis of contract actions falling within the exception in FAR 5.202(a)(7), if to do so would disclose the originality of thought or innovativeness of the proposed research.

1505.270 Use of synopses to perform market surveys.

(a) Market surveys shall be used in justifying sole source acquisitions and acquisitions using other than full and open competitive procedures with a potential value in excess of \$25,000. The synopsis of such acquisition for supplies or services and subsequent evaluation of the responses by the Government constitutes an acceptable market survey.

(b) The synopsis of a proposed sole source acquisition and acquisitions using other than full and open competition of \$10,000 or more must contain sufficient detail to permit the Contracting Officer to perform an evaluation of the responses

to the synopsis. As a minimum, the synopsis shall include:

- (1) The information required by FAR 5.207;
- (2) A clear statement of supplies or services being acquired;
- (3) Required contractor capabilities, experience, and any other factors salient to the requirement; and
- (4) Criteria listed in relative order of importance to be used in the evaluation of responses. (Contracting Officers may include specific weights assigned to each criteria.)

(c) Contracting Officers are not required to perform market surveys to justify an other than full and open acquisition resulting from an unsolicited research proposal if to do so would disclose the originality of thought or innovativeness of the proposal.

1505.271 Publicizing orders under GSA Schedule Contracts.

(a) Contracting Officers are not required to synopsise orders placed under Federal Supply Schedules when following the procedures in FAR 8.404-2 and 8.405-1. Contracting Officers need synopsise orders under Automatic Data Processing and Teleprocessing Services Program schedules only if required by the Federal Information Resources Management Regulation.

(b) Sole source orders of \$10,000 or more under the Federal Supply Schedule must be synopsized in accordance with FAR Part 5.8.

SUBPART 1505.4--RELEASE OF INFORMATION

1505.401 General.

The Freedom of Information Act, 5 U.S.C. 552, provides that, with certain exceptions, Government records shall be made available to the public upon request. This Act has been implemented by the Environmental Protection Agency in 40 CFR Part 2 (5 U.S.C. 301).

1505.405 Exchange of acquisition information.

Contracting Officers shall insert the solicitation provision at 1552.214-70 and 1552.215-72, Past Performance, to obtain information on previous Government contracts or subcontracts.

SUBPART 1505.5--PAID ADVERTISEMENT

1505.502 Authority.

Authority to approve publication of paid advertisements in newspapers has been delegated to those Contracting Officers whose Contracting Officer warrant specifically grants them this authority.

PART 1506--COMPETITION REQUIREMENTS

Sec.

1506.000 Scope of Part.

Subpart 1506.2--Full and Open Competition After Exclusion of Sources

1506.202 Establishing or maintaining alternative sources.

Subpart 1506.3--Other Than Full and Open Competition

1506.301 Policy.

1506.302 Circumstances permitting other than full and open competition.

1506.302-1 Only one responsible source.

1506.302-5 Authorized or required by statute.

1506.303 Justifications.

1506.303-2 Content.

1506.370 Limited competition.

1506.371 Conduct of market surveys.

1506.372 Class justification.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1506.000 Scope of Part.

This part implements FAR Part 6. It prescribes the Environmental Protection Agency policies and procedures in obtaining full and open competition in the acquisition process.

SUBPART 1506.2--FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES**1506.202 Establishing or maintaining alternative sources.**

The Responsible Associate Director (RAD) is delegated the authority to make the determination and findings as stated in FAR 6.202(b)(1).

SUBPART 1506.3--OTHER THAN FULL AND OPEN COMPETITION**1506.301 Policy.**

In the fulfillment of national policy, acquisitions by EPA shall be conducted utilizing full and open competition with all responsible sources. However, it is recognized that one or more of the circumstances in FAR 6.302 may apply where it is in the interest of the Government and EPA to solicit limited sources or only one source. In such instances, the initiating program office may recommend that its supplies or services be obtained from a limited number of sources or only from one source. This recommendation is subject to review and approval as provided in FAR 6.304.

1506.302 Circumstances permitting other than full and open competition.

The exceptions in FAR 6.302 apply to all EPA acquisitions of supplies or services in excess of \$1,000 unless exempted by FAR 6.001. For acquisitions awarded using small purchase procedures, Contracting Officers shall refer to 1513.170 for applicable policies and procedures.

1506.302.1 Only one responsible source.

The authority in FAR 6.302-1 may be used in the following situation, provided the synopsis requirements in FAR 5.201 and the justification requirements in FAR 6.303 are met. (This situation is an example and is not intended to be all-inclusive.) Follow-on contracts for services that represent a continuation of a previous effort performed by the proposed source as a result of a competitive acquisition may be deemed to be available only from that source when it is likely that award to any other source would result in (a) substantial duplication of cost to the Government that is not expected to be recovered through competition, or (b) unacceptable delays in fulfilling the Agency's requirements.

1506.302-5 Authorized or required by statute.

(a) Authority. Section 109(e) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) is cited as authority.

(b) Application.

(1) The Contracting Officer may use other than full and open competition to acquire the services of experts for use in preparing or prosecuting a civil or criminal action under SARA whether or not the expert is expected to testify at trial. The Contracting Officer need not prepare the written justification under FAR 6.303 when acquiring expert services under the authority of Section 109(e) of SARA. The Contracting Officer shall document the official contract file when using this authority.

(2) The Contracting Officer shall give notice to the Agency's Competition Advocate whenever a contract award is made using other than full and open competition under this authority. The notice shall contain a copy of the contract and the summary of negotiations.

1506.303 Justifications.

The documentation requirements in this section apply only to acquisitions processed using other than small purchase procedures. (Refer to 1513.170 for documentation for small purchase acquisitions.)

(a) The initiating office shall prepare a written justification for other than full and open competition (JOFOC) that documents the facts and circumstances substantiating the infeasibility of full and open competition for each recommended limited sources or sole source acquisition when required by FAR 6.302.

(b) The recommendation shall be entitled "Justification for Other Than Full and Open Competition" and shall be signed at the programmatic Division Director or comparable office level prior to submission with the procurement request. The JOFOC shall contain the information prescribed in FAR 6.303-2(a) and (b).

(c) If unusual and compelling urgency (see FAR 6.303-2) is a basis for the JOFOC, then the following applies. Explain the circumstances that led to the need for an urgent contractual action. Explain why the requirement could not have been processed in sufficient time to permit full and open competition. It should be noted that the existence of legislation, court order, or Presidential mandate is not, of itself, a sufficient basis for a JOFOC. However, the circumstances necessitating legislation, court order, or Presidential mandate may justify contractual action on an other than full and open competition basis.

(d) If the proposed acquisition has been synopsisized in accordance with the applicable requirements in FAR Subpart 5.2, the Contracting Officer must incorporate the evaluation of responses to the synopsis in the JOFOC. (See 1506.371(d) for contents of the evaluation document.)

1506.370 Limited competition.

Limited competition, i.e., the use of competitive procedures that are not full and open competition and that restrict the number of sources solicited must be justified under one of the authorities in FAR 6.302. The use of limited competition requires the justification set forth in FAR 6.303. Limited competition requires the solicitation of offers from as many potential sources as is practicable under the circumstances.

1506.371 Conduct of market surveys.

(a) The Contracting Officer shall determine the extent of any market survey. In making this decision, the Contracting Officer may consider such factors as the type and size of the acquisition, the results of recent competitive acquisitions for similar supplies or services, or other recent market surveys.

(b) The Contracting Officer, with input from the Project Officer, shall determine the market survey strategy and who is responsible for accomplishing the different aspects of the survey. For example, the Contracting Officer may choose to have discussions with offerors who had proposed on previous similar requirements. For market surveys involving discussions with or inquiries from commercial firms, the Contracting Officer shall conduct or participate in such discussions or inquiries.

(c) Commerce Business Daily (CBD) synopses of proposed sole source acquisitions or acquisitions using other than full and open competition and subsequent evaluation of the responses by EPA constitute an acceptable market survey. If the FAR requires a synopsis, other methods of conducting market surveys may not be used as a substitute for the synopsis.

(d) Under those circumstances when synopses are issued to assist in determining the existence of competition, the Contracting Officer, with the assistance of the Project Officer, shall evaluate responses to such synopses in accordance with the general criteria included in the synopsis. If the evaluation indicates that full and open competition can be provided for, the Contracting Officer shall issue a new synopsis and a competitive solicitation that adhere to the time periods in FAR 5.203. If the Contracting Officer determines, after evaluation of responses, that a sole source acquisition or limited competition should be conducted, the evaluation document

shall be incorporated in the JOFOC for review in accordance with 1506.303-2(d) (for small purchases sec 1513.170-1). The documentation shall include:

- (1) A copy of the CBD synopsis;
- (2) A listing of respondees to the synopsis;
- (3) A written evaluation of the responses; and
- (4) the basis for the Contracting Officer's conclusion that full and open competition is impractical.

1506.372 Class justification.

Appendix I to 48 CFR Chapter 15 contains a class justification authorizing Agency Contracting Officers to make acquisitions from the Federal Prison Industries and the Government Printing Office. Individual justifications for acquisitions from these two sources are not required.

PART 1508--REQUIRED SOURCES OF SUPPLY

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1508.8--ACQUISITION OF PRINTING AND RELATED SUPPLIES

1508.870 Contract clause.

Contracting Officers shall insert the contract clause at 1552.208-70, Printing, in all contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

PART 1509--CONTRACTOR QUALIFICATIONS

Sec.

1509.000 Scope of part.

Subpart 1509.1--Responsible Prospective Contractors

1509.105 Procedures.

1509.105-2 Determinations and documentation.

1509.105-3 Disclosures of preaward information.

Subpart 1509.170--Contractor Performance Evaluations

1509.170-1 Scope of subpart.

1509.170-2 Applicability.

1509.170-3 Purpose.

1509.170-4 Procedures.

Subpart 1509.4--Debarment, Suspension, and Ineligibility

1509.403 Definitions.

1509.404 Consolidated list of debarred, suspended, and ineligible contractors.

1509.406 Debarment.

1509.406-3 Procedures.

1509.407 Suspension.

1509.407-3 Procedures.

Subpart 1509.5--Organizational Conflicts of Interest

1509.500 Scope of subpart.

1509.502 Applicability.

1509.503 Waiver.

1509.505-4 Obtaining access to proprietary information.

1509.506 Information sources.

1509.507 Procedures.

1509.508 Solicitation provision and contract clause.

1509.509 Examples.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1509.000 Scope of part.

This Part implements FAR Part 9 and provides policy and procedures pertaining to contractor's responsibility; debarment, suspension, and ineligibility; and organizational conflicts of interest.

SUBPART 1509.1--RESPONSIBLE PROSPECTIVE CONTRACTORS**1509.105 Procedures.****1509.105-2 Determinations and documentation.**

Where the Contracting Officer makes a determination that a Contractor is not responsible and the determination is based totally or in part on factors which are also cause(s) for debarment or suspension under FAR Subpart 9.4, the Contracting Officer shall report the information as prescribed in 1509.406-3 and 1509.407-3.

1509.105-3 Disclosures of preaward information.

The Freedom of Information Act, 5 U.S.C. 552, provides that, with certain exceptions, Government records shall be made available to the public upon request. This Act has been implemented by the Environmental Protection Agency in 40 CFR Part 2. Subpart B, Confidentiality of Business Information, of 40 CFR Part 2 provides the policy and guidance pertaining to the treatment of confidential business information submitted by prospective Contractors.

SUBPART 1509.170--CONTRACTOR PERFORMANCE EVALUATIONS**1509.170-1 Scope of subpart.**

This subpart establishes EPA policy and procedures for evaluation of contractor performance.

1509.170-2 Applicability.

The provisions of this subpart apply to: (a) all contracts for research and development and for services other than management consulting services when the contract amount is \$25,000 and above, and (b) all contracts for management consulting services, without regard to dollar value. FAR 36.201 and 36.604 provide detailed instructions for conduct of construction and architect-engineering Contractor performance evaluation.

1509.170-3 Purpose.

The purpose of this subpart is to: (a) provide an orderly and uniform method of determining and recording the effectiveness of contractors in meeting contractual obligations; (b) emphasize to contractors the importance of satisfying contractual obligations; (c) create within the EPA a record of contractor performance and a means for

considering this record in future acquisition actions: and (d) provide a system for identifying contractors with a history of poor performance.

1509.170-4 Procedures.

(a) Use and Preparation of forms. EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance, and EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance, shall be prepared at the completion of the technical effort of the contract or purchase order to record the effectiveness of contractors in meeting contractual obligations. Forms shall be prepared in accordance with the instructions printed on the back of each form.

(b) Responsibilities for preparation of forms.

(1) The Contracts Management Division shall originate EPA Form 1900-26 and EPA Form 1900-27 within two weeks after the completion of the technical effort of the contract or purchase order.

(2) The Contracting Officer administering the contract shall prepare the business evaluation on EPA Form 1900-26; forward the original of the form to the Quality Assurance Section, Procurement and Contracts Management Division (PM-214), Washington, D.C. 20460; and retain a copy in the contract file.

(3) The Project Officer with technical responsibility for the contract shall prepare the technical evaluation on EPA Form 1900-27; forward the form to the Quality Assurance Section, Procurement and Contracts Management Division (PM-214), Washington, D.C. 20460; and forward a copy to the Contracting Officer for insertion in the contract file.

(c) Unsatisfactory performance ratings. The Contracting Officer shall apprise the Contractor of any overall rating of "unsatisfactory." If the Contractor submits comments in response to such a rating, the evaluator shall include the comments as an attachment to the evaluation form. Evaluators shall make appropriate changes to the performance evaluations if any are warranted by the Contractor's comments.

(d) Review of evaluations. The Quality Assurance Section, PCMD, shall review each evaluation as it is received, and compare it with recent evaluations submitted for the same Contractor. If the Quality Assurance Section discerns a pattern of unsatisfactory performance, it will notify the appropriate Contracting Officer for his/her possible action, which may include referral of the matter in accordance with 1509.406-3(a)(1).

(e) Filing of forms. Evaluation forms shall be filed in the Contractor performance evaluation files maintained by the Quality Assurance Section, Procurement and Contracts

Management Division.

(f) Release of ratings. Information on Contractors' performance ratings may be obtained by contacting the Quality Assurance Section. Contractors' performance ratings determined by the Contracting Officer and the Project Officer may be released to other Government agencies at their specific written request and on condition that the information will not be made available outside of the Government. Requests for information on the ratings from individuals or entities outside of the Government shall be processed in accordance with the Freedom of Information Act and 40 CFR Part 2.

SUBPART 1509.4--DEBARMENT, SUSPENSION, AND INELIGIBILITY

1509.403 Definitions.

The Director, Grants Administration Division, is designated the "debarment official" and the "suspending official" as defined in FAR 9.403 and is designated as the agency official authorized to make the decisions required in FAR 9.405(a), 9.405-1(b), 9.405-2, 9.406-1(c), and 9.407-1(d).

1509.404 Consolidated list of debarred, suspended, and ineligible contractors.

The Director, Grants Administration Division (or designee) is responsible for notifying GSA in accordance with FAR 9.404(c).

1509.406 Debarment.

1509.406-3 Procedures.

(a) Investigation and referral.

(1) Contracting Officer Responsibility.

(i) When contracting personnel discover information which indicates that a cause for debarment or suspension may exist, they shall promptly report such information by memorandum to the cognizant Chief of the Contracting Office. Purchasing agents in the small purchase activities which do not come under the cognizance of the Headquarters, Research Triangle Park (RTP), or Cincinnati contracting offices shall report such information by memorandum directly to the Head of the Contracting Activity (HCA).

(ii) Contracting Officers shall review the GSA consolidated list to ensure that the Agency does not solicit offers from, award contracts to, or consent to subcontract with listed contractors.

(2) Chief of the Contracting Office Responsibility.
When the Chief of the Contracting Office determines that

sufficient information exists to support the reasonable belief that a cause for debarment or suspension may exist, such information shall be promptly reported by memorandum to the HCA. The memorandum to the HCA may be a cover memorandum which forwards the Contracting Officer's memorandum and provides the Chief of the Contracting Office's assessment of the information, any investigative report or audit, and any additional information he/she has discovered.

(3) HCA Responsibility - Upon receipt of a report of a suspected debarment or suspension situation, the HCA or the designee shall take the following actions:

(i) Notify the Debarring Official that investigation of a potential debarment has been initiated.

(ii) Review the reported information.

(iii) Investigate as necessary to verify or develop additional information. Request investigative support from the EPA Inspector General when appropriate.

(iv) Refer the matter to the Debarring Official for consideration of debarment; or recommend to the Debarring Official that the matter be closed without further action because the facts do not constitute a cause for debarment.

(v) Obtain legal counsel's opinion on referrals or recommendations made to the Debarring Official.

(vi) Notify EPA Contracting Officers of those Contractors who are ineligible for solicitation, award, or subcontracting but who do not appear on the GSA Consolidated List; e.g., those who are ineligible based on a settlement reached by the Debarring Official under which the Contractor has agreed to voluntarily exclude itself from participation in Government contracting/subcontracting for a specified period or because of a Notice of Proposal to Debar.

(4) Debarring Official's Responsibility. The Debarring Official shall:

(i) Review referrals from the HCA together with the HCA's recommendations, if any, and determine whether further consideration by the Debarring Official is warranted and take such actions as are required by FAR Subpart 9.4;

(ii) Obtain the HCA's recommendation prior to reaching a voluntary exclusion settlement with a Contractor in lieu of debarment;

(iii) Promptly notify the HCA of Contractors with whom a settlement in lieu of debarment has been reached under which the Contractor voluntarily excludes itself from or restricts its participation in Government contracting/subcontracting for a specified period; and of Contractors who have received a Notice of Proposal to Debar.

1509.407 Suspension.**1509.407-3 Procedures.**

The procedures prescribed in 1509.406-3(a) shall be followed under conditions which appear to warrant suspension of a Contractor.

SUBPART 1509.5--ORGANIZATIONAL CONFLICTS OF INTEREST**1509.500 Scope of subpart.**

This subpart establishes EPA policy and procedures for identifying, evaluating, and resolving organizational conflicts of interest. EPA's policy is to avoid, neutralize, or mitigate organizational conflicts of interest. If EPA is unable to neutralize or mitigate the effects of a potential conflict of interest, EPA will disqualify the prospective contractor or will terminate the contract when potential or actual conflicts are identified after award.

1509.502 Applicability.

This subpart applies to all EPA contracts except agreements with other Federal agencies. However, this subpart applies to contracts with the Small Business Administration (SBA) under the 8(a) program.

1509.503 Waiver.

The Assistant Administrator for Administration and Resources Management may waive any general rule or procedure of this subpart by determining that its application in a particular situation would not be in the Government's interest. Any request for waiver must be in accordance with FAR 9.503. The Assistant General Counsel for Contracts and Information Law shall be consulted on such waiver requests.

1509.505-4 Obtaining access to proprietary information.

Contractors gaining access to confidential business information of other companies in performing advisory services for EPA shall comply with the special requirements of 40 CFR Part 2 and the provisions of their contracts relating to the treatment of confidential business information.

1509.506 Information sources.

(a) Disclosure. Prospective EPA Contractors responding to solicitations or submitting unsolicited proposals shall provide information to the Contracting Officer for use in identifying, evaluating, or resolving potential organizational conflicts of interest. The submittal may be a certification or a disclosure, pursuant to Paragraphs (a)(1)

or (2) of this section.

(1) If the prospective contractor is not aware of any information bearing on the existence of any organizational conflict of interest, it may so certify.

(2) Prospective contractors not certifying in accordance with Paragraph (a)(1) of this section must provide a disclosure statement which describes concisely all relevant facts concerning any past, present, or planned interests relating to the work to be performed and bearing on whether they, including their chief executives, directors, or any proposed consultant or subcontractor, may have a potential organizational conflict of interest.

(b) Failure to disclose information. Any prospective contractor failing to provide full disclosure, certification, or other required information will not be eligible for award. Nondisclosure or misrepresentation of any relevant information may also result in disqualification from award, termination of the contract for default, or debarment from Government contracts, as well as other legal action or prosecution. In response to solicitations, EPA will consider any inadvertent failure to provide disclosure certification as a "minor informality" (as explained in FAR 14.405); however, the prospective contractor must correct the omission promptly.

(c) Exception. Where the Contractor has previously submitted a conflict of interest certification or disclosure for a contract, only an update of such statement is required when the contract is modified.

1509.507 Procedures.

(a) The Contracting Officer shall document in writing the resolution of any potential or actual conflicts of interest identified. This documentation shall be reviewed and approved by the Head of the Contracting Activity (HCA) prior to award. If the organizational conflict of interest cannot be resolved by any other means, the Contracting Officer shall disqualify the prospective contractor from receiving the contract award.

(b) The Director, Office of Administration, shall review and make the final decision on any Contractor request for higher review of the Contracting Officer's decision as prescribed in FAR 9.507(c)(4).

1509.508 Solicitation provision and contract clause.

(a) Advance notice of limitations. The Contracting Officer shall alert prospective contractors by placing a notice in the solicitation whenever a particular acquisition might create an organizational conflict of interest. The notice will:

- (1) Include the information prescribed in FAR 9.508-1;
- (2) Refer prospective contractors to this subpart; and
- (3) Require proposers to disclose relevant facts concerning any past, present, or currently planned interests relating to the work described in the solicitation.

(b) Required solicitation provision. Except in solicitations where the Organizational Conflict of Interest provision is geared toward the particular acquisition (see Section 1509.508(a)), the Contracting Officer shall include in all solicitations the provisions at 1552.209-70 and 1552.209-72. The provision is optional in solicitations for small purchases.

(c) Required contract clause. The Contracting Officer shall include the clause in 1552.209-71, in all contracts over \$10,000, and, as appropriate, in small purchases. However, the Contracting Officer need not include this clause when a specific clause is developed as prescribed in FAR 9.508-2.

1509.509 Examples.

The examples in the following paragraphs (a) through (e) illustrate situations concerning organizational conflicts of interest (OCI) considered typical of those which might be encountered in EPA contracts. While more than one OCI may exist in the situations described in the examples, the discussion is limited so as to demonstrate a specific conflict. The examples are not all inclusive but are intended to help in applying the general rules in FAR Subpart 9.5 and 1509.5.

(a) Company A, in response to a Request for Proposals (RFP), proposes to undertake certain analyses of an air emission control device. In response to the inquiry in the RFP, Company A advises that it is currently performing similar analyses for the manufacturer of the device. Normally this would constitute an OCI and a contract for that particular work would not be awarded to Company A. The company would be placed in a position in which its judgment could be biased in relation to its work for EPA. Since other well-qualified sources are available, there would be no basis for granting a waiver of the policy.

(b) Company A, in response to an RFP, proposes to undertake an economic analysis of one segment of the chemical industry. Company A advises that it derives a substantial portion of its income from the industry to be studied. Normally this would constitute an OCI and a contract would not be awarded to Company A. It would be placed in a position in which its judgment could be biased in relation to its work for EPA. Should award be made to Company A, the appearance of an OCI could undermine the credibility of the data generated under the contract and render such data

useless for its intended purpose, regardless of whether any bias is actually reflected in the data.

(c) Company A receives a contract to define the detailed performance characteristics EPA will require for the purchase of automobile emission analysis equipment. Company A has not developed the particular equipment. At the time the contract is awarded, it is clear to both parties that the performance characteristics defined will be used by EPA to choose competitively a Contractor to develop or produce the equipment. Normally this would constitute an OCI and Company A should not be permitted to propose on the follow-on procurement.

(d) Company A is selected to study possible methods for disposal of toxic substances. The Agency intends to ask that firms doing research in the field make proprietary information available to Company A. The contract must require Company A to protect any proprietary information it receives, to refrain from using the information for any purpose other than that for which it was intended, and to otherwise comply with the requirements of 40 CFR Part 2 and the provisions of its contract relating to the treatment of confidential business information.

(e) Company A, in response to an RFP, proposes to perform inspections for EPA. The inspections are to determine if companies are meeting Federal requirements for limiting discharge of pollutants into the air. Company A plans to act as a consultant to the companies to be inspected. Company A should be prohibited in the contract from acting as a consultant to any of the companies being inspected during the contract period of performance and for a reasonable period thereafter.

**PART 1510--SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE
DESCRIPTIONS****Sec.**

- 1510.007 Deviations.
- 1510.011 Solicitation provisions and contract clauses.
- 1510.011-70 Reports of work.
- 1510.011-71 Monthly progress report--short form.
- 1510.011-72 Monthly progress report--cost-type contract.
- 1510.011-73 Monthly progress report--time and materials or labor hour contract.
- 1510.011-74 Monthly Progress Report--indefinite delivery/indefinite quantity fixed-rate services contract.
- 1510.011-75 Working files.
- 1510.011-76 Legal analysis.
- 1510.011-77 Final reports.
- 1510.011-78 Management consulting services.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1510.007 Deviations.

The Responsible Associate Director (RAD) is the designated official responsible for ensuring that Federal specifications are used and that exceptions and deviations are justified in accordance with FAR 10.007(a).

1510.011 Solicitation provisions and contract clauses.**1510.011-70 Reports of work.**

Contracting Officers shall insert one of the contract clauses at 1552.210-70 when the contract requires the delivery of reports. Alternate I should be used to specify reports in the contract schedule, whereas the other clause should be used when reports are specified in a contract attachment.

1510.011-71 Monthly progress report--short form.

Contracting Officers shall insert the contract clause at 1552.210-71 when monthly progress reports are required and the duration of the contract is contemplated to be less than six months.

1510.011-72 Monthly progress report--cost-type contract.

Contracting Officers shall insert the contract clause at 1552.210-72 when monthly progress reports are required and the duration of the contract is expected to exceed six months. This clause may also be used in cost-reimbursement contracts with a duration of less than six months.

1510.011-73 Monthly progress report--time and materials or labor hour contract.

Contracting Officers shall insert the clause at 1552.210-73 in all time and materials or labor hour contracts for services with a period of performance of six months or longer. The clause may also be used in these contract types when the performance period is less than six months.

1510.011-74 Monthly Progress Report--Indefinite delivery/indefinite quantity fixed rate services contract.

Contracting Officers shall insert the clause at 1552.210-74 in all indefinite delivery/indefinite quantity contracts for services with a period of performance of six months or longer. The clause may also be used in this type contract when the period of performance is less than six months.

1510.011-75 Working files.

Contracting Officers shall insert the contract clause at 1552.210-75 in all applicable EPA contracts where accurate working files on all work documentation is required in the performance of the contract.

1510.011-76 Legal analysis.

Contracting Officers shall insert the clause at 1552.210-76 when it is determined that the contract involves legal analysis.

1510.011-77 Final reports.

Contracting Officers shall insert the contract clause at 1552.210-77 when a contract requires both a draft and a final report.

1510.011-78 Management consulting services.

Contracting Officers shall insert the contract clause at 1552.210-78 in all contracts for management consulting services.

PART 1512--CONTRACT DELIVERY OR PERFORMANCE

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1512.1--Delivery or Performance Schedules

1512.104 Contract clauses.

(a) The Contracting Officer shall insert the clause at 1552.212-70, Level of Effort, in term form contracts.

(b) The Contracting Officer shall insert the contract clause at 1552.212-71, Work Assignments, in cost-reimbursement type term form contracts when work assignments are used.

**PART 1513--SMALL PURCHASES AND OTHER SIMPLIFIED PURCHASE
PROCEDURES****Subpart 1513.1--General****Sec.**

- 1513.106 Competition and price reasonableness.
- 1513.170 Competition exceptions and justification for
sole source small purchase acquisitions.
- 1513.170-1 Contents of sole source justifications.
- 1513.170-2 Approval.
- 1513.170-3 Exceptions.

Subpart 1513.4--Imprest Fund

- 1513.404 Conditions for use.

Subpart 1513.5--Purchase Orders

- 1513.505 Purchase order and related forms.
- 1513.505-2 Agency order forms in lieu of Optional Forms 347
and 348.
- 1513.507 Clauses.
- 1513.570 Oral purchase orders.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

SUBPART 1513.1--GENERAL**1513.106 Competition and Price Reasonableness.**

Solicitation mailing lists shall be established and maintained by the three major contracting offices: Headquarters in Washington, D.C., Cincinnati, and Research Triangle Park. Contracting personnel at regional and laboratory locations are authorized to use the lists maintained by any of these offices (see 1514.205-1).

1513.170 Competition exceptions and justification for sole source small purchase acquisitions.**1513.170-1 Contents of sole source justifications.**

The program office submitting the procurement request must submit, as a separate attachment, a brief written statement in support of any sole source acquisition. The statement must cite one or more of the circumstances in FAR 6.302 and the necessary facts to support each circumstance. Although program offices may not cite the authority in FAR 6.302-7, the public interest may be used as a basis to support a sole source acquisition. If the acquisition has been synopsized as a notice of proposed sole source acquisition, the statement must include the results of the evaluation of responses to the synopsis. (See 1505.2.0 for contents of a synopsis of a proposed sole source acquisition.)

1513.170-2 Approval.

The Contracting Officer is the approving official for all sole source acquisitions processed using small purchase procedures.

1513.170-3 Exceptions.

A written justification is not required for the following types of acquisitions: (a) acquisitions under mandatory Federal Supply Schedule or mandatory ADP and TSP schedules; and (b) acquisitions required by statute to be obtained from a specific source, such as the National Industries for the Blind or Other Severely Handicapped or Federal Prison Industries.

SUBPART 1513.4--IMPREST FUND**1513.404 Conditions for use.**

Imprest funds may be used for small purchases when the transaction does not exceed \$500 (\$750 under emergency conditions).

SUBPART 1513.5--PURCHASE ORDERS**1513.505 Purchase order and related forms.****1513.505-2 Agency order forms in lieu of Optional Forms 347 and 348.**

Contracting Officers may use the EPA Form 1900-8, Procurement Request/Order, in lieu of Optional Forms 347 and 348 for individual purchases prepared in accordance with the instructions printed on the reverse thereof (see 1553.213-70).

1513.507 Clauses.

(a) It is the general policy of the Environmental Protection Agency that Contractor or vendor prescribed leases or maintenance agreements for equipment shall not be executed.

(b) The Contracting Officer shall, where appropriate, insert the clause at 1552.213-70, Notice to Suppliers of Equipment, in orders for purchases or leases of automatic data processing equipment, word processing, and similar types of commercially available equipment for which vendors, as a matter of routine commercial practice, have developed their own leases and/or customer service maintenance agreements.

1513.570 Oral purchase orders.

(a) Contracting Officers are authorized to issue oral purchase orders for supplies or services whose estimated value is \$10,000 or less. Oral purchase orders may be used only where all of the following conditions are present:

(1) Supplies or services (including construction) are readily available;

(2) detailed specifications or complex terms and conditions are not required;

(3) The vendor is willing to furnish the supplies/services on the basis of an oral order; and

(4) The vendor has been advised orally of FAR/EPAAR contract clauses which are applicable.

(b) In addition to documenting the existence of the conditions prescribed in (a) above, the following actions must also be completed:

(1) The Procurement Request/Order must be annotated to indicate the date and number of the order, the supplier, the dollar value, and the delivery and discount terms.

(2) The annotated Procurement Request/Order must be retained in the purchase order file and copies provided to

the originator of the procurement request, the commitment clerk, the paying office, the property office, and the shipping/receiving office.

PART 1514--SEALED BIDDING

Sec.

1514.000 Scope of part.

Subpart 1514.2--Solicitation of Bids

1514.201 Preparation of invitations for bids.
1514.201-6 Solicitation provisions.
1514.205 Solicitation mailing lists.
1514.205-1 Establishment of lists.
1514.205-5 Release of solicitation mailing lists.

Subpart 1514.4--Opening of Bids and Award of Contract

1514.404 Rejection of bids.
1514.404-1 Cancellation of invitations after opening.
1514.406 Mistakes in bids.
1514.406-3 Other mistakes disclosed before award.
1514.406-4 Mistakes after award.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1514.000 Scope of part.

This part implements and supplements FAR Part 14 by providing additional guidance regarding the development of lists of qualified bidders, including small and disadvantaged business sources, and by requiring additional information from bidders that will be used in evaluating bids for award.

SUBPART 1514.2--SOLICITATION OF BIDS**1514.201 Preparation of invitations for bids.****1514.201-6 Solicitation provisions.**

(a) The Contracting Officer shall insert the solicitation provision at 1552.214-70, Past Performance, in all invitations for bids.

(b) The Contracting Officer shall insert the solicitation provision at 1552.214-71, Contract Award--Other Factors--Sealed Bidding, in invitations for bids when it is appropriate to describe other factors that will be used in evaluating bids for award.

1514.201-7 Contract Clauses.

The Responsible Associate Director (RAD) is authorized to waive the inclusion of the clauses at FAR 52.214-27 and 52.214-28, in accordance with FAR 14.201-7.

1514.205 Solicitation mailing lists.**1514.205-1 Establishment of lists.**

(a) Within EPA, solicitation mailing lists shall be established and maintained by the three major contracting offices (Headquarters in Washington, D.C., Cincinnati, and Research Triangle Park) to provide for the maximum number of qualified sources in solicitations consistent with the nature of supplies or services to be acquired. Contracting personnel at regional and laboratory locations are authorized to use the lists maintained by any of these offices.

(b) It is the policy of EPA to use the Small Business Administration (SBA) procurement automated source system (PASS) for identification of small business and small disadvantaged business sources. PASS is capable of identifying businesses that are small, disadvantaged, women-owned, in labor surplus areas, and by geographic location or any combination thereof.

(c) Identification of sources through PASS or the solicitation mailing list does not negate the requirement for the Contracting Officer to synopsise the acquisition in accordance with FAR 5.201.

(d) For motion picture and videotape production

requirements, the Department of Defense (DOD) Directorate for Audiovisual Management Policy, 1117 North 19th Street, Room 601, Arlington, Virginia 22209, is the Executive Agent responsible for maintaining a Qualified Film Producers List and a Qualified Videotape Producers List. When a requirement arises, the Contracting Officer shall notify the Executive Agent who will furnish the names of vendors in increments of five on a rotational basis. The Contracting Officer shall provide a copy of the solicitation to the Executive Agent.

1514.205-5 Release of solicitation mailing lists.

EPA installations shall make the solicitation mailing list, established under 1514.205-1, available to the public and Contractors during normal business hours.

SUBPART 1514.4--OPENING OF BIDS AND AWARD OF CONTRACT

1514.404 Rejection of bids.

1514.404-1 Cancellation of invitations after opening.

The RAD is authorized to make the determination in FAR 14.404-1(c), after consultation with legal counsel.

1514.406 Mistakes in bids.

1514.406-3 Other mistakes disclosed before award.

The Head of the Contracting Activity (HCA) is delegated the authority to make the administrative determinations in connection with mistakes in bids prior to award. This authority may not be redelegated. The legal counsel must review and concur with the determination.

1514.406-4 Mistakes after award.

The Chief of the Contracting Office is authorized to make determinations on mistakes in bids disclosed after award. The legal counsel must review and concur with the determination.

PART 1515--CONTRACTING BY NEGOTIATION

Sec.

1515.000 Scope of part.

Subpart 1515.4--Solicitation and Receipt of Proposals and Quotations

1515.403 Solicitation mailing lists.
1515.407 Solicitation provisions.
1515.413 Disclosure and use of information before award.

Subpart 1515.5--Unsolicited Proposals

1515.506 Agency procedures.
1515.507 Contracting methods.

Subpart 1515.6--Source Selection

1515.600 Scope of subpart.
1515.602 Applicability.
1515.603 Purpose.
1515.604 Responsibilities and duties.
1515.604-70 Personal conflicts of interest.
1515.605 Evaluation factors.
1515.608 Proposal evaluation.
1515.609 Competitive range.
1515.610-70 Limited discussions versus full negotiations.
1515.611 Best and final offers.
1515.612 Formal source selection.

Subpart 1515.8--Price Negotiation

1515.804 Cost or pricing data.
1515.804-3 Exemptions from a waiver of submission of certified cost or pricing data.

Subpart 1515.9--Profit

1515.900 Scope of subpart.
1515.902 Policy.
1515.905 Profit-analysis factors.
1515.970 EPA structured approach for developing profit or fee objectives.
1515.970-1 General.
1515.970-2 EPA structured system.
1515.970-3 Documentation.

Subpart 1515.10--Preaward, Award, and Postaward Notifications, Protests, and Mistakes

1515.1003 Debriefing of unsuccessful offerors.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1515.000 Scope of part.

This part implements and supplements FAR Part 15. It prescribes the Environmental Protection Agency policies and procedures for contracting for supplies and services by negotiation.

SUBPART 1515.4--SOLICITATION AND RECEIPT OF PROPOSALS AND QUOTATIONS**1515.403 Solicitation mailing lists.**

Contracting offices shall establish, maintain, and use lists of potential sources in accordance with 1514.205-1.

1515.407 Solicitation Provisions.

(a) In addition to those provisions prescribed in FAR 15.407, the Contracting Officer shall insert in negotiated solicitations the provisions at--

- (1) 1552.215-72, Past Performance;
- (2) 1552.215-73, Instructions for the Preparation of Technical and Cost or Pricing Proposals; and
- (3) 1552.215-76, General Financial and Organizational Information.

(b) The Contracting Officer shall insert the provisions at 1552.215-74, Cost Proposal Instructions, in negotiated solicitations when cost or pricing data is required in an offeror's proposal and it is necessary to obtain the detailed cost data specified in the provision. While designed to obtain cost data for acquisitions under the Comprehensive Environmental Response, Compensation and Liability Act, the provision may be used in other negotiated solicitations.

1515.413 Disclosure and use of information before award.

(a) Contracting Officers shall follow the Alternate II proposal evaluation procedures in FAR 15.413-2.

(b) After receipt of proposals, none of the information contained in them or concerning the number or identity of offerors shall be made available to the public or to anyone in the Government not having a legitimate interest. In the event an outside evaluation is to be obtained, information in proposals or information concerning the number or identity of offerors shall be disclosed only to the extent authorized by and in accordance with the procedures of FAR 15.413-2(f) and these regulations, 1515.413.

(c) During the preaward or preacceptance period of a negotiated acquisition, only the contracting officer, the contracting officer's superiors having contractual authority, and others specifically authorized shall transmit technical

or other information and conduct discussions with prospective contractors. Information shall not be furnished to a prospective contractor if, alone or together with other information, it may afford the prospective contractor an advantage over others (see FAR 15.610, Written or oral discussion). However, general information that is not prejudicial to others may be furnished upon request.

(d) The Chief of the Contracting Officer (CCO) is the designated official to make the decision as provided by FAR 15.413-2(f)(1).

(e) The Contracting Officer shall submit a written determination to the CCO whenever the use of FAR 15.413-2(f) procedures is contemplated. Following CCO approval, proposals may be released to non-Government employees for review and evaluation consistent with the provisions of FAR 15.413-2(f)(2)-(5).

(f) The following written certification and agreement shall be obtained from the non-Government evaluator prior to the release of any proposal to that evaluator:

"CERTIFICATION ON THE USE AND DISCLOSURE OF PROPOSALS"

RFP #: _____ Offeror: _____

1. I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage.

2. I agree to use any proposal information only for evaluation purposes. I agree not to copy any information from the proposal(s), to use my best effort to safeguard such information physically, and not to disclose the contents of nor release any information relating to the proposal(s) to anyone outside of the Source Evaluation Board assembled for this acquisition or individuals designated by the Contracting Officer.

3. I agree to return to the Government all copies of proposals, as well as any abstracts, upon completion of the evaluation.

(Name and Organization)

(Date of Execution)

(End of Certificate)

(g) The Contracting Officer shall place the Government Notice for Handling Proposals (FAR 15.413-2(e)) on the cover pages of all proposals upon their receipt.

SUBPART 1515.5--UNSOLICITED PROPOSALS**1515.506 Agency Procedures.**

The Director, Grants Administration Division (PM-216), EPA, 401 M Street, S.W., Washington, D.C. 20460, is the Agency contact point established to coordinate the receipt and handling of unsolicited proposals.

1515.507 Contracting methods.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act contains a requirement that none of the funds provided in the Act may be used for payment through grants or contracts to recipients that do not share in the cost of conducting research resulting from proposals that are not specifically solicited by the Government. Accordingly, contracts which result from unsolicited proposals shall provide for the Contractor to bear a portion of the cost of performance for work subject to the Act. However, where there is no measurable gain to the performing organization, cost sharing is not required.

SUBPART 1515.6--SOURCE SELECTION**1515.600 Scope of subpart.**

This subpart establishes EPA policies and procedures for the source evaluation and selection processes in competitive negotiated acquisitions.

1515.602 Applicability.

FAR Subpart 15.6 and this subpart apply to all competitive negotiated acquisitions in excess of \$25,000, except architect-engineering services which are covered in 1536.6.

1515.603 Purpose.

EPA personnel shall conduct source evaluation and selection in accordance with consistent standards and procedures that ensure fair and impartial treatment of all offerors.

1515.604 Responsibilities and duties.

In addition to those cited in FAR 15.604, the following responsibilities and duties are assigned:

(a) Source Selection Official. The Source Selection Official (SSO) is the official responsible for overall management of the source selection process. Duties of the SSO include appointing the members and chairpersons of the Source Evaluation Board, the Technical Evaluation Panel, and the Business Evaluation Panel and approving the solicitation document. However, the Chief of the Contracting Activity

(CCO) is responsible for approving amendments to solicitation documents. The SSO approves competitive range decision and makes the source selection decision.

(b) Source Evaluation Board. The Source Evaluation Board (SEB) consists of a chairperson who is responsible for all of the procedural and administrative aspects of the SEB, and other specialists, e.g., technical, procurement, and financial, as may be deemed appropriate by the SSO. An attorney from the Office of General Counsel should serve in an advisory role to the SEB. The SEB makes recommendations to the SSO on selection of a contractor for award.

(c) Technical Evaluation Panel. The Technical Evaluation panel (TEP) develops the evaluation criteria and the Statement of Work for the solicitation and performs the technical evaluation of offers. All members of the TEP must review all proposals initially submitted in response to a solicitation. Unless approved in advance by the SSO, only individuals who evaluated initial proposals may evaluate revised proposals submitted after determination of the competitive range.

(d) Business Evaluation Panel. The Business Evaluation Panel (BEP) reviews the solicitation evaluation criteria and Statement of Work from a business perspective; evaluates the business and contractual aspects of the offerors' business proposals; and considers other factors such as responsibility of the offerors.

1515.604-70 Personal conflicts of interest.

(a) Only regular or special Government employees of EPA as defined in 40 CFR 3.102, or where appropriate, other Federal Government agencies, may participate in the evaluation and selection process. In the event an outside evaluation is to be obtained, non-Government employees may participate only if the procedures in FAR 15.413-2(f) and 1515.413 are followed.

(b) Each EPA employee (including special employees) engaged in source evaluation and selection is required to be familiar with the provisions of 40 CFR Part 3 regarding personal conflicts of interest. The employee shall inform the Source Selection Official in writing if his/her participation in the source evaluation and selection process could be interpreted as a possible or apparent conflict of interest. The SSO shall relieve any EPA employee who has a conflict of interest of further duties in connection with the evaluation and selection process.

1515.605 Evaluation factors.

The evaluation factors that will be considered in making the source selection and their relative importance shall be included in "Part IV, Section M, Evaluation Factors for Award," in each solicitation.

(a) The Contracting Officer shall insert the provision in 1552.215-70, EPA Source Evaluation and Selection Procedures--Negotiated Procurements and either (1) the provision in 1552.215-71 Evaluation Factors for Award where technical quality is more important than cost or price, or (2) the provision in Alternate I to 1552.215-71 where cost or price is more important than technical quality, provided an offeror's technical proposal meets the minimum needs of the government.

(b) Technical evaluation criteria should be prepared in accordance with FAR 15.605 and inserted into paragraph (b) of the provision in 1552.215-71 or Alternate I to that provision.

1515.608 Proposal evaluation.

(a) The initial technical evaluations of proposals shall be conducted in accordance with the following procedures.

(1) The evaluation of technical proposals shall be accomplished using the Scoring Plan specified below, which consists of narrative qualitative descriptions to which numerical values have been assigned. These values shall be applied against the weight assigned to each technical evaluation criterion and subcriterion set forth in the solicitation. The Scoring Plan values are expressed on a scale of zero through five; each value, except "0," "3.5," and "4.5" represents a multiple of 20 percent which is to be used in determining the technical score. For example, a value of "4" applied to a particular technical evaluation criterion whose weight is 30, would result in a technical score of 24. The values used in technical proposal evaluation shall be limited to those established in the Scoring Plan.

SCORING PLAN

<u>Value</u>	<u>Descriptive Statement</u>
0	The element is not addressed, or is totally deficient and without merit.
1	The element is addressed but contains deficiencies that can be corrected only by major or significant changes to relevant portions of the proposal.
2	Clarification is required. Final scoring of the element will be made following limited discussions or full negotiations, if discussions or negotiations are held with the offeror.
3	The proposal element is adequate. Overall it meets specifications. However, comments should

be made on any perceived weaknesses or on areas in which an offeror could improve.

3.5* Intermediate merit.

4 The proposal is good with some superior features.

4.5* Intermediate merit.

5 The proposal is superior in most features.

* The values 3.5 and 4.5 are to be used to indicate intermediate merit. If used, the Chairperson of the Technical Evaluation Panel shall provide a narrative to explain the distinction between values 3 and 4 or values 4 and 5.

(2) Ranking. The assignment of numerical scores to a technical proposal establishes the relative rank of that proposal with respect to those of other offerors. The use of pre-established cut-off scores to determine the competitive range or the source to be selected is prohibited. Each member of the TEP shall independently evaluate and score each offer. The TEP Chairperson shall develop a consensus opinion on the scores assigned to each offer. The averaging of individual TEP member's scores to arrive at an overall panel score is prohibited.

(b) Technical and business evaluation panel reports of initial offers. The TEP and BEP shall deliver their respective reports to the Contracting Officer upon completion of the evaluation of initial offers.

(1) The TEP report shall include:

(i) A detailed scoring of each offer received and a narrative summary of facts and findings of significant strengths, weaknesses, and risks associated with each offer. The narrative summary and the score must be consistent. Score sheets prepared by each individual panel member must be made available upon the Contracting Officer's request. For contracts valued at \$500,000 or less, the chairperson of the TEP may use the short form technical evaluation format (EPA Form 1900-61); and

(ii) Any interrogatories the Contracting Officer should submit to offerors to clarify their technical proposals. The Contracting Officer may review the technical proposals and TEP evaluation and submit and additional interrogatories deemed appropriate.

(2) The BEP report shall include:

(i) A preliminary cost evaluation of each offeror's cost proposal. The evaluation may include worksheets or a formal narrative pointing out cost elements which appear

unreasonable or questionable. For level of effort contracts, the evaluation shall compare proposed costs with the cost standards specified in the solicitation (e.g., man-hours per labor category); and

(ii) A discussion of any factors which might prevent award to an offeror (e.g., appearance on a debarred/suspended list).

(3) Both the TEP and BEP reports shall also include:

(i) A statement that the respective panel members are free from actual or potential personal conflicts of interest; and

(ii) Any information which might reveal that an offeror has an actual or potential organizational conflict of interest.

(c) Technical and business evaluation reports following the competitive range determination.

(1) The Project Officer shall deliver a supplemental TEP report to the Contracting officer at the completion of evaluation of revised proposals and prior to final selection. The supplemental report shall include, for each offeror in the competitive range:

(i) A discussion of whether or not the offerors' cost proposals adequately reflect their technical proposals and the requirements of the solicitation,

(ii) A summary evaluation of the technical aspects of each offeror's record of recent or current performance. The evaluation of past performance includes an analysis of the offeror's previous efforts to provide work of a high quality in a timely, cost-efficient manner. However, past performance is not a criterion to be scored. Where the offeror is known to have performed contracts for EPA and for other Government agencies for comparable work, those agencies should be contacted for a record of past performance and the Contracting Officer contacted for a record of past performance on EPA contracts; and

(iii) Any changes to the initial technical evaluation scores and a narrative evaluation based on discussions or negotiations and the revised technical proposal. All revised score sheets by each panel member must be included.

(2) The BEP shall deliver a supplemental BEP report to the Contracting Officer at the completion of evaluation of revised proposals and prior to final selection. The supplemental report shall include, for each offeror in the competitive range:

(i) A detailed cost analysis of the business

proposal. For contracts valued at \$500,000 or less, EPA encourages the contract specialist to perform the cost analysis. However, the contract specialist may seek the assistance of a cost/price analyst when necessary;

(ii) An evaluation of the offeror's proposed management structure to be utilized for performance:

(iii) An evaluation of the offeror's subcontracting program as it relates to small businesses, labor surplus area concerns, and socially and economically disadvantaged business enterprises;

(iv) An evaluation of the offeror's record of performance under prior EPA contracts as it relates to timely performance, history of cost control, requests for changes, and quality of the end product. The BEP should obtain this information from the Contractor Performance Evaluation System. Where the offeror is known to have performed with other Government agencies for comparable work, the BEP should contact those agencies for a record of past performance; and

(v) An evaluation of those business elements submitted with each proposal which could lead to a determination of nonresponsibility by the Contracting Officer.

(d) Safeguarding information. The following procedures are prescribed for protecting source selection information.

(1) Offerors' identities, offer contents, and prices shall be treated with the utmost discretion to avoid compromising the evaluation results or giving any offeror an unfair competitive advantage. Any questions regarding the receipt and distribution of offers, status of the proceedings, or other matters shall be referred to the Contracting Officer or designated contract specialist.

(2) After receipt of proposals, the contract specialist shall serially number all proposal copies received, distribute the required number of proposal copies to the TEP and BEP, and be responsible for the collection and final disposal of proposal copies. The panel chairpersons shall maintain a log of proposal distribution within the TEP and BEP. The contract specialist shall destroy all excess copies of proposals in a timely manner. The original copy of each unsuccessful proposal should be retained by the contract specialist as a reference in conducting debriefings. A minimum of two copies of the successful proposal should be retained (contract file copy/Project Officer file copy) for reference in administering the contract. Final disposition of the file shall be accomplished in accordance with FAR Subpart 4.8, and the EPA Records Management Manual.

(e) Rejection of proposals. The Head of the Contracting Activity is authorized to make the determination in FAR 15.608(b).

1515.609 Competitive range.

(a) The Contracting Officer shall prepare the determination of the competitive range for the subsequent approval of the SSO. Where there is reasonable doubt regarding the inclusion of a particular offer within the competitive range, that doubt should be resolved in favor of inclusion. All determinations must be completely documented to support the competitive range decision.

(b) When the procurement action is expected to exceed \$5,000,000 (\$25,000,000 for Superfund), the SSO may call for an oral briefing by the Contracting Officer prior to concurrence on the competitive range decision.

(c) When only one offer is determined to be in the competitive range, the Contracting Officer shall review the solicitation document to assure that it did not unduly restrict competition. The competitive range determination shall include a discussion of the relevant aspects of the solicitation.

1515.610-70 Limited discussions versus full negotiations.

(a) To satisfy the varying nature of its acquisitions, EPA encourages the Contracting Officer to suit the negotiation strategy to the circumstances of the procurement. Factors include the number of proposals and relative closeness of technical scores and costs.

(b) After determination of the competitive range, the Contracting Officer may proceed with limited cost/full technical discussions with the firms in the competitive range, generally through interrogatories, and final in-depth negotiations with one or more firm(s) still within the competitive range after evaluation of revised proposals; complete full cost and technical negotiations with all firms comprising the competitive range; or a variation of these two approaches as the circumstances of the procurement dictate. Regardless of which approach is used, the Contracting Officer is encouraged to raise cost questions as early as possible and not defer them to final negotiations. Discussions/negotiations with contractors in the competitive range shall include questions on past performance (Government and non-Government) that was less than satisfactory. Information on past performance may be obtained from program personnel who have served as Project Officers on relevant contracts, and/or from the contractor performance evaluations maintained by the Procurement and Contracts Management Division.

1515.611 Best and final offers.

The Contracting Officer shall establish a common cut-off date for receipt of revised proposals and/or confirmations of

negotiations (best and final offers) upon completion of limited discussions or full negotiations.

1515.612 Formal source selection.

(a) Responsibilities for evaluation and selection. The Source Selection Official (SSO) shall appoint the SEB, TEP, and BEP members prior to issuance of the solicitation to allow the members to participate in the development and review of the solicitation document. Appointments should be recommended in the source selection plan prepared by the Contracting Officer in accordance with FAR 15.612(c). Individuals involved in the evaluation and selection process shall be at the levels specified below.

(1) Acquisitions having a potential value exceeding \$5,000,000 (\$25,000,000 for Superfund):

(i) SSO - RAD.

(ii) SEB Chairperson - Chief of the Contracting Office (CCO) or, in his/her absense, the Acting CCO.

(iii) SEB Membership - TEP chairperson, BEP chairperson, program office representative not otherwise involved in the evaluation process, and other specialists appointed by the SSO.

(iv) TEP Chairperson - Project Officer (PO).

(v) TEP Membership - At least two members in addition to the Project Officer who are knowledgeable of the procurement's technical aspects.

(vi) BEP Chairperson - Contracting Officer (CO)

(vii) BEP Membership - Contract specialist and cost/price analyst.

(2) Acquisitions having a potential value of \$5,000,000 or less (\$25,000,000 or less for Superfund):

(i) SSO - To be determined by the Chief of the Contracting Office, unless otherwise restricted in his/her delegation of procurement authority.

(ii) SEB - An SEB need be established only when requested by the program office or determined necessary by the SSO. The SSO shall determine the organizational levels of the individuals to serve on the SEB.

(iii) TEP and BEP chairpersons and memberships shall be constituted as in paragraph (a)(1)(iv) through (vii) of this section. (For contracts valued at \$500,000 or less, the Project Officer may be the only member of the TEP and the Contracting Officer or contract specialist may be the only member of the BEP.)

(b) Source Selection Decision.

(1) Source Evaluation Board Report. In procurements where an SEB is convened, the SEB shall provide the SSO with a report on its findings. The report shall be submitted after completion of discussions or full negotiations, depending on the source selection method employed, and shall include:

(i) A description of the acquisition;

(ii) A summary of the significant strengths, weaknesses, and risks associated with each offer still in the competitive range. This summary shall generally be an independent assessment of the facts and findings appearing in the TEP and BEP reports. The SEB report contains recommendations for selection; and

(iii) A statement that the SEB members are free from actual or potential personal conflicts of interest.

(2) Source selection.

(i) The Contracting Officer shall prepare the source selection decision for the SSO's subsequent approval. The decision shall document the consideration given to price or cost, technical merit, and other factors contained in the solicitation. These other factors (e.g., record of prior performance, the offeror's subcontracting plan, etc.) may be used as the unscored discriminating elements for determining the selection of a source between two otherwise substantially equal offers from both a cost and technical standpoint.

(ii) The SEB report to the SSO may serve as the source selection decision provided the recommendation of the SEB is accepted by the SSO and the SEB report includes the information required by 1515.612(b)(2)(i).

SUBPART 1515.8--PRICE NEGOTIATION

1515.804 Cost or pricing data.

1515.804-3 Exemptions from or waiver of submission of certified cost or pricing data.

The Responsible Associate Director (RAD) is delegated the authority to waive, in exceptional cases, the requirement for submission of certified cost or pricing data.

SUBPART 1515.9--PROFIT

1515.900 Scope of subpart.

This subpart implements FAR subpart 15.9 and prescribes the EPA structured approach for determining profit or fee

prenegotiation objectives.

1515.902 Policy.

(a) EPA structured approach. FAR 15.902 requires that agencies use a structured approach for determining the profit or fee objective in those acquisitions that require cost analysis. The structured approach prescribed in 1515.970 shall be used by EPA Contracting Officers in developing a prenegotiation profit or fee objective except as provided in paragraph (b)(1) of this section. The purpose of the structured approach is:

- (1) To provide a standard method of evaluation;
- (2) To ensure consideration of all relative factors;
- (3) To provide a basis for documentation and explanation of the profit negotiation objective;
- (4) To allow Contractors to earn profits commensurate with the assumption of risk;
- (5) To reward Contractors who provide their own facilities, financing and personnel; and
- (6) To reward Contractors who undertake more difficult work requiring higher risks.

(b)(1) Other methods. Contracting officers may use methods other than those prescribed in 1515.970 for establishing profit or fee objectives under the following circumstances.

- (i) Architect-engineering contracts;
- (ii) Personal or professional service contracts;
- (iii) Management contracts, a.g., for maintenance or operation of Government facilities;
- (iv) Termination settlements;
- (v) Engineering services, labor-hour, time and materials contracts which provide for payment on a man-hour, man-day, or man-month basis, and where the contribution by the Contractor constitutes the furnishing of personnel rather than the output of an integrated research, engineering, or manufacturing operation;
- (vi) Construction contracts; and
- (vii) Cost-plus-award-fee contracts.

(2) Generally, it is expected that such methods will:

- (i) provide the Contracting Officer with a technique

that will ensure consideration of the relative value of the appropriate profit factors described under "Profit Factors," and

(ii) serve as a basis for documentation of the objective.

(c) Under unusual circumstances, the Responsible Associate Director (RAD) may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing and authorized only in situations where the guidelines method is determined to be unsuitable.

(i) Limitations. In the event that any of the methods used would result in establishing a fee objective in violation of limitations established by statute (see FAR 15.903(d)), the maximum fee objective shall be the percentage allowed pursuant to such limitations. No administrative ceilings on profits or fees shall be established.

1515.905 Profit-analysis factors.

Profit-analysis factors prescribed in the EPA structured approach in analyzing profit or fee include those prescribed by FAR 15.905-1 and additional factors authorized by FAR 15.905-2 to foster achievement of Program objectives. These profit or fee factors are prescribed in 1515.970-2.

1515.970 EPA structured approach for developing profit or fee objectives.

1515.970-1 General.

(a) It is the policy of the Agency to utilize profit to attract Contractors who possess talents and skills necessary to the accomplishment of the objectives of the EPA and to stimulate efficient contract performance. In negotiating profit/fee, it is necessary that all relative factors be considered, and that fair and reasonable amounts be negotiated which give the Contractor a profit objective commensurate with the nature of the work to be done, the Contractor's input to the total performance, and the risks assumed by the Contractor.

(b) To properly reflect differences among contracts and the circumstances relating thereto and to select an appropriate relative profit/fee in consideration of these differences and circumstances, weightings have been developed for application by the Contracting Officer to standard measurement bases representative of the prescribed profit factors cited in FAR 15.905 and paragraph 1515.970-2(a)(1). Each profit factor or subfactor, or component thereof, has been assigned weights relative to their value to the contract's overall effort and the range of weights to be applied to each profit factor.

1515.970-2 EPA structured system.

(a) (1) Profit factors. The factors set forth below and the weighted ranges listed after each factor shall be used in all instances where the profit is to be specifically negotiated.

CONTRACTOR'S INPUT TO TOTAL PERFORMANCE

<u>Direct Materials:</u>	<u>Weight Range</u> <u>(Percent)</u>
Purchases	1 to 4
Subcontracts	1 to 5
Equipment	1 to 2
Engineering labor	8 to 15
Engineering overhead	6 to 9
Manufacturing labor	5 to 9
Manufacturing overhead	4 to 7
Consultants	2 to 5
Other direct costs	1 to 3
General and administrative expenses.....	5 to 8
Contractor's assumptions of contract cost risk ...	0 to 6
Record of contractor's performance	-2 to +2
Cost efficiency	
Management	
Extent of investment	
Reliability of cost estimates	
Inventive and developmental contributions	
Timely performance	
Small business participation	
Labor surplus area participation	
Extent of Government assistance	
Effect of competition	

(2) The Contracting Officer shall first measure the "Contractor's Input to Total Performance" by the assignment of a profit percentage within the designated weight ranges to each element of contract cost recognized by the Contracting Officer. Such costs are multiplied by the specific percentages to arrive at specific dollar profits. The amount calculated for facilities capital cost of money shall not be included as part of the cost base for the computation of profit or fee. A complete discussion of how facilities capital cost of money is determined and how it is applied and administered is set forth in FAR 31.205-10.

(3) After computing a total dollar profit for the Contractor's Input to Total Performance, the Contracting Officer shall calculate the specific profit dollars assigned for cost risk and performance. This is accomplished by multiplying the total Government cost objective, exclusive of any facilities capital cost of money, by the specific weight assigned to cost risk and performance. The Contracting Officer shall then determine the profit or fee objective by adding the total profit dollars for the Contractor's Input to Total Performance to the specific dollar profits assigned to

cost risk and performance. The profit or fee objective shall then be reduced by an amount equal to the amount of facilities capital cost of money allowed. EPA Form 1900-2 shall be used to facilitate the calculation of this profit or fee objective.

(4) The weight factors shown are designed for arriving at profit or fee objectives for other than nonprofit and not-for-profit organizations. Adjustments as explained below are to be made to reflect differences between profit and nonprofit organizations.

(i) For purposes of this subparagraph, nonprofit and not-for-profit organizations are defined as those business entities organized and operated exclusively for charitable, scientific or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office, and which are exempt from Federal income taxation under section 51 of the Internal Revenue Code.

(ii) For contracts with nonprofit and not-for-profit organizations where fees are involved, the following adjustments are required:

(A) A special factor of -3 percent shall be assigned in all cases.

(B) The weighted ranges from "Record of Contractor's Performance" shall be halved, i.e., -1 percent to +1 percent rather than -2 percent to +2 percent.

(b) Assignment of values to specific factors--

(1) General. In making his/her judgment of the value of each factor, the Contracting Officer should be governed by the definition, description, and purpose of the factors together with considerations for evaluating them as set forth herein.

(2) Contractor's input to total performance. This factor is a measure of how much the Contractor itself is expected to contribute to the overall effort necessary to meet the contract performance requirements in an efficient manner. This factor, which is apart from the Contractor's responsibility for contract performance, takes into account what resources are necessary and what the Contractor itself must do to accomplish a conversion of ideas and materials into the final item called for in the contract. This is a recognition that within a given performance output, or within a given sales dollar figure, necessary efforts on the part of individual contractors can vary widely in both value and quantity, and that the profit objective should reflect the extent and nature of the Contractor's contribution to total

performance. Greater profit opportunity should be provided under contracts requiring a high degree of professional and managerial skill and to prospective contractors whose skills, facilities, and technical assets can be expected to lead to efficient and economical contract performance. The evaluation of this factor requires an analysis of the cost content of the proposed contract as follows:

(i) Direct materials (purchased parts, subcontracted items, and other material). Analysis of these cost items shall include an evaluation of the managerial and technical effort necessary to obtain the required purchased parts, subcontracted items, and other materials. This evaluation shall include consideration of the number of orders and suppliers, and whether established sources are available or new sources must be developed. The Contracting Officer shall also determine whether the Contractor will, for example, obtain the materials by routine orders or readily available supplies (particularly those of substantial value in relation to the total contract costs), or by detailed subcontracts for which the prime Contractor will be required to develop complex specifications involving creative design or close tolerance manufacturing requirements. Consideration should be given to the managerial and technical efforts necessary for the prime Contractor to administer subcontracts, and select subcontractors, including efforts to break out subcontracts from sole sources, through the introduction of competition. These determinations should be made for purchases of raw materials or basic commodities, purchases of processed material including all types of components of standard or near-standard characteristics, and purchases of pieces, assemblies, subassemblies, special tooling, and other products special to the end-item. In the application of this criterion, it should be recognized that the contribution of the prime Contractor to its purchasing program might be substantial. This might be applicable if the management of subcontracting programs involving many sources, involving new complex components and instrumentation, incomplete specifications, and close surveillance by the prime Contractor's representative. Recognized costs proposed as direct material costs such as scrap charges shall be treated as material for profit evaluation. If intracompany transfers are accepted at price, in accordance with FAR 31.205-26(e), they should be excluded from the fee computation. Other intracompany transfers shall be evaluated by individual components of cost, i.e., material, labor, and overhead. Normally, the lowest weight for direct material is 2 percent. A weighting of less than 2 percent would be appropriate only in unusual circumstances when there is a minimal contribution by the Contractor in relation to the total cost of the material.

(ii) Equipment. It is the policy of the Agency to contract with individuals or firms who have special capabilities relative to the needs of the EPA. These capabilities include personnel with particular skills, or talents, and facilities (plant and equipment) necessary to

complete the contract objectives. For the purpose of profit/fee analysis, equipment includes purchased items which are not to be an integral part of the final product. It would generally consist of production or test equipment. Where the EPA has to provide equipment to the Contractor either as Government-furnished equipment or Contractor-acquired equipment, appropriate profit/fee adjustments are necessary. Generally, a low weight range shall be assigned to the cost of such equipment (1 to 2 percent).

(iii) Engineering labor and manufacturing labor. Analysis of the engineering labor and manufacturing labor items of the cost content of the contract should include evaluation of the comparative quality and level of the engineering talents, manufacturing skills, and experience to be employed. In evaluating engineering labor for the purpose of assigning profit dollars, consideration should be given to the amount of notable scientific talent or unusual or scarce engineering talent needed in contrast to journeyman engineering effort or supporting personnel. The diversity, or lack thereof, of scientific and engineering specialties required for contract performance and the corresponding need for engineering supervision and coordination should be evaluated. Similarly, the variety of manufacturing labor skills required and the Contractor's manpower resources for meeting these requirements should be considered. For the purpose of profit/fee computation, manufacturing labor includes all nonprofessional labor, e.g., secretaries, technicians and carpenters, etc.

(iv) Engineering overhead, manufacturing overhead, and general and administrative expenses. (A) Where practicable, analysis of these overhead items of cost should include the evaluation of the make up of the expenses and how much they contribute to contract performance. This analysis should include a determination of the amount of labor within these overhead pools and how this labor would be treated if it were considered as direct labor under the contract. The allocable labor elements should be given the same profit consideration that they would receive if they were treated as direct labor. The other elements of these overhead pools should be evaluated to determine whether they are routine expenses such as utilities, depreciation, and maintenance, and hence given lesser profit consideration given the pools as a whole.

(B) It is not necessary that the Contractor's accounting system break down its overhead expenses within the classification of engineering overhead, manufacturing overhead, and general and administrative expenses. The Contractor whose accounting system only reflects one overhead rate on all direct labor need not change its system to correspond with all the above classifications. Where practicable, the Contracting Officer in his/her evaluation of such a Contractor's overhead rate should break out the applicable sections of the composite rate which could be classified as engineering overhead, manufacturing overhead,

and general and administrative expenses and follow the appropriate evaluation technique. When it is not practicable to evaluate the elements of the burden pool, the following rates should usually apply:

Engineering overhead	7.5%
Manufacturing overhead	5.5%
Composite overhead	6.5%
G&A	6.5%

(C) It is not necessary for the Contracting Officer to make a separate profit evaluation of overhead expenses in connection with each procurement action for substantially the same product with the same contractor. Once an analysis of the profit weight to be assigned the overhead pool has been made, the weight assigned may be used for future procurements with the same contractor until there is a change in the cost composition of the overhead pool or the contract circumstances.

(v) Consultants. Consultant costs, whether related to an individual consultant or consulting firm should be analyzed from the standpoint of what talents and skills the consultants have and how they will be used on the contract. The analysis should consider if the Contractor normally should be expected to have people with comparable expertise employed as full-time staff or if the contract requires skills not normally available on an employer-employee relationship. Where the Contractor is using consultants to perform services which could normally be expected to be done in-house, the rating factor should be generally below 2 to 3 percent. Where noted experts are retained for consultation on the contract, the rating will generally be higher.

(vi) Other direct costs. Items of costs, such as travel, subsistence, printing, and computers should generally be assigned a rating of 1 to 3 percent. The analysis of these costs should be similar to the analysis of direct materials.

(3) Contractor's assumption of contract cost risk. (i) It is the policy of the Administration to shift the risk of contract costs to the fullest extent practicable to contractors and to compensate them for the assumption of this risk. Evaluation of this risk requires a determination of (A) the degree of cost responsibility the Contractor assumes, (B) the reliability of the cost estimates in relation to the task assumed, and (C) the chance of the Contractor's success or failure. This factor is specially limited to the risk of contract costs. Thus, such risks of losing potential profits in other fields are not within the scope of this factor.

(ii) The first and basic determination of the degree of cost responsibility assumed by the Contractor is related to the sharing of total risk of contract cost by the Government and the Contractor through the selection of contract type. The extremes are a cost-plus-fixed-fee

contract requiring only that the Contractor use its best efforts to perform a task, and a firm-fixed-price contract for a complex item. Such cost-plus-fixed-fee contract would reflect a minimum assumption of cost responsibility, whereas such firm-fixed-price contract would reflect a complete assumption of cost responsibility. Therefore, in the first step of determining what value is to be given for the Contractor's assumption of contract cost risk, a zero rating shall be given to a proposed cost-plus-fixed-fee best efforts contract, and a higher rating shall be given to a closely priced firm-fixed-price contract for a new, complex item.

(iii) The second determination is that of the reliability of the cost estimates. Sound price negotiation requires well-defined contract objectives and reliable cost estimates. An excessive cost estimate reduces the possibility that the cost of performance will exceed the contract price, thereby reducing the Contractor's assumption of contract cost risk.

(iv) The third determination is that of the difficulty of the Contractor's task. The Contractor's task can be difficult or easy, regardless of the type of contract.

(v) Contractors are likely to assume greater cost risks only if the Contracting Officers objectively analyze the risk incident to proposed contracts and are willing to compensate Contractors for it. Generally, a cost-plus-fixed-fee contract would not justify a reward for risk in excess of 1 percent, nor would a firm-fixed-price contract justify a reward of less than 4 percent. Where proper contract type selection has been made, the reward for risk by contract type would usually fall into the following percentage ranges:

<u>Type of Contract</u>	<u>Percentage Ranges</u>
Cost-plus-fixed-fee	0 to 1
Cost-plus-incentive-fee including	
cost incentives only	1 to 2
Cost-plus-incentive-fee including cost,	
performance, and delivery incentives	2.5 to 3
Fixed-price-incentive including cost	
incentives only	2 to 4
Fixed-price-incentive including cost,	
performance, and delivery incentives	3 to 5
Prospective price determination	4 to 5
Firm-fixed-price	4 to 6

(A) These ranges may not be appropriate for all procurement situations. For instance, a fixed-price-incentive contract which is closely priced with a low ceiling price and a high incentive share may be tantamount to a firm-fixed-price contract. In this situation, the Contracting Officer might determine that a basis exists for high confidence in the reasonableness of the estimate, and that little opportunity exists for cost reduction without extraordinary efforts. The Contractor's willingness to

accept ceilings on their burden rates should be considered as a risk factor for cost-plus-fixed-fee contracts.

(B) In making a contract cost risk evaluation in a procurement action that involves definitization of a letter contract, consideration should be given to the effect on total contract cost risk as a result of having partial performance under a letter contract. Under some circumstances, it may be reasoned that the total amount of cost risk has been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the Contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a Contractor has begun work under an anticipatory cost letter, the risk assumed is greater than the normal situation. To be equitable the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all attendant circumstances, not just to the portion of costs incurred or percentage of work completed, prior to definitization.

(4) Record of contract performance. (i) The purpose of this factor is to motivate Contractors to improve their performance by rewarding them for excellent past performance and penalizing them for poor performance. Effective use of this factor requires that (A) reports on the various aspects of past performance be obtained and evaluated; and (B) this information be used in such a way as to motivate Contractors to improve their performance.

(ii) The evaluation of a particular Contractor's past performance and the importance placed upon the various subfactors listed below should be done in such a way as to motivate the Contractor to improve its performance. For instance, it might be pointless, in evaluating the performance of an autonomous division of a multidivisional contractor, to place emphasis on the performance of another autonomous division. Under such circumstances, the management of the division being evaluated might have no means of controlling the performance of the other division; therefore, emphasis on this performance by assigning a plus or minus rating to this factor might have a negative effect upon motivation to improve.

(iii) The weight to be assigned to this factor is arrived at on a judgment basis rather than an arithmetical averaging of weights assigned to all factors, depending upon the particular procurement situation, and the relative importance of the various factors. For example, an evaluation of a particular Contractor may indicate that its performance was satisfactory in most areas, except that it showed a preference for doing all work in-house and a disinclination to support Government small business objectives. In such a case the Contracting Officer may feel that the importance of these factors might justify the assignment of a lower overall rating for the record of past

performance.

(iv) As stated above, the purpose of this factor is to reward a Contractor for excellent past performance and penalize it for poor performance. Therefore, performance which is rated as merely satisfactory should generally be assigned a weight of zero. However, a Contractor who has consistently met contractual requirements may be awarded a plus.

(v) The following factors are to be considered in evaluating a Contractor's performance record:

(A) Cost efficiency. Low cost performance reflecting economic use of facilities and manpower, sound purchasing methods and subcontracting procedures, and effective inventory control are criteria for consideration. Improvement in efficiency through investment in plant modernization, past efficiencies, or lack thereof, effectiveness of the Contractor's make-or-buy program, purchasing and subcontracting system and inventory control should be evaluated.

(B) Management. Stability and competence of management personnel, their willingness and ability to adjust company resources to meet peculiarly difficult and changing control requirements are criteria for consideration. The degree of cooperation by the Contractor with the objectives of the Government should be considered.

(C) Extent of the contractor's investment. The extent of a Contractor's total investment (i.e., both equity and borrowed capital) in the performance of the contract will be taken into consideration in determining the amount of the fee or profits.

(D) Reliability of cost estimates. Accuracy and reliability of previous cost estimates should be considered. Where substantial overruns have occurred, the Contracting Officer should attempt to determine the reasons.

(E) Inventive and developmental contributions. Extent and nature of Contractor-initiated and financed research, development, design work, product engineering, quality control, and manufacturing processes and techniques in the areas of concern to the EPA should be analyzed.

(F) Timely performance. The Contractor's performance record, considering excusable delays and the Contractor's efforts to overcome delays, should be analyzed.

(G) Small business participation. The Contractor's policies and procedures which energetically support Government small business programs pursuant to FAR Subpart 19.7 should be given favorable consideration. Any unusual effort which the Contractor displays in subcontracting with

small concerns, particularly for development type work likely to result in later production opportunities, and overall effectiveness of the Contractor in subcontracting with and furnishing assistance to small concerns should be considered. Conversely, failure or unwillingness on the part of the Contractor to support Government small business policies should be viewed as evidence of poor performance for the purpose of establishing a profit objective.

(H) Labor surplus area participation. A similar review and evaluation (as required in paragraph (b)(4)(v)(G) of this section) should be given to the Contractor's policies and procedures supporting the Government's labor surplus area program pursuant to FAR Part 20. Particular favorable consideration should be given to a Contractor who (a) makes a significant effort to help find jobs and provide training for the hardcore unemployed, or (b) promotes maximum subcontractor utilization of certified-eligible concerns, as defined in FAR 20.101.

(I) Extent of Government assistance. The Government encourages its Contractors to perform their contracts with the minimum of financial, facilities, or other assistance from the Government. Where extraordinary financial, facilities, or other assistance must be furnished to a Contractor by the Government, such extraordinary assistance should have a modifying effect in determining what constitutes a fair and reasonable profit or fee.

(J) Effect of competition. When competition is effective and proposals are on a firm-fixed-price basis, the Contracting Officer normally need not consider in detail the amount of estimated profit included in a price. When effective competition is lacking, and in all cases where cost analysis is performed in accordance with FAR Subpart 15.8, the estimate for profit, target profit or fee, or the proposed fixed fee should be analyzed in the same manner as all other elements of price.

1515.970-3 Documentation.

Determination of the profit or fee objective, in accordance with this subpart shall be fully documented. Since the profit objective is the Contracting Officer's pre-negotiation evaluation of a total profit allowance for the proposed contract, the amounts developed for each category of cost will probably change in the course of negotiation. Furthermore, the negotiated profit will probably vary from the profit objective and from the prenegotiation detailed application of the weights to each element of the Contractor's input to total performance. Since the profit objective is viewed as a whole rather than as its component parts, insignificant variations from the prenegotiation profit objective, as a result of changes to the Contractor's input to total performance, need not be documented in detail.

Conversely, significant deviations from the profit objective necessary to reach a final agreement on profit or fee shall be explained in the record of negotiation prepared in accordance with FAR 15.808.

**SUBPART 1515.10--PREAWARD, AWARD, AND POSTAWARD
NOTIFICATIONS, PROTESTS, AND MISTAKES**

1515.1003 Debriefing of unsuccessful offerors.

The CCO, or his/her designee, shall conduct debriefings of unsuccessful offerors, with participation of the Project Officer and such other specialists as the CCO or designee deems necessary. All debriefings shall be held after contract award.

PART 1516--TYPES OF CONTRACTS**Sec.**

1516.000 Scope of part.

Subpart 1516.3--Cost-Reimbursement Contracts

1516.307 Contract clauses.

Subpart 1516.4--Incentive Contracts

1516.404-2 Cost-plus-award-fee contracts.
1516.404-270 Scope.
1516.404-271 Applicability.
1516.404-272 Objectives.
1516.404-273 Limitations.
1516.404-274 Fee limitations.
1516.404-275 Definitions and responsibilities.
1516.404-276 Appointment of personnel.
1516.404-277 Preparation of the award fee plan.
1516.404-278 Operation of the evaluation system.
1516.404-279 Simplified procedures.
1516.404-2710 Deviation.
1516.405 Contract clauses.

Subpart 1516.5--Indefinite-Delivery Contracts

1516.505 Contract clauses.

**Subpart 1516.6 Time-and-Materials, Labor-Hour, and letter
Contracts**

1516.603 Letter Contracts

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1516.000 Scope of part.

This Part implements and supplements FAR Part 16. It provides policy and procedures for cost-plus-award-fee type contracts and prescribes additional contract clauses for use with cost-reimbursement and indefinite-delivery type contracts.

SUBPART 1516.3--COST-REIMBURSEMENT CONTRACTS**1516.307 Contract clauses.**

The Contracting Officer shall insert the clause in 1552.216-71, Date of Incurrence of Cost, in cost-reimbursement contracts when an anticipatory cost letter has been issued on the project.

SUBPART 1516.4--INCENTIVE CONTRACTS**1516.404-2 Cost-plus-award-fee contracts.****1516.404-270 Scope.**

This subsection establishes the EPA policy and procedures for cost-plus-award-fee (CPAF) type contracts.

1516.404-271 Applicability.

(a) The provisions of this subsection apply to all CPAF type contracts. Contracting Officers shall consider all contract actions conforming to the limitations of FAR 16.404-2(c) and 1516.404-273, which have a potential value of \$5,000,000 or more as candidates for award as a CPAF contract. Contracting Officers may utilize CPAF contracts for requirements whose estimated value is less than \$5,000,000 when considered appropriate.

(b) The formal procedures established in this subpart apply to contract acquisitions with a potential value exceeding \$2,000,000. The simplified procedures prescribed in 1516.404-279 are authorized for CPAF contracts with a potential value of \$2,000,000 or less.

1516.404-272 Objectives.

The award fee contract, when determined suitable for use, is a combination of at least three EPA contracting objectives: (a) it provides for the reimbursement of allowable, allocable, and reasonable costs; (b) it fixes a dollar amount beyond the initial estimate of costs that represents the compensation for risk (base fee); and (c) it motivates performance throughout the life of a contract where success breeds additional income (award fee). The CPAF contract is used when the work to be performed is such that specific quantitative objective measurement is not feasible and the required performance extends over a sufficient period of time for the award fee features to be used effectively.

1516.404-273 Limitations.

Contracting Officers should use the CPAF contract in acquiring supplies or nonpersonal services only where the contract amount, period of performance, and expected benefits warrant the additional effort and costs involved in administering this type of contract. Contracting Officers should use the CPAF contract only for those acquisitions where:

(a) The Contracting Officer determines a cost-reimbursement contract is necessary in accordance with FAR 16.301-2 and FAR 16.301-3;

(b) The period of performance is more than one year;

(c) The nature of the work cannot be specifically described and is of a continuous service or level of effort susceptible to monitoring; or

(d) The requirement is of such a nature that the Contractor's performance is susceptible to monitoring.

1516.404-274 Fee limitations.

The base fee should normally be not more than three percent of the estimated cost of the contract. (See FAR 15.903(d), for maximum fee limitations.) At the time of award, the Contracting Officer shall obligate the total amount of base and award fee. However, in incrementally funded contracts, the Contracting Officer shall separate the fee into the base and award fee portions and obligate only the initial increment of cost, base fee, and award fee. The Contracting Officer shall award the total award fee earned for the period being evaluated. The Contracting Officer shall not carry forward into a subsequent evaluation period any award fee not awarded in a previous evaluation period.

1516.404-275 Definitions and responsibilities.

"Award Fee Plan" means a plan, developed by the PEB, which identifies various categories of performance and clearly describes the criteria used by the PEB to evaluate Contractor performance. The plan also allocates the award fee pool among performance categories.

"Award Fee Pool" means that portion of the contract fee set forth in the contract as the amount of fee available to be awarded for Contractor performance in accordance with the criteria contained in the Award Fee Plan.

"Evaluation Coordinator" means a Government official appointed to receive, code, validate, and assess Performance Monitor reports; and to present such Contractor performance information and data to the PEB.

"Fee Determination Official (FDO)" means the Chief of the Contracting Office who reviews the recommendation of the Performance Evaluation Board and makes the final determination of the award fee.

"PEB Executive Secretary" means a Government official who prepares the official PEB report.

"Performance Evaluation Board (PEB)" means a board of Government officials, which performs the in-depth review of all aspects of Contractor performance and recommends an appropriate fee to the FDO.

"Performance Event" means a discrete happening or series of related happenings occurring during the course of performance which indicate or represent Contractor performance. Performance events shall be reported by the performance monitors on EPA Form No. 1900-41B. The Contractor may report performance events directly to the PEB through the Evaluation Coordinator either as they occur or as a summary report of the evaluation period.

"Performance Monitor(s)" means those Government employees designated to observe, assess, and report the performance of the Contractor on a close, continuous day-to-day basis. Performance monitors are of two categories: technical and business. The technical performance monitors report on the Contractors performing the technical requirements of the contract. The business performance monitors report on the business aspects of the Contractor's performance; these individuals will be the Contracting Officer/Contract Specialist and Cost Analyst most familiar with the specific contractual and financial aspects of the contract.

"Period of Evaluation" means a segment of the contract's period of performance specified in the award fee plan which will be evaluated by the PEB for purposes of establishing the award fee for that period.

1516.404-276 Appointment of personnel.

(a) The Responsible Associate Director (RAD) will determine, in concert with the responsible program office, the participants in the award fee process. The Contracting Officer shall prepare the formal appointment memorandum and forward it to the HCA prior to issuance of the solicitation. Individuals shall be designated as follows:

(1) "Chairperson, Performance Evaluation Board and Board Members." The Chairperson of the Performance Evaluation Board shall be the laboratory or division director of the program initiating the procurement. A representative of the responsible contracts operation office shall be a voting member of all PEBs. The Chairperson of the PEB and the Contracting Officer shall recommend other board members.

(2) "Evaluation Coordinator." As recommended by the Chairperson of the PEB.

(3) "Executive Secretary." As recommended by the Chairperson of the PEB.

(4) "Performance Monitors." The PEB Chairperson shall assure that adequate performance monitoring capability is available. These individuals need not be designated in the appointment memorandum.

(b) If any changes in the composition of the PEB are necessary, the following approvals shall be obtained:

(1) Chairperson, PEB - by the FDO.

(2) PEB members - by the Chairperson, PEB.

1516.404-277 Preparation of the award fee plan.

The purpose of the award fee plan is to describe in one document the plan for monitoring, assessing, and evaluating Contractor performance to determine any award fee earned. The PEB shall develop and follow an award fee plan which clearly describes the criteria to be used to determine fee. The PEB shall forward the plan through the Contracting Officer to the RAD for approval prior to issuance of the solicitation. The Contracting Officer shall include the award fee plan in the solicitation. A complete award fee plan should include the following elements:

(a) The base fee amount.

(b) The total award fee pool.

(c) Performance areas to be evaluated.

(d) Criteria to be used in evaluations.

(e) Relative weights to be assigned to performance areas and to the evaluation criteria.

(f) Frequency and timing of award fee determination.

(g) Proportion of the total award fee pool to be available for each evaluation period.

(h) Procedure to be followed (the timing involved) in evaluating performance and determining the award fee.

1516.404-278 Operation of the evaluation system.

(a) Performance Reporting. Performance Monitors shall report information in the form of one or more individual Performance Event Reports on EPA Form 1900-41B, CPAF Contract Individual Performance Event, directly to the cognizant Evaluation Coordinator in accordance with intervals specified

in the award fee plan. The Performance Monitors shall observe the following definitions of Contractor performance in reporting and judging performance events:

(1) Superior - "+" The performance event exceeds the satisfactory level.

(2) Satisfactory - "0" The performance event is acceptable.

(3) Substandard - "-" The performance event is less than satisfactory.

(b) Performance Information Coordination. (1) The Evaluation Coordinator shall receive, code, validate, and assess the Performance Events (PE) reports submitted by the monitors and select all those PEs he/she considers to be significant, i.e., above (+) or below (-) satisfactory performance.

(2) The Evaluation Coordinator shall also prepare separate PE summaries for each performance evaluation category. The summaries will be prepared on EPA Form 1900-41A, Summary of Significant Performance events, and will incorporate all monitor and contractor reported PEs the coordinator considers significant. The Evaluation Coordinator shall be responsible for preparing and presenting all material the PEB requires for its performance assessment. This material will serve (i) as the PEB's agenda, and (ii) as the complete documentation package which will support the PEB's fee recommendation. It will be organized into separate sections for each performance evaluation category. Each section will consist of the following material:

(A) Summary of Significant Performance events, EPA Form 1900-41A.

(B) The Individual PE reports, EPA Form 1900-41B.

(c) Evaluation of Performance. The PEB shall perform a review of the performance events against each performance evaluation category to arrive at the recommended award fee for each category as well as the total award fee for the period. The PEB must meet within 30 calendar days after the end of each evaluation period. At the initial PEB meeting the board members shall determine what fee the Contractor would normally receive if the work was being undertaken on a Cost-Plus-Fixed Fee (CPFF) basis. After determining this amount, the Board shall determine what percentage of the available award fee pool that, when added to the base fee, will equal the amount the Contractor would receive under a CPFF contract. This percentage of award fee will set the baseline for satisfactory performance.

(d) The Period of Evaluation. The period of evaluation will be at least every six months. The desired period of evaluation will be every four months.

(e) Performance Evaluation Report. Following the PEB meeting at which the award fee recommendation is reached, the Executive Secretary will prepare a Performance Evaluation Report and forward this to the Contracting Officer. The Contracting Officer will prepare a letter for signature of the FDO informing the Contractor's general management of the amount and basis of the fee awarded. The Contracting Officer shall forward the Performance Evaluation Report and the fee determination letter (the Performance Evaluation Report shall be an attachment to the fee determination letter) to the FDO for signature. The FDO will review the performance evaluation and fee recommendation and make a final determination of fee.

1516.404-279 Simplified Procedures.

The following CPAF procedures are authorized for procurements of \$2,000,000 or less which conform to the limitations in paragraph 1516.404-273.

(a) No appointment of a formal PEB is necessary. The Project Officer and Contracting Officer perform the duties and functions of the PEB members. In lieu of performance monitors reporting to an evaluation coordinator, the Project Officer will personally monitor and assess the technical performance of the Contractor for each evaluation period. The Contracting Officer or contract specialist will monitor the business aspects of the Contractor's performance.

(b) The Chief of the Contracting Office shall approve the award fee plan in lieu of the HCA.

(c) The Project Officer and the Contracting Officer shall report performance events on EPA Form 1900-41B. Use of the summary of significant performance events is not required.

(d) The Project Officer, with input from the Contracting Officer, will prepare the performance evaluation report.

1516.404-2710 Deviation.

Deviation from this section shall be as prescribed in subpart 1501.4.

1516.405 Contract clauses.

The Contracting Officer shall insert the clause at 1552.216-70, Award Fee, in solicitations and contracts when a cost-plus-award-fee contract is contemplated.

SUBPART 1516.5--INDEFINITE-DELIVERY CONTRACTS

1516.505 Contract clauses.

(a) The Contracting Officer shall insert the clause in 1552.216-72, Ordering--By Designated Ordering Officers, in

indefinite delivery/ indefinite quantity type solicitations and contracts.

(b) The Contracting Officer shall insert the clause in 1552.216-73, Fixed Rates for Services--Indefinite Delivery/Indefinite Quantity Contract, in solicitations and contracts to specify fixed rates for services.

SUBPART 1516.6--TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

1516.603 Letter Contracts

1516.603-3 Limitations.

The RAD is authorized to make the determination in FAR 16.603-3.

PART 1517--SPECIAL CONTRACTING METHODS

Subpart 1517.2--Options

Sec.

- 1517.200 Scope of subpart.
- 1517.202 Use of options.
- 1517.207 Exercise of options.
- 1517.208 Solicitation provisions and contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1517.2--OPTIONS**1517.200 Scope of subpart.**

This subpart does not apply to contracts for services involving (a) construction, alteration, or repair of real property; (b) architect-engineering services; (c) automatic data processing equipment systems; and (d) telecommunication equipment and services. However, it does not preclude the use of options in those contracts.

1517.202 Use of options.

(a) The use of options for increased quantities of supplies or services which exceed 50 percent of the base quantity specified in the contract for a particular period shall be approved by the Head of the Contracting Activity (HCA) prior to issuing the solicitation. In the case of supplies, the 50 percent limitation applies only to contracts which have a base quantity of more than one.

(b) The use of option periods which, when combined with the base contract period, results in a total contract period of performance exceeding thirty-six (36) months shall be approved by the Chief of the Contracting Office prior to issuing the solicitation. In no event, however, shall the total of the base and option periods exceed sixty (60) months in duration.

1517.207 Exercise of options.

(a) Unless otherwise approved by the Chief of the Contracting Office, contracts for services employing option periods shall require that a preliminary written notice of the Government's intention to exercise the option be furnished to the Contractor a minimum of sixty (60) calendar days prior to the date for the exercise of the option. Failure to provide such preliminary notice within the time-frame established in the contract waives the Government's right to unilaterally exercise the option and requires the negotiation of a bilateral contract modification in order to extend the period of performance, where such an extension is authorized.

(b) When the term of the service contract coincides with the fiscal year and delays in receipt of authority to obligate funds for the new fiscal year are anticipated, the Contracting Officer, if the contract so provides (see FAR 17.204(d)), may, within 60 days after the end of the fiscal year, unilaterally exercise an option to extend the term of the contract. The option may be exercised only if funds become available within the 60-day period. In the event that sufficient funding is not available within the 60-day period, the Government waives the right to exercise the option, thereby rendering any additional requirements subject to full and open competition requirements.

(c) The Contracting Officer, if the contract so provides, may, subject to the conditions in FAR 17.204(d), 32.703-2, and

32.705-1(a), exercise an option contingent upon the availability of funds. To exercise such an option, the contract must contain the clause in FAR 52.232-18, Availability of Funds. Under no circumstances shall any action be taken which could be construed as creating a legal liability on the part of the Government until a formal notice of availability of funds in the form of a contract modification has been issued by the Contracting Officer.

1517.208 Solicitation provisions and contract clauses.

(a) The Contracting Officer shall insert the solicitation provision at 1552.217-70, Evaluation of Contract Options, in Requests for Proposals when options are included.

(b) The Contracting Officer shall insert the clause at 1552.217-71, Option To Extend the Term of the Contract--Cost-Type Contract, when applicable.

(c) The Contracting Officer shall insert the clause at 1552.217-72, Option To Extend the Term of the Contract--Cost-Plus-Award-Fee Contract, when applicable.

(d) The Contracting Officer shall insert the clause at 1552.217-73, Option for Increased Quantity--Cost-Type Contract, when applicable.

(e) The Contracting Officer shall insert the clause at 1552.217-74, Option for Increased Quantity--Cost-Plus-Award-Fee Contract, when applicable.

(f) The Contracting Officer shall insert the clause at 1552.217-75, Option To Extend the Effective Period of the Contract--Time and Materials or Labor Hour Contract, when applicable.

(g) The Contracting Officer shall insert the clause at 1552.217-76, Option To Extend the Effective Period of the Contract--Indefinite Delivery/Indefinite Quantity Contract, when applicable.

PART 1519--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Sec.

1519.000 Scope of part.

Subpart 1519.2--Policies

1519.201 Policy.

1519.201-1 Director of Small and Disadvantaged Business Utilization.

1519.201-2 Small and disadvantaged business utilization specialists.

1519.202-5 Data collection and reporting requirements.

Subpart 1519.5--Set-Asides for Small Business

1519.501 Review of acquisitions.

1519.503 Class set-aside for construction.

Subpart 1519.6--Certificates of Competency and Determinations of Eligibility

1519.602-1 Procedures.

Subpart 1519.7--Subcontracting with Small Business and Small Disadvantaged Business Concerns

1519.705-2 Determining the need for a subcontract plan.

1519.705-4 Reviewing the subcontracting plan.

1519.705-70 Synopsis of contracts containing Pub. L. 95-507 subcontracting plans and goals.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1519.000 Scope of part.

This Part implements FAR Part 19 and provides policy and procedures for the development and conduct of the Agency small business and small, disadvantaged business utilization programs; for review of acquisitions for small business set-asides; and for subcontracting with small and small disadvantaged business concerns.

SUBPART 1519.2--POLICIES**1519.201 Policy.**

Each program's Assistant or Associate Administrator shall be responsible for developing its socioeconomic goals on a fiscal year basis. The goals shall be developed in collaboration with the supporting Chiefs of Contracting Offices and the local Small and Disadvantaged Business Utilization Specialist (SDBUS), and the Office of Small and Disadvantaged Business Utilization (OSDBU). The goals will be based on advance procurement plans and past performance. The goals shall be submitted to the Director, OSDBU, at least thirty (30) days prior to the start of the fiscal year.

1519.201-1 Director of Small and Disadvantaged Business Utilization.

The Director, OSDBU, provides guidance and advice, as appropriate, to Agency program and contracts officials on small and small disadvantaged business programs. The Director, OSDBU, is the central point of contact for inquiries concerning the small and disadvantaged business programs from industry, the Small Business Administration (SBA), and the Congress, and shall advise the Administrator and staff of such inquiries as required. The Director, OSDBU, shall represent the Agency in the negotiations with the other Government agencies on small and small disadvantaged business matters.

1519.201-2 Small and disadvantaged business utilization specialists.

(a) Small and Disadvantaged Business Utilization Specialists (SDBUS) shall be appointed in writing for each contracting office. The SDBUS will normally be appointed from members of staffs of the appointing authority. The SDBUS is administratively responsible directly to the appointing authority and, on matters relating to small and small disadvantaged business program activities, receives technical guidance from the Director, OSDBU. The appointing authorities are the Chiefs of the Contracting Offices.

(b) A copy of each appointment and termination of all SDBU specialists shall be forwarded to the Director, OSDBU. In addition to performing the duties outlined in paragraph (c) of this section that are normally performed in the activity to which assigned, the SDBUS shall perform such additional

functions as may be prescribed from time to time in furtherance of overall small and small disadvantaged business utilization program goals. The SDBUS is not precluded from being assigned the responsibility for the labor surplus area program prescribed by FAR Part 20. The SDBUS may be appointed on either a full or part-time basis; however, when appointed on a part-time basis, the small business duty shall take precedence over collateral responsibilities.

(c) The SDBUS appointed pursuant to (a) above shall perform the following duties as appropriate:

(1) Maintain a program designed to locate capable small business sources for current and future acquisitions;

(2) Coordinate inquiries and requests for advice from small and small disadvantaged business concerns on acquisition matters;

(3) Review all proposed solicitations in excess of the small purchase limitation, assure that small business concerns will be afforded an equitable opportunity to compete, and, as appropriate, initiate recommendations for small business set-asides, or offers of requirements to the SBA for the 8(a) program, and complete EPA Form 1900-37, "Record of Procurement Request Review," as appropriate:

(4) Take action to assure the availability of adequate specifications and drawings, when necessary, to obtain small business participation in an acquisition. When small business concerns cannot be given an opportunity on a current acquisition, initiate action, in writing, with appropriate technical and contracting personnel to ensure that necessary specifications and/or drawings for future acquisitions are available.

(5) Review proposed contracts for possible breakout of items or services suitable for acquisition from small business and small disadvantaged business concerns;

(6) Advise small businesses with respect to the financial assistance available under existing laws and regulations and assist such concerns in applying for financial assistance;

(7) Participate in the evaluation of a prime contractor's small business subcontracting programs;

(8) Assure that adequate records are maintained, and accurate reports prepared, concerning small business participation in acquisition programs (see 1519.202-5);

(9) Make available to SBA copies of solicitations when so requested;

(10) Act as liaison with the appropriate SBA office or representative in connection with set-asides, certificates of

competency, size classification, and any other matter concerning the small or small disadvantaged business programs.

1519.202-5 Data collection and reporting requirements.

(a) As required, monthly reports of factual information, covering acquisition actions and dollars awarded to small businesses, small disadvantaged businesses, women-owned small businesses, the Small Business Administration under the authority of section 8(a) of the Small Business Act, and information on actions and dollars made under small business set-asides shall be submitted by the Procurement and Contracts Management Division, to the Director, OSDBU.

(b) The Financial Management Division will submit to the Director, OSDBU, a copy of the Small Purchase Activity Report that shows by each EPA purchasing activity the following information (cumulative monthly) for small purchases:

- (1) Total actions and dollar value of awards;
- (2) Total actions and dollar value of awards to all businesses;
- (3) Total actions and dollar value of awards to small businesses;
- (4) Total actions and dollar value of construction awards to small businesses made by set-aside;
- (5) Total actions and dollar value of small business awards made by set-asides, excluding set-asides for construction;
- (6) Total actions and dollar value of awards made to the Small Business Administration pursuant to section 8(a) of the Small Business Act; and
- (7) Total actions and dollar value of awards made to small disadvantaged businesses.

(c) The reports identified in Paragraphs (a) and (b) of this section are to be submitted to the Director, OSDBU, no later than the 20th day following the end of the reporting period with the exception of the last report of the fiscal year which shall be submitted no later than the 30th day following the end of the fiscal year.

SUBPART 1519.5--SET-ASIDES FOR SMALL BUSINESS

1519.501 Review of acquisitions.

(a) If no Small Business Administration (SBA) representative is available, the Small and Disadvantaged Business Utilization Specialist (SDBUS) shall initiate recommendations to the Contracting Officer for small business set-asides with respect

to individual acquisitions or classes of acquisitions or portions thereof.

(b) When the SDBUS has recommended that all, or a portion, of an individual acquisition or class of acquisitions be set aside for small business, the Contracting Officer shall promptly either (1) concur in the recommendation or (2) disapprove the recommendation, stating in writing the reasons for disapproval. If the Contracting Officer disapproves the recommendation of the SDBUS, the SDBUS may appeal to the appropriate appointing authority, whose decision shall be final.

1519.503 Class set-aside for construction.

(a) Each proposed acquisition for construction estimated to cost between \$10,000 and \$1,000,000 shall be set-aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn in accordance with the procedure of FAR 19.506 only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction acquisitions in excess of \$1,000,000 shall be considered on a case-by-case basis.

SUBPART 1519.6--CERTIFICATES OF COMPETENCY AND DETERMINATIONS OF ELIGIBILITY

1519.602-1 Procedures.

A copy of the documentation supporting the determination that a small business concern is not responsible, as required by FAR 19.601-1(a), shall be transmitted to the Director, Office of Small and Disadvantaged Business Utilization, concurrently with the submission of a copy of the documentation to the appropriate Small Business Administration Regional Office.

SUBPART 1519.7--SUBCONTRACTING WITH SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

1519.705-2 Determining the need for a subcontract plan.

One copy of the determination required by FAR 19.705-2(c) shall be placed in the contract file and one copy provided the Director, Office of Small and Disadvantaged Business Utilization (OSDBU).

1519.705-4 Reviewing the subcontracting plan.

In determining the acceptability of a proposed subcontracting plan, the Contracting Officer shall obtain advice and recommendations from the OSDBU, which shall in turn coordinate review by the Small Business Administration

Procurement Center Representative (if any).

**1519.705-70 Synopsis of contracts containing Pub. L. 95-507
subcontracting plans and goals.**

The synopsis of contract award, where applicable, shall include a statement identifying the contract as one containing Pub. L. 95-507 subcontracting plans and goals.

PART 1520--LABOR SURPLUS AREA CONCERNS

Subpart 1520.1--General

Sec.

1520.102 Labor surplus area goals.

Subpart 1520.3--Labor Surplus Area Subcontracting Program

1520.303 Review of subcontracting program.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1520.1--GENERAL**1520.102 Labor surplus area goals.**

Labor surplus area goals shall be developed as prescribed in 1519.201.

Subpart 1520.3--Labor Surplus Area Subcontracting Program**1520.303 Review of subcontracting program.**

The Contracting Officer, in conjunction with the Office of Small and Disadvantaged Business Utilization, shall review labor surplus area subcontracting programs.

**PART 1522--APPLICATION OF LABOR LAWS TO GOVERNMENT
ACQUISITIONS**

Sec.

1522.000 Scope of part.

Subpart 1522.1--Basic Labor Policies

1522.103 Overtime.

1522.103-4 Approvals.

Subpart 1522.6--Walsh-Healey Public Contracts Act

1522.608 Procedures.

1522.608-3 Protests against eligibility.

1522.608-4 Award pending final determination.

1522.608-6 Postaward.

Subpart 1522.8--Equal Employment Opportunity

1522.803 Responsibilities.

1522.804 Affirmative action programs.

1522.804-2 Construction.

1522.805 Procedures.

Subpart 1522.10--Service Contract Act of 1965

1522.1003 Applicability.

Subpart 1522.13--Special Disabled and Vietnam Era Veterans

1522.1306 Complaint procedures.

Subpart 1522.14--Employment of the Handicapped

1522.1403 Waivers.

1522.1406 Complaint Procedures.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1522.000 Scope of part.

This Part implements FAR Part 22 and provides procedures to be followed in obtaining approvals or determinations from the Small Business Administration (SBA), the Department of Labor (DOL) or the Office of Contract Compliance Programs (OFCCP) on matters related to the application of labor laws.

SUBPART 1522.1--BASIC LABOR POLICIES**1522.103 Overtime.****1522.103-4 Approvals.**

The Chief of the Contracting Office is the Agency approving official.

SUBPART 1522.6--WALSH-HEALEY PUBLIC CONTRACTS ACT**1522.608 Procedures.****1522.608-3 Protests against eligibility.**

The Contracting Officer shall forward the determination of eligibility, after concurrence by legal counsel, to the Head of the Contracting Activity (HCA) for referral to the Department of Labor (DOL) or to the Administrator of SBA if the offeror is a small business.

1522.608-4 Award pending final determination.

If an offeror's eligibility case is pending review by DOL or SBA, the Contracting Officer shall obtain the concurrence of legal counsel and approval of the Responsible Associate Director (RAD) prior to making an award.

1522.608-6 Postaward.

The Contracting Officer shall follow the procedures in 1522.608-3.

Subpart 1522.8--Equal Employment Opportunity**1522.803 Responsibilities.**

If the applicability of E.O. 11246 and implementing regulations are questioned, the Contracting Officer shall route the matter through the RAD to the EPA Office of Civil Rights.

1522.804 Affirmative action programs.**1522.804-2 Construction.**

Each contracting office having construction contract responsibility shall maintain a list of geographical areas subject to affirmative action requirements. The list may be

obtained from the Office of Contract Compliance Programs, U.S. Department of Labor.

1522.805 Procedures.

(a) Preaward clearance requests cited in FAR 22.805(a)(2), (3), and (5) shall be forwarded to the EPA Office of Civil Rights. The Contracting Officer shall submit requests for clearance cited in FAR 22.805(a)(7) through the EPA Office of Civil Rights.

(b) The Contracting Officer shall obtain posters entitled "Equal Opportunity Is the Law" from the EPA Office of Civil Rights.

SUBPART 1522.10--SERVICE CONTRACT ACT OF 1965

1522.1003 Applicability.

Requests for determinations and exemptions shall be submitted to the Head of the Contracting Activity for signature and transmittal to the Department of Labor in accordance with FAR 22.1003(e).

SUBPART 1522.13--SPECIAL DISABLED AND VIETNAM ERA VETERANS

1522.1306 Complaint procedures.

The Contracting Officer shall forward complaints received to the RAD for referral to the Department of Labor.

SUBPART 1522.14--EMPLOYMENT OF THE HANDICAPPED

1522.1403 Waivers.

Contracting Officers shall submit waiver requests to the Head of the RAD. Such requests shall be coordinated with the EPA Office of Civil Rights.

1522.1406 Complaint Procedures.

Complaints regarding the administration of the Act shall be coordinated with the EPA Office of Civil Rights prior to submission to the Office of Contract Compliance Programs.

**PART 1523--ENVIRONMENTAL CONSERVATION, AND OCCUPATIONAL
SAFETY**

Subpart 1523.3--Hazardous Material and Material Safety Data

Sec.

- 1523.303 Contract Clause.
- 1523.303-70 Protection of human subjects.
- 1523.303-71 Decontamination of government-furnished property.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1523.3--HAZARDOUS MATERIAL AND MATERIAL SAFETY DATA

1523.303 Contract Clause.

1523.303-70 Protection of human subjects.

Contracting Officers shall insert the contract clause at 1552.223-70, Protection of Human Subjects, when the contract involves human test subjects.

1523.303-71 Decontamination of government-furnished property.

Contracting Officers shall insert the contract clause at 1552.245-70, Decontamination of Government-Furnished Property, when it is anticipated that a Contractor will use government-furnished property in the clean-up of hazardous or toxic substances in the environment.

PART 1524--PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 1524.1--Protection of Individual Privacy

1524.104 Solicitation provisions.

Subpart 1524.2--Freedom of Information Act

1524.202 Policy.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

SUBPART 1524.1--PROTECTION OF INDIVIDUAL PRIVACY

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1524.104 Solicitation provisions.

The Contracting Officer shall insert the provision at 1552.224-70, Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement, in all solicitations.

SUBPART 1524.2--FREEDOM OF INFORMATION ACT

1524.202 Policy.

The EPA policy on disclosure of EPA records, handling of requests under the Freedom of Information Act, and confidentiality of business information is contained in 40 CFR, Part 2, Public Information.

PART 1525--FOREIGN ACQUISITION

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1525.1--BUY AMERICAN ACT--SUPPLIES**1525.102 Policy.**

The following officials are designated to approve determinations required by FAR 25.102(a)(4):

(a) The Chief of the Contracting Office for contracts estimated not to exceed \$1 million; and

(b) The Head of the Contracting Activity (HCA) for contracts estimated to exceed \$1 million.

PART 1527--PATENTS, DATA, AND COPYRIGHTS

SUBPART 1527.4--RIGHTS IN DATA AND COPYRIGHTS

1527.404 Basic rights in data clause.

The Contracting Officer shall insert in the Limited Rights Notice when using Alternate II of FAR 52.227-14 the following purposes for disclosure of limited data outside the Government.

- (a) Use (except for manufacture) by support service contractors;
- (b) Evaluation by nongovernment evaluators;
- (c) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part, for information and use in connection with the work performed under each contract;
- (d) Emergency repairs or overhaul work;
- (e) Release to foreign government, or instrumentality thereof, as interests of the United States may require, for information or evaluation, or for emergency repair or overhaul work by such government.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

PART 1528--BONDS AND INSURANCE

Subpart 1528.3--Insurance

Sec.
1528.311 Solicitation provision and contract clause on
liability insurance under cost-reimbursement
contracts.

1528.311-70 Comprehensive Environmental Response,
Compensation and Liability Act (CERCLA).

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

SUBPART 1528.3--INSURANCE

1528.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

1528.311-70 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(a) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228-70, Insurance--Liability to Third Persons-Commercial Organizations, when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(b) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228-71, Insurance--Liability to Third Persons-State or Local Governments, in contracts with State or local Governments when routine (nonemergency) removal or remedial action is being undertaken pursuant to the CERCLA.

(c) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228-72, Insurance--Liability to Third Persons-Commercial Organizations (Emergency), in contracts with commercial organizations when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the CERCLA.

(d) The Contracting Officer shall insert, where appropriate, the contract clause at 1552.228-73, Insurance--Liability to Third Persons-State or Local Governments (Emergency), in contracts with State or local Governments when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the CERCLA.

PART 1529--Taxes

Subpart 1529.3--State and Local Taxes

Sec.

1529.303 Application of State and local taxes to
Government contractors and subcontractors.

Subpart 1529.4--Contract Clauses

1529.401--Domestic Contracts.

1529.401-70 Cost-reimbursable type contracts.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40
U.S.C. 486(c).

SUBPART 1529.3 STATE AND LOCAL TAXES**1529.303 Application of State and local taxes to Government contractors and subcontractors.**

Contractors are responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available, unless the Contracting Officer determines under FAR 31.205-41(b)(3) that the administrative burden outweighs the corresponding benefit. Contractors are responsible for ensuring that subcontractors also seek and obtain such exemptions, if available.

SUBPART 1529.4 CONTRACTS CLAUSES**1529.401 Domestic contracts.****1529.401-70 Cost-reimbursable type contracts.**

Contracting Officers shall insert the clause at 1552.229-70 in all solicitations and contracts when it is anticipated a cost-reimbursable type contract shall be used or a contractor or subcontractor shall be reimbursed for materials at cost.

PART 1530--COST ACCOUNTING STANDARDS

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1530.3--CAS CONTRACT REQUIREMENTS

1530.304 Waiver.

The Responsible Associate Director (RAD) has authority to waive Cost Accounting Standards Board requirements.

PART 1531--CONTRACT COST PRINCIPLES AND PROCEDURES

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

SUBPART 1531.1--APPLICABILITY**1531.101 Objectives.**

Requests for individual and class deviations shall be submitted through the Procurement Policy Staff to the Responsible Associate Director (RAD). The RAD approves requests for individual deviations. The RAD reviews and forwards requests for class deviations to the Head of the Contracting Activity (HCA). The HCA coordinates approval of requests for class deviations and Agency supplements with the Chairperson of the Civilian Agency Acquisition Council.

PART 1532--CONTRACT FINANCING

Sec.

1532.000 Scope of part.

Subpart 1532.1--General

1532.102 Description of contract financing methods.

1532.111 Contract clauses.

1532.170 Forms.

Subpart 1532.4--Advance Payments

1532.402 General.

1532.407 Interest.

1532.409-2 Recommendation for disapproval.

1532.412 Contract clause.

Subpart 1532.8--Assignment of Claims

1532.805 Procedure.

1532.805-70 Forms.

Subpart 1532.9--Prompt Payment

1532.908 Contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40
U.S.C. 486(c).

1532.000 Scope of part.

This Part implements and supplements FAR Part 32 and provides policies and procedures for contract financing and other payment matters. This includes--

- (a) Progress payments;
- (b) Advance payments;
- (c) Prompt Payment Act implementation;
- (d) Assignment of claims; and
- (e) Selected clauses and forms.

SUBPART 1532.1--GENERAL**1532.102 Description of contract financing methods.**

Progress payments based on a percentage or stage of completion are authorized for use as a payment method under EPA contracts or subcontracts for construction and alteration or repair of buildings, structures, or other real property. For all other contracts, progress payment provisions shall be based on costs, except that progress payments based on a percentage or stage of completion may be authorized by the Responsible Associate Director (RAD) when a determination is made that progress payments based on costs cannot be practically employed and that there are adequate safeguards provided for the administration of the progress payments.

1532.111 Contract clauses.

The Contracting Officer shall insert the clause at 1552.232-73, Payments--Fixed Rate Services Contract, in solicitations and indefinite delivery/indefinite quantity contracts when services are being acquired on a fixed-rate basis.

1532.170 Forms.

(a) EPA Form 1900-10, Contractor's Cumulative Claim and Reconciliation, at 1553.232-74, shall be used for an accounting of the cumulative charges and costs for cost-reimbursement contracts from inception of the contract to completion. It shall be submitted by the Contractor upon submission of the completion voucher.

(b) EPA Form 1900-34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts, at 1553.232-75, shall be inserted or incorporated by reference in all cost-reimbursement type contracts.

(c) EPA Form 1900-34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-

Fee (CPAF) Type Contracts, at 1553.232-76, shall be inserted or incorporated by reference in all CPAF contracts.

SUBPART 1532.4--ADVANCE PAYMENTS

1532.402 General.

(a) The Chief of the Contracting Office is responsible for making findings and determinations supporting the use of advance payments and approving contract terms concerning advance payments.

(b) The Contracting Officer prepares findings and determinations and other contractual data with respect to advance payments and coordinates proposed advance payment authorizations with the finance office.

1532.407 Interest.

The Chief of the Contracting Office is authorized to approve advance payments without interest.

1532.409-2 Recommendation for disapproval.

The procedures for recommending disapproval of advance payments are the same as that for recommending approval (see 1532.402).

1532.412 Contract clause.

The Chief of the Contracting Office may waive the countersignature requirements. Waivers will be documented in findings and determinations which authorize advance payments.

SUBPART 1532.8--ASSIGNMENT OF CLAIMS

1532.805 Procedure.

1532.805-70 Forms.

(a) EPA Form 1900-3, Assignee's Release, at 1553.232-70 is required to be submitted by the assignee for cost-reimbursement contracts prior to final payment under the contract.

(b) EPA Form 1900-4, Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts, at 1553.232-71 must accompany the assignee's release prior to final payment under cost-reimbursement contracts.

(c) EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates, and Credits, at 1553.232-72 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's Release.

(d) EPA Form 1900-6, Contract's Release, at 1553.232-73 must be submitted by the Contractor prior to final payment

under cost-reimbursement contracts.

SUBPART 1532.9--PROMPT PAYMENT

1532.908 Contract clauses.

The clause or alternates at 1552.232-70 are required in all acquisitions except those within the small purchase limitation. The clause at 1552.232-70 shall be used in solicitations and contracts when the EPA accounting information to be shown on contractor invoices includes the document control number. Alternate I shall be used in solicitations and contracts when the EPA accounting information to be shown on contractor invoices includes only the account number. Alternate II shall be used when no EPA accounting information is to be shown on contractor invoices. The Contracting Officer shall work with the EPA office initiating the procurement to determine the appropriate clause to be used.

PART 1533--PROTESTS, DISPUTES, AND APPEALS

Sec.

1533.000 Scope of part.

Subpart 1533.1--Protests

1533.103 Protests to the Agency.

1533.103-70 Time for filing.

Subpart 1533.2--Disputes and Appeals

1533.203 Applicability.

1533.209 Suspected fraudulent claims.

1533.211 Contracting Officer's decision.

1533.212 Contracting Officer's duties upon appeal.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1533.000 Scope of part.

This part implements and supplements FAR Part 33 and prescribes policies and procedures for processing protests, contract disputes and appeals.

SUBPART 1533.1--PROTESTS**1533.103 Protests to the Agency.****1533.103-70 Time for filing.**

(a) Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In acquisitions where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation.

(b) In cases other than those covered in paragraph (a) of this section, protests shall be filed not later than ten working days after the basis of protest is known or should have been known, whichever is earlier.

SUBPART 1533.2--DISPUTES AND APPEALS**1533.203 Applicability.**

Pursuant to an interagency agreement between the EPA and the Department of the Interior Board of Contract Appeals (IBCA), the IBCA will hear appeals from final decisions of EPA Contracting Officers issued pursuant to the Contract Disputes Act. The rules and regulations of the IBCA appear in 43 CFR Part 4.

1533.209 Suspected fraudulent claims.

The Contracting Officer shall refer matters relating to suspected fraudulent claims under the Contract Disputes Act to the Inspector General through the Responsible Associate Director (RAD).

1533.211 Contracting Officer's decision.

Final decisions of Contracting Officers under the Contract Disputes Act shall be reviewed by legal counsel and the Chief of the Contracting Office prior to issuance.

1533.212 Contracting Officer's duties upon appeal.

Upon receipt of notice of appeal, the Contracting Officer shall take the following actions:

(a) Submission of the notice of appeal to IBCA.

(1) When a notice of appeal in any form has been received, the Contracting Officer shall endorse on it the date of the notice's mailing (or the date of receipt if the notice was otherwise conveyed) and within 5 days shall forward the notice of appeal to the IBCA by certified mail. The Contracting Officer shall verbally notify the legal counsel that the appeal has been received.

(2) A notice of appeal, whether filed within the time prescribed by the "Disputes" clause or not, shall be submitted to the IBCA. The Contracting Officer shall forward promptly every notice of appeal to IBCA even if the intention to appeal is only vaguely or indirectly expressed, and regardless of the form of the notice, or of the method by which the notice was furnished to the Contracting Officer.

(3) Copies of the notice of appeal shall be sent simultaneously to the Policy and Quality Assurance Branch, Procurement and Contracts Management Division and to legal counsel.

(b) Establishment and submission of appeal files to IBCA.

(1) Following receipt of a notice of appeal, or advice that an appeal has been filed, the Contracting Officer shall promptly compile the appeal file (copies of all documents pertinent to the appeal), and four duplicate appeal files. The file shall include the following:

(i) The findings of fact and the Contracting Officer's final decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(ii) The contract, and pertinent plans, specifications, amendments, and change orders;

(iii) Correspondence between the parties and other data pertinent to the appeal;

(iv) Transcripts of any testimony taken during the course of proceedings and affidavits, or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(v) Such additional information as may be considered material.

(2) In addition to the above, the Contracting Officer shall prepare an index listing each document included in the file submitted to the IBCA, and place copies of such index in the submission and duplicate files.

(3) Contracting Officers, in making the submission, may not submit original documents which are a part of the official contract file. Copies of the pertinent documents

shall be submitted.

(4) Within 15 days of receipt or advice of a notice of appeal, the official and two duplicate files shall be forwarded through legal counsel to the Procurement and Contracts Management Division for review. The Procurement and Contracts Management Division shall forward the official appeal file to the IBCA within the 30-day time limitation set forth in 43 CFR 4.104(a). One duplicate file shall be retained by the Contracting Officer, one by the Procurement and Contracts Management Division, and one by legal counsel.

(5) If for any reason the Contracting Officer anticipates that a timely submission cannot be made, he/she shall immediately advise legal counsel by telephone of the extent of the anticipated delay and the reasons therefor. However, every effort will be exerted to make timely submissions.

(6) At the time of transmittal of the appeal file to the Board, the Contracting Officer shall notify the appellant of the transmittal and provide a copy of the appeal file to the appellant. Within the transmittal to the IBCA, the Contracting Officer shall indicate that the appellant has been provided with a copy of the appeal file.

PART 1534--MAJOR SYSTEM ACQUISITION

Sec.

1534.000 Scope of part.
1534.000-70 General requirements of OMB Circular A-109.
1534.000-71 Definitions.
1534.003 Responsibilities.
1534.004 Acquisition strategy.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1534.000 Scope of part.

This part implements and supplements FAR Part 34 and prescribes EPA policies, procedures and acquisition strategy for use in acquiring major systems consistent with the requirements of OMB Circular A-109, Major System Acquisitions.

1534.000-70 General requirements of OMB Circular A-109.

OMB Circular A-109 establishes policies to be followed by executive branch agencies in the acquisition of major systems. The policies of the circular are to assure the effectiveness and efficiency of the process of acquiring major systems. Major system acquisition objectives include assuring that each major system fulfills a mission need and that an acquisition strategy is tailored for each program. Management structures are required, with the designation of an acquisition executive, to integrate and unify the agency's major systems acquisitions. Clear lines of authority, responsibility, and accountability are required. Program managers are to be designated for each major system acquisition program and given a written charter of his/her authority, responsibility, and accountability for accomplishing program objectives.

1534.000-71 Definitions.

For the purpose of implementing OMB Circular A-109, the following definitions apply:

(a) "Acquisition Executive" is the Assistant Administrator for Administration and Resources Management.

(b) "Agency component" or major organizational subdivision of an agency is hereby construed in EPA to be the Offices of the Assistant, Associate, and Regional Administrators.

(c) "Agency Component Head" is the Assistant or Associate Administrator or the Regional Administrator responsible for the Agency component defined in paragraph (b) of this section.

(d) "Major system" is hereby further defined as:

(1) Any system whose estimated cumulative cost to EPA in current year dollars will equal \$50 million or more during its research, development, test and evaluation (RDT&E) and/or production (procurement) phases; or

(2) Any acquisition so designated by the Administrator, Deputy Administrator, any one of the Assistant or Associate Administrators, or any one of the Regional Administrators that

(i) is directed at and critical to fulfilling an Agency mission;

(ii) entails the allocation of relatively large resources;

(iii) warrants special management attention; and

(iv) has been recommended by the head of an operating activity, e.g., laboratory director, office director, division director, and approved by one of the individuals listed in (c) above. Assistant or Associate Administrators or Regional Administrators may designate an acquisition as major only for those acquisitions within their respective programs.

(e) "Program Manager" is that individual meeting the qualifications required by OMB Circular A-109 and receiving a written charter to manage acquisition of a major system.

1534.003 Responsibilities.

As required by OMB Circular A-109, the following responsibilities shall be carried out by the officials designated below.

(a) The Administrator shall:

(1) Ensure general compliance with OMB Circular A-109, as implemented within the Environmental Protection Agency;

(2) Retain the four key decision points identified in paragraph 9 of OMB Circular A-109;

(3) Early in the system acquisition process, communicate to Congress the relationship of major system acquisition programs to Agency needs. This communication should follow the requirements of OMB Circular A-109; and

(4) Ensure compliance with paragraphs 14., 15.a., and 15.b. of OMB Circular A-109.

(b) The Deputy Administrator shall:

(1) Establish and maintain clear lines of authority, responsibility, and accountability for management of major system acquisition programs; abolish and preclude management layering and the placing of excessive reporting requirements on program managers and contractors; and

(2) Where more than one Agency component is involved in the acquisition of a major system, determine and assign the roles and responsibilities of each component.

(c) The Assistant Administrator for Administration and Resources Management shall:

(1) Ensure that each major system fulfills a mission need;

(2) Ensure that needs are expressed in mission terms and not equipment terms;

(3) Ensure appropriate trade-offs among investment costs, ownership costs, schedules, and performance characteristics;

(4) Integrate and unify the management process and monitor implementation of the policies and practices set forth in OMB Circular A-109.

(5) Approve program manager designation; and

(6) Ensure compliance with paragraphs 17.a., b., and c. of OMB Circular A-109.

(d) The Assistant, Associate, and Regional Administrators, as Component Heads, shall nominate, to the Acquisition Executive, a program manager for each major system acquisition program and issue a written charter of his/her authority, responsibility, and accountability for accomplishing approved program objectives. The program manager nominated must meet the qualification criteria prescribed in OMB circular A-109 for project managers and the nomination is subject to approval by the Acquisition Executive.

(e) The Agency Comptroller shall:

(1) Provide budget support to the Administrator to ensure implementation of the Administrator's responsibilities under paragraphs (4), (5), and (6) of OMB Circular A-109.

(2) Monitor for compliance with OMB Circular A-76 as applicable.

(3) As part of the Agency budget process, develop, implement, and accomplish acquisition planning built on an analysis of Agency missions.

(f) The Deputy Assistant Administrator for Administration and Resources Management, as Senior Agency Administrative Officer, shall:

(1) Provide to the program manager the business management, procurement, and contracting portions of the acquisition strategy or approve those developed by the program manager;

(2) Provide to the program manager contract placement and procurement management support and necessary procurement training;

(3) Develop system acquisitions orientation program; and

(4) Coordinate cost estimating capability required by paragraph 7.g. of OMB Circular A-109.

(9) The Program Manager shall:

(1) Express program objectives in mission terms and not in equipment terms;

(2) Place emphasis on the initial activities of the

system acquisition process to allow and encourage innovation and competition in creating, exploring, and developing alternative system design concepts to meet needs and achieve objectives:

(3) Ensure that the major system operates effectively in its intended environment and demonstrates an acceptable level of performance and reliability;

(4) Provide strong checks and balances by ensuring adequate system test and evaluation; and

(5) Tailor an acquisition strategy for the major system to be acquired and refine the strategy as the program proceeds. The business management, procurement and contracting portions of the acquisition strategy will be acquired from, or approved by, the Deputy Assistant Administrator for Administration and Resources Management.

1534.004 Acquisition strategy.

(a) OMB Circular A-109 provides that, when acquiring major systems, Federal agencies will express needs in mission terms based on an analysis of an agency's mission. For purposes of implementing the Circular, the following guidance on the EPA mission, its research and development mission areas, and possible major system areas is provided.

(1) Agency mission. The Environmental Protection Agency is a regulatory agency whose mission is to protect the health and welfare of the American People by controlling pollution hazards. EPA's pollution control responsibilities are generally coordinated with and in partnership with State and local Governments. In carrying out its mission, the Agency:

(i) Sets and enforces hazardous waste management and toxic substances standards;

(ii) Establishes and enforces air and water quality standards and emission limitations for sources of pollutants;

(iii) Monitors the quality of the environment;

(iv) Controls the use and availability of pesticides;

(v) Sets and enforces noise-producing product standards and sets general ambient standards for radiation;

(vi) Endeavors to improve the planning for the management and disposal of environmental pollutants;

(vii) Conducts research and demonstration projects;
and

(viii) Provides financial and technical assistance to State and local Governments.

(2) Research and development mission areas. In all phases of the planning process, research and development activities are grouped into five major program areas. These are:

- (i) Health and ecological effects;
- (ii) Energy;
- (iii) Industrial processes;
- (iv) Public sector activities; and
- (v) Monitoring and technical support.

These will be considered the mission areas for the purposes of this acquisition strategy.

(3) Possible major system areas in EPA. The following are major systems to which the acquisition strategy applies when they meet the criteria prescribed in 1534.000-71(d).

(i) Automatic data processing system which results in the continuous and repetitive output of data, reports, charts, etc., and may include hardware, equipment software, construction, or other improvements of real property

(ii) Federal construction which includes the construction of a facility for the use of the Environmental Protection Agency.

(iii) Improvement which includes improvement(s) to a Federal facility under the complete control and jurisdiction of the Environmental Protection Agency.

(iv) Real property acquisition which includes the acquisition of land and/or facility for the use of the Environmental Protection Agency.

(v) Demonstration project which is a full-scale engineering demonstration of a new or improved pollution control or waste management process.

(b) The following procedures shall be followed in major systems acquisition:

(1) System acquisition process initiation.

(i) The need for a major system acquisition will be initially reflected in the agency budget preview process. The need will be separately and distinctly highlighted as a major system acquisition and will address the following elements.

(A) How does the major system fulfill a mission need?

(B) What is the major system priority in terms of other mission needs, by fiscal year?

(C) What are the resource requirements to initially develop the system as well as to operate and maintain the system; and

(D) what alternative(s) to the major system will be considered?

(ii) In the OMB and congressional submissions, in addition to discussing the needs under the appropriate budget activity, a special section will be included for major system acquisitions.

(iii) There may be situations when there is the need for a major system prior to and after the normal preview and budget process. In such cases, the need will be transmitted separately to OMB and to Congress for the upcoming budget year.

(2) Program manager charter.

(i) Initiating the charter: Upon identification of a major system acquisition, the head of the EPA component or the designated component head, when more than one EPA component is involved, shall nominate a program manager for approval by the Acquisition Executive. Upon approval of the program manager by the Acquisition Executive, the head of the component, or the designated component head in the case of a multi-component program, shall prepare, negotiate, and issue a program manager charter. The charter shall be jointly approved by the head of each EPA component when more than one EPA component is involved.

(ii) charter outline: The program manager charter shall, as a minimum, set forth the following:

(A) The name of the individual assigned as the program manager.

(B) The EPA component elements, or parts thereof, for which the program manager will be responsible.

(C) The interface, relationship, and direct communication channels between the program manager and the participating organizations identified that will be required to participate in fulfilling the goals of the major system acquisition.

(D) Provisions for control by the program manager of the allocation and utilization of resources approved by the Acquisition Executive for the major system acquisition. Obligations of the Government resulting from contracts awarded in support of the major system acquisition shall be the responsibility of the Contracting Officer supporting the program manager.

(E) The primary location of the program management office and the identified organizations that will provide the administrative support specified.

(F) Any special delegations of authority within the authority of the component head and the Acquisition Executive that are considered necessary for the program manager.

(G) Program objectives stated in mission terms rather than equipment terms.

(H) Reporting requirements of the program manager to the component head and the Acquisition Executive.

(iii) Charter implementation. The program manager in implementing the charter shall, as a minimum, provide to the Acquisition Executive for approval a major system acquisition plan to accomplish the major system objective set forth in the program manager charter. The plan shall, as a minimum, include interim goals, milestones, decision points and projected resource requirements for the entire acquisition process. In addition, the plan should determine the need for contractor participation in the acquisition process and the methodology to be used in monitoring the accomplishment of the acquisition goals such as monitoring:

(A) Schedules and costs input/output;

(B) Contingency trade-off, including shifts in resources and decisions to contract;

(C) The need to refine the plan as the program proceeds; and

(D) Contractor performance.

(iv) Charter review. The Acquisition Executive shall periodically review all major system acquisition programs established in EPA, and shall terminate use of this management technique totally, or in stages, as the program achieves the principal goals established in the charter and approved acquisition plan.

(3) Congressional notification.

(i) Congress will be notified in the normal budget process of a major system acquisition, thereby conforming with OMB Circulars A-10 and A-11. This will be applicable to supplemental requests or to budget amendments. Procedures for notifying the authorizing committees of Congress will be arranged by OMB.

(ii) If a decision is made to proceed with the actual acquisition of a system without competitive selection and demonstration, the congressional authorization and

appropriation committees will be notified.

(4) Commercial or industrial products or services. In the implementation of a major system, the provisions related to OMB circular A-76 (Revised) are applicable.

PART 1535--RESEARCH AND DEVELOPMENT CONTRACTING

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1535.007 Solicitations.**1535.007-70 Contract clauses.**

The following clauses are prescribed for research and development (R&D) contracts. They may also be used in other than R&D contracts when applicable (see 1537.110).

(a) The Contracting Officer shall insert the contract clause at 1552.235-70, Screening Business Information for Claims of Confidentiality, in contracts when the Contracting Officer has determined that during performance of this contract, the contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information.

(b) The Contracting Officer shall insert the contract clause at 1552.235-71, Treatment of Confidential Business Information, in contracts when the Contracting Officer has determined that in the performance of a contract EPA obtained under the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 301 et seq.), of the Toxic Substances control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR Part 2 Subpart B require that the contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the contractor.

(c) The Contracting Officer shall insert the contract clause at 1552.235-72, Data Security--FIFRA and/or TSCA Confidential Business Information, when the contract involves access to confidential business information related to either the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) or the Toxic Substances Control Act (TSCA) and the Treatment of Confidential Business Information clause (1552.235-71) and Screening Business Information for Claims of Confidentiality clause (1552.235-70) are included.

PART 1536--CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**Subpart 1536.2--Special Aspects of Contracting for
Construction****Sec.**

- 1536.201 Evaluation of contractor performance.
- 1536.203 Government estimate of construction costs.
- 1536.209 Construction contracts with architect-engineer firms.

**Subpart 1536.3--Special Aspects of Sealed Bidding in
Construction Contracts**

- 1536.303 Invitations for bids.
- 1536.303-70 Additive or deductive items.

Subpart 1536.5--Contract Clauses

- 1536.521 Specifications and drawings for construction.
- 1536.570 Additive or deductive items.

Subpart 1536.6--Architect-Engineer Services

- 1536.602 Selection of firms for architect-engineer contracts.
- 1536.602-2 Establishment of evaluation boards.
- 1536.602-4 Selection authority.
- 1536.602-5 Short selection processes for contracts not to exceed \$10,000.
- 1536.604 Performance evaluation.
- 1536.605 Government estimate for architect-engineer work.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1536.2--Special Aspects of Contracting for Construction**1536.201 Evaluation of contractor performance.**

(a) The Contracting Officer will obtain input from the Project Officer on the contractor's performance. The Contracting Officer will prepare the contractor performance report as prescribed in FAR 36.201 within two weeks after final acceptance of the work or contract termination.

(b) Prior to submitting any report of unsatisfactory performance to the reviewing official, the Contracting Officer will advise the contractor of any proposed unsatisfactory rating (see FAR 36.201(a)(3)).

(c) The official at one level above the Contracting Officer will review each performance report.

(d) The Contracting Officer will forward the original of the performance report to the Quality Assurance Section, Procurement and Contracts Management Division. The Quality Assurance section will file the form in the contractor performance evaluation files which it maintains.

(e) The Quality Assurance Section will review the report when it is received and compare it with recent evaluations of that contractor. If the Quality Assurance section discerns a pattern of unsatisfactory performance, it will notify the Contracting Officer for possible action, which may include referral of the matter to the Compliance Staff or to the Inspector General for investigation.

(f) Information from the performance report shall not be released outside of the Agency, except to other Government agencies at their written request, and on condition that the information will not be made available outside the Government. Requests from non-Government sources for information from performance reports shall be processed in accordance with EPA's Freedom of Information Act procedures at 40 CFR Part 2.

1536.203 Government estimate of construction costs.

The overall amount of the Government's estimate shall not be disclosed under any circumstance to persons other than Government personnel whose official duties, in the judgment of the Contracting Officer, require knowledge of the estimate.

1536.209 Construction contracts with architect-engineer firms.

No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the Responsible Associate Director (RAD).

**SUBPART 1536.3--SPECIAL ASPECTS OF SEALED BIDDING IN
CONSTRUCTION CONTRACTING****1536.303 Invitations for bids.****1536.303-70 Additive or deductive items.**

Prior to the issuance of an Invitation for Bids, the Contracting Officer shall ascertain that adequate funds have been certified as being available for the proposed procurement action. However, if funds available appear to be insufficient for all features of the Government's requirement, the Contracting Officer shall insert in the Invitation provisions for a base bid and for one or more additive or deductive items. If the Invitation provides for additive or deductive items, the Contracting officer shall state an order of priority for the additive or deductive items in the schedule and, prior to opening of the bids, determine and record the amount of funds available (see 1536.570 and 1552 236-71).

SUBPART 1536.5--CONTRACT CLAUSES**1536.521 Specifications and drawings for construction.**

The Contracting Officer shall insert the clause at 1552.236-70, Samples and Certificates, in solicitations and contracts when a fixed-price construction contract is expected to exceed the small purchase limitation. The clause may be inserted in solicitations and contracts when the contract is expected to be within the small purchase limitation.

1536.570 Additive or deductive items.

As prescribed in 1536.303-70, in those circumstances where funds certified as available appear to be insufficient for all features of the Government's requirements, insert the clause at 1552.236-71.

SUBPART 1536.6--ARCHITECT-ENGINEER SERVICES**1536.602 Selection of firms for architect-engineer contracts.****1536.602-2 Establishment of evaluation boards.**

(a) The Environmental Protection Agency Architect-Engineer Evaluation Board is established as a central permanent board located at Headquarters EPA under authority delegated to the Director, Procurement and Contracts Management Division. The Board shall perform all architect-engineer evaluations on an agency basis. The Agency Board shall be composed of not less than three nor more than five voting members and one non-voting advisory member from the contracting office. The following constitutes the minimum composition of the Board:

(1) Member and Chairman. Chief, Facilities Engineering Section, Facilities Engineering and Real Estate Branch, Facilities and Support Services Division;

(2) Member. A professional engineer or architect from EPA Headquarters to be designated by the Chairman;

(3) Member. A program official initiating the requirement or a designated representative; and

(4) Advisory Member. A Contracting Officer or his/her representative.

(b) The Director, Procurement and Contracts Management Division, may appoint either one or two additional voting members as may be appropriate for a particular project.

(c) In the event of an emergency or extended absence, a member may designate, in writing, with the concurrence of the Chairman, an alternate experienced in architecture, engineering, or construction to serve in his/her absence.

(d) The duties of the advisory member shall include, but not be limited to, the following:

(1) Assuring that the criteria set forth in the public notice is applied in the evaluation process; and

(2) That actions taken during the evaluation process do not compromise subsequent procurement actions.

1536.602-4 Selection authority.

For acquisitions with a potential value exceeding \$500,000, the RAD shall serve as the EPA selection authority. For acquisitions with a potential value of \$500,000 or less, the Chief of the Contracting Office shall determine the selection authority.

1536.602-5 Short Selection processes for contracts not to exceed \$10,000.

Authorization is given for use of both short selection processes permitted by FAR 36.602-5.

1536.604 Performance evaluation.

Evaluation of architect-engineer contracts shall be in accordance with the procedures prescribed in 1536.201 and FAR 36.604.

1536.605 Government estimate for architect-engineer work.

The overall amount of the Government's estimate shall not be disclosed under any circumstance to persons other than Government personnel whose official duties, in the judgment of the Contracting Officer, require knowledge of the estimate.

PART 1537--SERVICE CONTRACTING**Subpart 1537.1--Service Contracts--General**

Sec.

1537.110 Solicitation provisions and contract clauses.

Subpart 1537.2--Consulting Services

1537.200 Scope of subpart.

1537.202 General.

1537.203 Types of consulting services.

1537.205 Management controls.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

SUBPART 1537.1--SERVICE CONTRACTS--GENERAL**1537.110 Solicitation provisions and contract clauses.**

The following clauses are prescribed for service contracts. They may also be used in research and development contracts when applicable (see 1535.007-70).

(a) The Contracting Officer shall insert the clause at 1552.237-70 Contract Publication Review Procedures, in solicitations and contracts when the products of the contract are subject to contract publication review.

(b) The Contracting Officer shall insert the clause at 1552.237-71, Technical Direction, in cost-reimbursement type solicitations and contracts.

(c) The Contracting Officer shall insert the clause at 1552.237-72, Key Personnel, in solicitations and contracts when it is necessary for contract performance to identify contractor key personnel.

(d) The Contracting Officer shall insert the clause at 1552.237-73, Consultant Services and Consent, in solicitations and contracts where the services of consultants are required.

(e) The Contracting Officer shall insert the clause at 1552.237-74, Publicity, in solicitations and contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

(f) The Contracting Officer shall insert the clause at 1552.237-75, Paperwork Reduction Act, in solicitations and contracts requiring the collection of identical information from ten (10) or more public respondents.

SUBPART 1537.2--CONSULTING SERVICES**1537.200 Scope of subpart.**

This subpart provides additional examples of services that are considered consulting services and management controls for the acquisition of such services.

1537.202 General.

This subpart applies only to the types of services shown in FAR 37.203 and those shown in 1537.203 below. It does not apply to professional and management services unless the Contracting Officer has defined such service requirements to be consulting services.

1537.203 Types of consulting services.

The following supplements the examples cited in FAR

37.203(a).

(a) Examples of services that are considered consulting services are provided below:

(1) Advice on the feasibility of instituting a transfer pricing system in the Procurement and Contracts Management Division and advice on how such a system could improve management of contracts by procurement personnel.

(2) Analysis of EPA's management and agency services support functions and advice on how to improve the performance of these functions, such as through reorganization of the Office of Administration.

(3) Analysis of alternative strategies for implementing requirements of the Hazardous Substance Response Program regulations and advice on resource needs associated with each alternative strategy.

(4) Analysis of EPA procedures for drafting and issuing permits to municipal and nonmunicipal dischargers and advice on how to simplify these procedures.

(5) Advice on how to coordinate and integrate toxic substance policies and activities with those of other EPA programs.

(6) Advice on the different strategies for implementing merit pay at EPA, and conduct of one 2-hour training course on one of these strategies. The primary purpose of the contract is to provide advice on the strategies for implementing merit pay.

(7) External peer review of programs, projects, and publications for the Office of Research and Development (ORD) laboratories to assure conceptual soundness of scientific methods and validity of results. The objective is to obtain highly competent technical examinations and analyses of the research planned or performed by ORD laboratories in order to obtain the benefit of additional viewpoints and perspectives and to advise the ORD staff on the state-of-the-art in areas that impact laboratory research programs. Three separate types of reviews are required.

(i) Program reviews and analyses which include critiques of laboratory research programs and advice on upgrading the program direction or management.

(ii) Project reviews and analyses which focus on the scientific/technical details of a single project with an in-depth examination of the project plan and the progress being made in pursuing the plan, a review of the data analyses, and an interpretation of the data analyses.

(iii) Review and analysis of research results for publication clearance in accordance with the "ORD Technical Information Policy and Guide."

(b) Examples of services which are not considered consulting services are provided below:

(1) Regulatory impact analyses, including economic impact analyses of effluent guidelines on specific industries, such as the organic chemicals industry.

(2) Analyses required by the Clean Water Act to determine economically achievable standards.

(3) Design and implementation of a computerized management information system for the Office of Administration.

(4) Development of sampling and analytical techniques to identify and measure pollutants in the ambient air.

(5) Conduct of a training course for Project Officers with particular emphasis on the Project Officer's role in the source evaluation and selection process.

(6) Development of a manual on security procedures for handling confidential business information.

(7) Conduct of a study to assess the consequences of pollutant loadings in the Chesapeake Bay.

(8) Evaluation of the strategy proposed by the Personnel Management Division for implementing merit pay at EPA with the primary purpose being the conduct of 15 separate eight-hour training sessions on how to draft critical job elements and performance standards.

1537.205 Management controls.

(a) In addition to those controls set forth in FAR 37.205(b) the office initiating the Procurement Request/Order (EPA Form 1900-8) for consulting services shall prepare the justification for such services, obtain appropriate approvals, and distribute copies of the approved justification as prescribed in paragraph (b) below. The justification shall be set forth in an attachment to EPA Form 1900-8, Procurement Request/Order. The Agency is required to report on the planned use of consulting services, including planned obligations and justifications of needs, in the Agency's formal budget request to the Office of Management and Budget. If the proposed acquisition was reported in the budget request, the planned obligation for the procurement as set forth in the budget request shall be indicated. Whenever the estimated value of the proposed acquisition varies significantly from the planned obligation set forth in the budget request or in those cases where the proposed acquisition for management consulting services was not reported in the budget request, an explanation shall be included in the justification.

(b) The program office initiating the requirement shall obtain approval for use of consulting services as follows:

(1) Requirements that may be purchased pursuant to the small purchase procedures shall be approved at a level above the organization initiating the requirements or at the second level when award is to be made during the fourth fiscal quarter.

(2) All other requirements shall be approved by the Associate, Assistant or Regional Administrator.

PART 1542--CONTRACT ADMINISTRATION

Sec.

1542.000 Scope of part.

Subpart 1542.7--Indirect Cost Rates

1542.700 Scope of subpart.

1542.705 Final indirect cost rates.

1542.705-1 Contracting Officer's determination
procedure.

1542.705-70 Solicitation and contract clauses.

1542.708 Quick-closeout procedures.

Subpart 1542.12--Novation and Change of Name Agreements

1542.1200 Scope of subpart.

1542.1202 Responsibility for executing agreements.

1542.1203 Processing agreements.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1542.000 Scope of part.

This Part implements FAR Part 42 and prescribes general policies and procedures for performing contract administration functions and related audit services.

SUBPART 1542.7--INDIRECT COST RATES**1542.700 Scope of subpart.**

This subpart implements and supplements FAR Subpart 42.7 and prescribes policies and procedures for establishing (a) billing rates and (b) final indirect costs.

1542.705 Final indirect cost rates.

The EPA shall use the Contracting Officer determination procedure for all business units for which it shall be required to negotiate final indirect cost rates.

1542.705-1 Contracting Officer's determination procedure.

(a) Applicability and responsibility. The Cost Policy and Rate Negotiation Section (CPRN), Procurement and Contracts Management Division, is responsible for negotiating indirect cost rates in accordance with EPA Contracting Officer determination procedures.

(b) Procedures. FAR 42.703 provides that a single agency shall be responsible for establishing indirect cost rates (final and billing) for each business unit, which shall be binding on all Government agencies and their contracting activities. Depending upon the particular contractor involved, EPA may or may not be the cognizant Agency for establishing indirect cost rates. The following procedures shall be followed in establishing and incorporating final indirect cost rates into contracts.

(1) Where EPA is the cognizant agency.

(i) The Cost Policy and Rate Negotiation Section (CPRN) shall coordinate with the audit activity and the affected Federal Government agencies to develop a negotiation position, conduct negotiations with the Contractor, prepare the rate agreement, and be responsible for the execution of the agreement as provided in FAR 42.705-1(b).

(ii) CPRN shall obtain from the Contractor a Certificate of Current Cost or Pricing Data where required by FAR 15.804-4.

(iii) CPRN shall distribute executed copies of the rate agreement to all EPA contracting offices (as applicable), the three cost advisory offices at Headquarters, Research Triangle Park, and Cincinnati, the finance office, other interested parties (e.g., audit offices, Office of the Inspector General) and to each affected Federal agency.

(iv) CPRN shall maintain, as required by FAR 4.801, a file for all indirect cost rates (final and billing).

(v) Upon receipt of the executed agreement, each EPA contracting activity shall place a copy in each official contract file.

(2) Where EPA is not the cognizant agency.

(i) CPRN shall coordinate with audit and/or the cognizant agency to develop a negotiation position and to receive a copy of an executed rate agreement.

(ii) CPRN shall distribute copies of the executed rate agreement to all EPA contracting offices (as applicable), the three cost advisory offices, the finance office, and other interested parties (e.g., Office of the Inspector General).

(iii) CPRN shall maintain, as required by FAR 4.801, a file for all indirect cost rates (final and billing).

(iv) Upon receipt of the executed agreement, each EPA contracting office shall place a copy in each official contract file.

(3) Newly awarded contracts. The EPA contract specialist, with the assistance of the cost advisory offices, shall place the established billing rate(s) in newly awarded contracts. Billing rates, like final indirect cost rates, may be established or revised by CPRN, the auditing activity, or another Federal Government agency.

1542.705-70 Solicitation and contract clause.

The Contracting Officer shall insert the clause in 1552.242-70, Indirect Costs, in solicitations and contracts where indirect costs apply.

1542.708 Quick-closeout procedures.

(a) The Contracting Officer or contract administrator, as appropriate, may use quick-closeout procedures for settlement of indirect costs on cost-reimbursement contracts prior to a final audit certification when the conditions specified by FAR 42.708(a)(1) through (3) have been met and (1) the contract has an estimated cost, excluding fee of \$500,000, or less, and (2) the cumulative estimated costs of one Contractor's contracts closed out using these quick-closeout procedures do not exceed \$1,000,000 per contract office.

(b) Under the quick-closeout procedures, if final rates have been negotiated for all but one of the fiscal years and 25 percent or less of the total costs claimed are for that fiscal year, the Contracting Officer or contract administrator shall close the contract using one of the following rates:

- (1) The previous year final rates.
- (2) The subsequent year final rates.
- (3) Provisional rates, if less than the rates in (1) or (2) above.
- (4) Any other rates claimed by the Contractor if they are less than those in (1), (2), or (3) above.

(c) When the final rates have not been negotiated and the procedures in paragraph (b) of this section do not apply, the Contracting Officer or contract administrator shall request the Cost Policy and Rate Negotiation Section (CPRN), Procurement and Contracts Management Division to negotiate or to obtain final rates.

SUBPART 1542.12--NOVATION AND CHANGE OF NAME AGREEMENTS

1542.1200 Scope of subpart.

This subpart implements FAR Subpart 42.12 and provides policies and procedures for executing and processing novation and change-of-name agreements.

1542.1202 Responsibility for executing agreements.

(a) Any EPA contracting office upon being notified of a successor in interest to, or change of name of, one of its Contractors shall promptly report such information by memorandum to the Director, Procurement and Contracts Management Division (PCMD).

(b) To avoid duplication of effort on the part of EPA contracting offices in preparing and executing agreements to recognize a change of name or successor in interest, only one supplemental agreement will be prepared to effect necessary changes for all contracts between EPA and the Contractor involved. The Chief of the Procurement Policy Staff, PCMD, will, in each case, designate the Contracting Office responsible for taking all necessary and appropriate action with respect to either recognizing or not recognizing a successor in interest, or recognizing a change of name agreement.

1542.1203 Processing agreements.

(a) The responsible contracting office shall:

(1) Obtain from the Contractor a list of all affected contracts, the names and addresses of the contracting offices responsible for these contracts, and the required documentary evidence.

(2) Verify the accuracy of the list of contracts through the Contract Information System.

(3) Draft and execute a supplemental agreement to one of the contracts affected but covering all applicable outstanding and incomplete contracts affected by the transfer of assets or change of name. A supplemental agreement number need not be obtained for contracts other than for the one under which the supplemental agreement is written. The supplemental agreement will contain a list of the contracts affected and, for distribution purposes, the names and addresses of the contracting offices having contracts subject to the supplemental agreement.

(b) Agreements and supporting documents covering successors in interest shall be reviewed for legal sufficiency by legal counsel.

(c) After execution of the supplemental agreement, the designated office shall forward an authenticated copy of the supplemental agreement to the Director, Procurement and Contracts Management Division, and to each affected contract office.

PART 1545--GOVERNMENT PROPERTY

Sec.

1545.000 Scope of part.

Subpart 1545.1--General

1545.106 Government property clauses.

Subpart 1545.3--Providing Government Property to Contractors

1545.309 Providing Government production and research
property under special restrictions.

**Subpart 1545.4--Contractor Use and Rental of Government
Property**

1545.403 Rental--Use and Charges clause.

**Subpart 1545.5--Management of Government Property in the
Possession of Contractors**

1545.502 Contractor responsibility.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1545.000 Scope of part.

This Part implements FAR Part 45, Government Property, and sets forth policy and procedures with respect to providing property for use by contractors in performance of EPA contracts.

SUBPART 1545.1--GENERAL**1545.106 Government property clauses.**

(a) In accordance with 1523.303-71, the Contracting Officer shall insert the contract clause at 1552.245-70 when it is anticipated that a Contractor will use Government-furnished or contractor-acquired property in the cleanup of hazardous or toxic substances in the environment.

(b) The Contracting Officer shall insert the contract clause at 1552.245-71, Government-Furnished Data, in any contract in which the Government is to furnish data to the Contractor. The data to be provided shall be identified in the clause.

(c) The Contracting Officer shall insert the contract clause at 1552.245-72, Fabrication or Acquisition of Nonexpendable Property, in all cost-reimbursement type contracts or contracts with cost-reimbursement portions.

SUBPART 1545.3--PROVIDING GOVERNMENT PROPERTY TO CONTRACTORS**1545.309 Providing Government production and research property under special restrictions.**

Government production and research property, other than foundations and similar improvements necessary for installing special tooling, special test equipment, or plant equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be nonseverable unless the contract under which the property is provided contains--

(a) One of the provisions in FAR 45.309(a);

(b) A requirement that the Government will have the right to abandon in place all nonseverable Government property provided; and

(c) A requirement that the Government will not have any obligation to disassemble or remove the property or to restore or to rehabilitate the premises on which the property is located.

SUBPART 1545.4--CONTRACTOR USE AND RENTAL OF GOVERNMENT PROPERTY**1545.403 Rental--Use and Charges clause.**

The Responsible Associate Director (RAD) is the designee

for determinations that rent may be charged on the basis of use, or some other equitable basis, rather than a rental period for production and research property classes other than plant equipment as indicated in FAR 45.403.

**SUBPART 1545.5--MANAGEMENT OF GOVERNMENT PROPERTY IN THE
POSSESSION OF CONTRACTORS**

1545.502 Contractor responsibility.

Guidance regarding Contractor responsibility for management and control of Government property in their possession is contained in the EPA "Guide for Control of Government Property By Contractors," which is available from the Facilities and Support Services Division.

PART 1546--QUALITY ASSURANCE

Sec.

1546.000 Scope of part.

Subpart 1546.2--Contract Quality Requirements

1546.201 General.

Subpart 1546.7--Warranties

1546.704 Authority for use of warranties.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C.
486(c).

1546.000 Scope of part.

This Part implements and supplements FAR Part 46 and provides EPA policy and procedures on contract quality assurance requirements and warranties. It includes selected clauses and guidance on their use.

SUBPART 1546.2--CONTRACT QUALITY REQUIREMENTS**1546.201 General.**

(a) The Contracting Officer shall ensure that Procurement Request/Orders (EPA Form 1900-8) in excess of \$25,000 be accompanied by a Quality Assurance (QA) review form for those acquisitions in the object classifications prescribed in Chapter 2 of the "Contracts Management Manual" which covers procurement request preparation.

(b) Where the QA review form provides for the submission of a QA program plan in an offeror's proposal, the Contracting Officer shall use the provision shown in 1552.246-70 in the solicitation.

(c) (1) The Contracting Officer shall include the provision contained in 1552.246-71 in the solicitation when a QA project plan is required as part of the proposal submission. The QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specification in a Statement of Work.

(2) When a QA project plan is not a required part of the technical proposal, the Contracting Officer may require the QA project plan as a deliverable under the contract by use of the clause in 1552.246-72.

SUBPART 1546.7--WARRANTIES**1546.704 Authority for use of warranties.**

The Contracting Officer shall ensure that the use of a warranty clause in a contract has the concurrence of the Project Officer.

PART 1548--VALUE ENGINEERING

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Subpart 1548.1--Policies and Procedures

1548.102 Policies.

The EPA is exempt from the requirements of FAR Part 48 as authorized in FAR 48.102(a).

PART 1552--SOLICITATION PROVISIONS AND CONTRACT CLAUSES**Subpart 1552.2--Texts of Provisions and Clauses**

- 1552.203-70 Current/Former Agency Employee Involvement Certification.
- 1552.208-70 Printing.
- 1552.209-70 Organizational Conflict of Interest Notification.
- 1552.209-71 Organizational Conflict of Interest.
- 1552.209-72 Organizational Conflict of Interest Certification.
- 1552.210-70 Report of Work.
- 1552.210-70 Report of Work. ALTERNATE I.
- 1552.210-71 Monthly Progress Report--Short Form.
- 1552.210-72 Monthly Progress Report--Cost Type Contract.
- 1552.210-73 Monthly Progress Report--Time and Materials or Labor Hour, or Indefinite Delivery/Indefinite Quantity Fixed Rate Services Contract.
- 1552.210-74 Working Files.
- 1552.210-75 Legal Analysis.
- 1552.210-76 Final Reports.
- 1552.210-77 Management Consulting Services.
- 1552.212-70 Level of Effort--Cost-Reimbursement term Contract.
- 1552.212-71 Work Assignments.
- 1552.213-70 Notice to Suppliers of Equipment.
- 1552.214-70 Past Performance.
- 1552.214-71 Contract Award--Other Factors--Formal Advertising.
- 1552.215-70 EPA Source Evaluation and Selection. Procedures--Negotiated Procurement.
- 1552.215-71 Evaluation Factors for Award.
- 1552.215-71 Evaluation Factors for Award. ALTERNATE I.
- 1552.215-72 Past Performance.
- 1552.215-73 Instructions for the Preparation of Technical and Cost or Pricing Proposals.
- 1552.215-74 Cost Proposal Instructions.
- 1552.215-75 [Reserved]
- 1552.215-76 General Financial and Organizational Information.
- 1552.216-70 Award Fee.
- 1552.216-71 Date of Incurrence of Cost.
- 1552.216-72 Ordering--By Designated Ordering Officers.
- 1552.216-73 Fixed Rate for Services--Indefinite Delivery/Indefinite Quantity Contract.
- 1552.217-70 Evaluation of Contract Options.
- 1552.217-71 Option To Extend the Term of the Contract--Cost-Plus-Award Fee Contract.
- 1552.217-72 Option to Extend the Term of the Contract--Cost-Plus-Award-Fee Contract.
- 1552.217-73 Option for Increased Quantity--Cost-Type Contract.
- 1552.217-74 Option for Increased Quantity--Cost-Plus-Award-Fee.

Subpart 1552.2--Texts of Provisions and Clauses (continued)

- 1552.217-74 Option for Increased Quantity--Cost-Plus-Award-Fee.
- 1552.217-75 Option To Extend the Effective Period of the Contract--Time and Materials or Labor Hour Contract.
- 1552.217-76 Option To Extend the Effective Period of the Contract--Indefinite Delivery/Indefinite Quantity Contract.
- 1552.223-70 Protection of Human Subjects.
- 1552.224-70 Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement.
- 1552.228-70 Insurance--Liability to Third Persons--Commercial Organizations.
- 1552.228-71 Insurance--Liability to Third Persons--State or Local Governments.
- 1552.228-72 Insurance--Liability to Third Persons--Commercial Organizations (Emergency).
- 1552.228-73 Insurance--Liability to Third Persons--State or Local Governments (Emergency).
- 1552.229-70 State and Local Taxes.
- 1552.232-70 Submission of Invoices.
- 1552.232-71 [Reserved]
- 1552.232-72 [Reserved]
- 1552.232-73 Payments--Fixed Rate Services Contract.
- 1552.235-70 Screening Business Information for Claims of Confidentiality.
- 1552.235-71 Treatment of Confidential Business Information.
- 1552.235-72 Data Security--FIFRA and/or TSCA Confidential Business Information.
- 1552.236-70 Samples and Certificates.
- 1552.236-71 Additive or Deductive Items.
- 1552.237-70 Contract Publication Review Procedure.
- 1552.237-71 Technical Direction.
- 1552.237-72 Key Personnel.
- 1552.237-73 Consultant Services and Consent.
- 1552.237-74 Publicity.
- 1552.237-75 Paperwork Reduction Act.
- 1552.242-70 Indirect Costs.
- 1552.245-70 Decontamination of Government Property.
- 1552.245-71 Government-Furnished Data.
- 1552.245-72 Fabrication or Acquisition of Nonexpendable Property.
- 1552.246-70 Quality Assurance (QA) Program Plan.
- 1552.246-71 Quality Assurance (QA) Project Plan.
- 1552.246-72 Quality Assurance (QA) Project Plan Documentation.

Authority: Sec. 205(c), 63 Stat. 390, as amended,
40 U.S.C. 486(c).

SUBPART 1552.2--TEXT OF PROVISIONS AND CLAUSES

1552.203-70 Current/Former Agency Employee Involvement Certification.

As prescribed in 1503.603, insert the following solicitation provision in all EPA solicitation documents for sole source acquisitions.

CURRENT/FORMER AGENCY EMPLOYEE INVOLVEMENT CERTIFICATION
(APR 1984)

The offeror (quoter) hereby certifies that:

(a) He/she is ☐ is not ☐ a former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(b) He/she does ☐ does not ☐ employ or propose to employ a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) and who has been or will be involved, directly or indirectly, in developing or negotiating this offer (quote) for the offeror (quoter), or in the management, administration or performance of any contract resulting from this offer (quote).

(c) He/she does ☐ does not ☐ employ or propose to employ as a consultant or subcontractor under any contract resulting from this offer (quote) a current/former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote).

(d) A former regular or special EPA employee whose EPA employment terminated within one year prior to submission of this offer (quote) or such former employee's spouse or minor child does ☐ does not ☐ own or substantially own or control the offeror's (quoter's) firm.

(e) See EPAAR Part 1503 for definitions of the terms "regular" and "special employee."

(End of provision)

1552.208-70 Printing.

As prescribed in 1508.870, insert the following contract clause in all type contracts which require printing, duplication, binding, reproduction, and related services and are subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the United States.

PRINTING (APR 1984)

Unless otherwise specified in this contract, the Contractor shall not engage in nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 units of only one page, or less than 25,000 units in the aggregate of multiple pages, such pages not exceeding a maximum image size of 10 3/4 by 14 1/4 inches, will not be deemed to be printing.

(End of clause)

1552.209-70 Organizational Conflict of Interest Notification.

As prescribed in 1509.508(b), insert the following solicitation provision in all solicitations except:

- (a) When specific notices or clauses are required per EPAAR Part 1509;
- (b) When the procurement is with another Federal agency (however, the provision is included in solicitations issued under the Small Business Administration's (SBA) 8(a) program); and
- (c) When the procurement is accomplished through small purchase procedures (use is optional for small purchases).

ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION
(APR 1984)

(a) The prospective contractor certifies, to the best of its knowledge and belief, that it is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the prospective Contractor cannot so certify, it shall provide a disclosure statement in its proposal which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executives and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.

(b) Prospective contractors should refer to FAR Subpart 9.5 and EPAAR Part 1509 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

(c) If the Contracting Officer determines that a potential conflict exists, the prospective contractor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

(End of provision)

1552.209-71 Organizational Conflicts of Interest.

As prescribed in 1509.508(c), insert the following contract clause in all contracts except:

- (a) When specific clauses are required per EPAAR Part 1509;
- (b) When the procurement is with another Federal agency (however, the provision is included in contracts with SBA and its subcontractor under the 8(a) program); and
- (c) When the procurement is accomplished through small purchase procedures (use is optional for small purchases).

ORGANIZATIONAL CONFLICTS OF INTEREST (APR 1984)

(a) The Contractor warrants that, to the best of the Contractor'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 Contractor has disclosed all such relevant information.

(b) The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(c) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor 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 or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(d) The Contractor further agrees to insert in any

subcontract or consultant agreement hereunder, provisions which shall conform substantially to the language of this clause, including this paragraph (d).

(End of clause)

1552.209-72 Organizational Conflict of Interest Certification.

As prescribed in 1509.508(b), insert the following provision in all solicitation documents when applicable.

**ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION
(APR 1984)**

The offeror [] is [] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing this information. (See Section L of the solicitation for further information.)

(End of provision)

1552.210-70 Reports of Work.

As prescribed in 1510.011-70, insert one of the contract clauses in this subsection when the contract requires the delivery of reports. The basic clause should be used when reports are specified in a contract attachment. Alternate I is to be used to specify reports in the contract schedule.

REPORTS OF WORK (APR 1984)

The Contractor shall prepare and deliver reports in accordance with Attachment _____.

The OMB clearance number for progress reports delivered under this contract is 2030-0005 with an expiration date of May 31, 1986.

(End of clause)

ALTERNATE I (APR 1984)

The contractor shall prepare and deliver the below listed reports to the designated addressees. Each report shall cite the contract number and identify the Environmental Protection Agency as the sponsoring agency.

The OMB clearance number for progress reports delivered

under this contract is 2030-0005 with an expiration date of May 31, 1986. Required reports are:

<u>Reports description</u>	<u>No. Copies</u>	<u>Addressees</u>
----------------------------	-------------------	-------------------

(End of clause)

1552.210-71 Monthly Progress Report--Short Form.

As prescribed in 1510.011-71, insert the following contract clause when monthly progress reports are required and the duration of the contract is contemplated to be less than six months.

MONTHLY PROGRESS REPORT--SHORT FORM (APR 1984)

The Contractor shall furnish _____ copies of monthly progress reports briefly stating the progress made, including the percentage of the project completed or of work ordered and completed as of the end of the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. If this contract includes cost-reimbursement elements, the report shall also provide the cumulative amount of funds expended from the effective date of the contract through the last day of the reporting period, as well as the amount of funds expended expressed as a percentage of the total contract funds. The reports shall be submitted to the following addressees on or before the _____ of each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of Copies:

Addressee:

Project Officer

Contracting Officer

(End of clause)

1552.210-72 Monthly Progress Report--Cost Type Contract.

As prescribed in 1510.011-72, insert the following clause:

MONTHLY PROGRESS REPORT--COST-TYPE CONTRACT (Sep 1990)

The Contractor shall furnish _____ copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage of the project completed during the reporting period. If work is ordered using work assignments include the percentage of work

ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period. In addition, the report shall specify contract financial status as follows:

(a) For term form contracts, provide:

(1) Cumulative totals for the contract amounts obligated, amounts claimed, and remaining available funds. Available funds are defined as the total obligated amount less total amounts claimed.

(2) Cumulative labor hours and dollars, broken out by prime contractor and subcontractor labor category, expended from the effective date of the contract through the last day of the current reporting month. Actual costs and direct labor hours expended during the current reporting month.

(3) Estimated costs and direct labor hours to be expended during the next reporting period.

(4) Actual costs and direct labor hours incurred for each work assignment issued and estimates of costs and man hours required to complete each work assignment.

(b) For completion form contracts, provide a graph using a vertical axis for dollars and a horizontal axis for time increments that shows the actual and projected rate of expenditures against the total estimated cost of the contract.

(c) This submission does not change the notification requirements of the "Limitation of Cost" or "Limitation of Funds" clauses requiring separate written notice to the Contracting Officer.

(d) The reports shall be submitted to the following addressees on or before the _____ of each month following the first complete calendar month of the contract. Distribute reports as follows:

<u>No. of Copies</u>	<u>Addressee</u>
_____	Project Officer
_____	Contracting Officer

(End of clause)

1552.210-73 Monthly Progress Report--Time and Materials or Labor Hour Contract.

As prescribed in 1510.011-73, insert the following clause:

MONTHLY PROGRESS REPORT--TIME AND MATERIAL OR LABOR HOUR
CONTRACT (SEP 1990)

(a) The Contractor shall furnish _____ copies of a combined monthly technical and financial progress report briefly stating the progress made, including the number of hours expended during the reporting period and cumulatively and the percentage of the project work remaining. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period.

(b) The report shall include the following financial information:

(1) Cumulative totals for the contract amounts obligated, amounts claimed, and remaining funds available. Available funds are defined as the total obligated amount less total amount claimed;

(2) Cumulative labor hours and dollars, broken out by prime and subcontractor labor category, expended from the effective date of the contract through the last day of the current reporting period;

(3) Actual costs and labor hours expended during the current month;

(4) Estimated costs and labor hours to be expended during the current month;

(c) The reports shall be submitted to the following addressees on or before the _____ each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of Copies

Addressee

Project Officer
Contracting Officer

(End of clause)

**1552.210-74 Monthly Progress Report--Indefinite
Delivery/Indefinite Quantity Fixed-Rate Services Contract.**

As prescribed in 1510.011-74, insert the following clause:

**1552.210-74 MONTHLY PROGRESS REPORT--INDEFINITE
DELIVERY/INDEFINITE QUANTITY FIXED-RATE SERVICES CONTRACT
(SEP 1990)**

(a) The Contractor shall furnish _____ copies of a combined monthly technical and financial progress report briefly stating the progress made, including the percentage

of work ordered and completed during the reporting period. Specific discussions shall include difficulties encountered and remedial action taken during the reporting period and anticipated activity during the subsequent reporting period.

(b) The report shall include the following financial information for each delivery order:

- (1) Delivery order number, date and title;
- (2) EPA client organization;
- (3) Period of performance, including explanations for any extensions that may be needed;
- (4) Number of hours and corresponding dollar amounts expended to date by labor category;
- (5) Cumulative number of hours and corresponding dollar amounts expended to date by labor category;
- (6) Cumulative listing of all invoices submitted including invoice number, date submitted, period of invoice, total amount of invoice, and amount paid;
- (7) Any accumulated charges that have not been invoiced and reasons why they have not been billed;
- (8) Estimated costs and labor hours to be expended during the next reporting period.

(c) The reports shall be submitted to the following addressees on or before the _____ each month following the first complete calendar month of the contract. Distribute reports as follows:

No. of Copies

Addressee

Project Officer
Contracting Officer

(End of clause)

1552.210-75 Working Files.

As prescribed in 1510.011-74, insert the following clause in all applicable EPA contracts.

WORKING FILES (APR 1984)

The Contractor shall maintain accurate working files (by task or work assignment) on all work documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this contract. The Contractor shall provide

the information contained in its working files upon request of the Contracting Officer.

(End of clause)

1552.210-76 Legal Analysis.

As prescribed in 1510.011-75, insert this contract clause when it is determined that the contract involves legal analysis.

LEGAL ANALYSIS (APR 1984)

The Contractor shall furnish to the Project Officer one (1) copy of any draft legal analysis. The Government will provide a response to the Contractor within thirty (30) calendar days after receipt. The Contractor shall not finalize the analysis until the Government has given approval.

(End of clause)

1552.210-77 Final Reports.

As prescribed in 1510.011-76, insert this contract clause when a contract requires a draft and a final report.

FINAL REPORTS (APR 1984)

(a) "Draft Report"--The Contractor shall submit to the Project Officer _____ copies of the draft final report on or before _____ (date). The Contractor shall furnish to the Contracting Officer a copy of the letter transmitting the draft. The draft shall be typed double-spaced or space-and-a-half and shall include all pertinent material required in the final report. The Government will review for approval or disapproval the draft and provide a response to the Contractor within _____ calendar days after receipt. If the Government does not provide a response within the allotted review time, the Contractor immediately shall notify the Contracting Officer in writing.

(b) "Final Report"--The Contractor shall deliver a final report on or before the last day of the period of performance specified in the contract. Distribution is as follows:

<u>No. of Copies</u>	<u>Addressee</u>
1	EPA Library
1	Contracting Officer
1	Project Officer

(End of clause)

1552.210-78 Management Consulting Services.

As prescribed in 1510.011-77, insert the following contract clause in all contracts for management consulting services.

MANAGEMENT CONSULTING SERVICES (APR 1984)

All reports containing recommendations to the Environmental Protection Agency shall include the following information on the cover of each report: (a) name and business address of the contractor; (b) contract number; (c) contract dollar amount; (d) whether the contract was subject to full and open competition or a sole source acquisition; (e) name of the EPA Project Officer and the EPA Project Officer's office identification and location; and (f) date of report.

(End of clause)

1552.212-70 Level of Effort--Cost-Reimbursement Term Contract.

As prescribed in 1512.104(a), insert the following contract clause in cost-reimbursement term contracts including cost contracts without fee, cost-sharing contracts, cost-plus fixed-fee (CPFF) contracts, cost-plus-incentive-fee contracts (CPIF), and cost-plus-award-fee contracts (CPAF).

LEVEL OF EFFORT--COST-REIMBURSEMENT TERM CONTRACT (APR 1984)

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government hereby orders _____ direct labor hours for the base period, which represents the Government's best estimate of the level of effort to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the contractor. The level of effort specified in paragraph (a) includes contractor, subcontractor, and consultant labor hours.

(c) If the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period ordered, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the

estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(End of clause)

1552.212-71 Work Assignments.

As prescribed in 1512.104(b), insert the following contract clause in cost-reimbursement type term form contracts when work assignments are to be used.

WORK ASSIGNMENTS (APR 1984)

(a) The Contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within _____ calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment. Within _____ calendar days after receipt of a work assignment, the Contractor shall submit _____ copies of a work plan to the Project Officer and _____ copies to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate. Within _____ calendar days after receipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor. If the Contractor has not received approval on a work plan within _____ calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

(End of clause)

1552.213-70 Notice to Suppliers of Equipment.

As prescribed in 1513.507(b), the Contracting Officer shall insert the following contract clause in orders for or lease of commercially available equipment.

NOTICE TO SUPPLIERS OF EQUIPMENT (APR 1984)

(a) It is the general policy of the Environmental Protection Agency that Contractor or vendor prescribed leases or maintenance agreements for equipment will **NOT** be executed.

(b) Performance in accordance with the terms and conditions of the vendor's commercial lease, or customer service maintenance agreement, unless specified in the Schedule, may render the vendor's performance unacceptable, thereby permitting the Government to apply such contractual remedies as may be permitted by law, regulation, or the terms of this order.

(End of clause)

1552.214-70 Past Performance.

As prescribed in 1514.201-6(a), insert this solicitation provision in all invitations for bids.

PAST PERFORMANCE (APR 1984)

Bidders shall provide as part of their bids submission: a list of Government contracts received during the last two years for identical or similar work to that being procured under this solicitation. For each contract, state the contract number, the Government agency placing the contract, the type of contract, and a brief description of the work.

(End of provision)

1552.214-71 Contract Award--Other Factors--Formal

Advertising.

As prescribed in 1514.201-6(b), insert the following solicitation provision in invitations for bids (IFB) when it is appropriate to describe other factors that will be used in evaluating bids for award. This provision is used to describe the other factors mentioned in the solicitation provisions "Contract Award--Formal Advertising" (FAR 52.214-10), and "Contract Award--Construction" (FAR 52.214-19). All other evaluation provisions in the IFB (e.g., evaluation of options) should be cross-referenced in this provision. The other factors set forth in the provision should represent a consolidated statement of the exact basis upon which bids will be evaluated for award.

**CONTRACT AWARD--OTHER FACTORS--FORMAL ADVERTISING
(APR 1984)**

The Government will award a contract resulting from this solicitation as stated in the "Contract Award" provision. The other factors that will be considered are:

(End of provision)

**1552.215-70 EPA Source Evaluation and Selection Procedures--
Negotiated Procurements.**

As prescribed in 1515.605, insert the following solicitation provision in Request for Proposals.

**EPA SOURCE EVALUATION AND SELECTION PROCEDURES--NEGOTIATED
PROCUREMENTS (APR 1984)**

(a) The government will select an offeror for negotiation and award in accordance with FAR Part 15 and the EPA Source Evaluation and Selection Procedures in EPAAR Part 1515 (48 CFR 1515). The significant features of this procedure are:

(1) The government will evaluate cost or price in accordance with FAR Part 31. In addition the government will evaluate proposals to determine cost realism. Cost realism relates to an offeror's demonstrating that the proposed cost or price provides an adequate reflection of its understanding of the requirements of this solicitation.

(2) The Technical Evaluation Panel will evaluate and score technical proposals against the specified Technical Evaluation Criteria.

(b) In addition to evaluation of the previously discussed elements, the Government will consider in any award decision the responsibility factors set forth in FAR Part 9.

(End of provision)

1552.215-71 Evaluation Factors for Award.

As prescribed in 1515.605, insert one of the following solicitation provisions in Requests for Proposals. The first provision states that technical quality is more important than cost or price. The Alternate I provision states that cost or price is more important than technical quality provided an offeror's technical proposal establishes that the minimum needs of the Government can be met. The "other factors" listed in paragraph (a) of the provisions may be revised at the discretion of the Contracting Officer. Technical evaluation criteria should be prepared in accordance with FAR 15.605 and inserted into paragraph (b) of the provision.

EVALUATION FACTORS FOR AWARD (APR 1984)

(a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government, cost or price and other factors considered. For this solicitation, technical quality is more important than cost or price.

The Government will consider other factors, as listed below in descending order of importance, secondary to both technical quality and cost or price:

- (1) Small business concerns which are also labor surplus area concerns;
- (2) Other small business concerns;
- (3) Other concerns which are also labor surplus area concerns;
- (4) Record of past performance.

As proposals become more equal in their technical merit, the evaluated cost or price becomes more important. As the technical merit and the evaluated cost or price become essentially equal, other factors may become a determining factor.

(b) Technical Evaluation Criteria:

(End of provision)

EVALUATION FACTORS FOR AWARD (APR 1984)

ALTERNATE I (APR 1984)

(a) The Government will make award to the responsible offeror whose offer conforms to the solicitation and is most advantageous to the Government, cost or price, technical quality and other factors considered. The Government will award a contract only to concerns whose technical proposals establish that they can meet the minimum needs of the Government. However, among concerns in this category, the Government considers cost or price more important than relative technical quality differences.

The Government will consider other factors, as listed below in descending order of importance, secondary to both cost or price or technical quality:

- (1) Small business concerns which are also labor surplus area concerns;
- (2) Other small business concerns;
- (3) Other concerns which are also labor surplus area concerns;
- (4) Record of past performance.

As the evaluated cost/price becomes more equal, relative technical quality becomes more important. As the evaluated cost/price and technical merit become essentially equal, other factors may become a determining factor.

(b) Technical Evaluation Criteria _____

(End of provision)

1552.215-72 Past Performance

As prescribed in 1515.407(a), insert this solicitation provision in all negotiated solicitation documents.

PAST PERFORMANCE

Offerors shall provide the following information as part of their initial submission:

(a) A list of government contracts received during the last two years for identical or similar work to that being procured under this solicitation. For each contract, state the contract number, the government agency placing the contract, the type of contract, and a brief description of the work.

(b) If the offeror has overrun any cost-type government contract or subcontract in the last two years, list the agency funding the work, the contract number, the amount of the contract, the overrun, and the reason for the overrun.

(End of provision)

1552.215-73 Instructions for the Preparation of Technical and Cost or Pricing Proposals.

As prescribed in 1515.407(a), insert the following solicitation provision in all negotiated solicitation documents. Enter any special technical proposal instructions in (a)(2) or insert "none."

**INSTRUCTIONS FOR THE PREPARATION OF TECHNICAL AND
COST OR PRICING PROPOSALS (APR 1984)**

(a) Technical proposal instructions.

(1) Submit your technical proposal as a separate part of the total proposal package. Omit all cost or pricing details from the technical proposal. Include the following elements in your technical proposal (see also the Statement of Work and the Technical Evaluation Criteria):

- (i) Technical approach;
- (ii) Technical management;
- (iii) Key technical personnel;
- (iv) Assumptions, deviations, and exceptions (as necessary); and
- (v) Additional information.

(2) Special technical proposal instructions:

(b) Cost or pricing proposal instructions.
Your cost or price proposal shall be specific, complete in every detail, and separate from your technical proposal.

(1) General - Submit cost or pricing data on Standard Form 1411, Contract Pricing Proposal Cover Sheet, prepared in accordance with FAR 15.804-6, FAR Table 15-3, and the following:

(i) Clearly identify separate cost or pricing data associated with any:

(A) Options to extend the term of the contract;

(B) Options for the Government to order incremental quantities; and/or

(C) Major tasks, if required by the special instructions.

You may indicate the above cost or price detailed data in narrative form or on a spread sheet, provided that all cost or pricing data is adequately and clearly described. Place recap/summary information on the SF 1411.

(ii) Clearly identify all costs and data in support of the proposed cost/price.

(iii) Submit a current financial statement, including a balance sheet and a statement of profit and loss for the last completed fiscal year. Specify resources available to perform the contract without assistance from any outside source. If sufficient resources are not available, indicate in your proposal the amount required and the anticipated source (i.e., bank loans, letter or lines of credit, etc.).

(iv) If other divisions, subsidiaries, a parent or affiliated companies will perform work or furnish materials under this proposed contract, please provide the name and location of such affiliate and your intercompany pricing policy.

(v) If the contract schedule includes a "Fixed Rates for Services" clause, please provide in your cost proposal a schedule duplicating the format in the clause and include your proposed fixed hourly rates per labor category for the base and any optional contract periods.

(vi) If the contract includes the clause at EPAAR 1552.232-73 "Payments--Fixed-Rate Services Contract," or the clause at FAR 52.232-7 "Payments Under Time and Materials and Labor-Hour Contracts," include in your cost proposal any burden rate you will apply to materials, other direct costs, or subcontracts. The Government will include the burden factor as part of its cost proposal evaluation.

(2) Direct Labor.

(i) Attach support schedules indicating types or categories of labor together with labor hours for each category, indicating rate of compensation. Indicate the method used in computing the labor rate. If individual labor rates are proposed, give employee names.

(ii) Indicate whether current rates or escalated rates are used. If escalation is included, state the degree (Percent) and methodology.

(iii) State whether any additional direct labor (new hires) will be required during the performance period of this

acquisition. If so, state the number required.

(iv) With respect to educational institutions, include the following information for those professional staff members whose salary is expected to be covered by a stipulated salary support agreement pursuant to OMB Circular A-21.

(A) Individual's name;

(B) Annual salary and the period for which the salary is applicable;

(C) List of other research Projects or proposals for which salary is allocated, and the proportionate time charged to each; and

(D) Other duties, such as teaching assignments, administrative assignments, and other institutional activities. Show the proportionate time charged to each.

(3) Indirect costs (overhead, general, and administrative expenses).

Unless your proposed indirect rate(s) have recently been accepted by a contracting agency of the Government, provide detailed supporting computations. These computations may include historical as well as budgeted data. Indicate whether your computations are based upon historical or projected data.

(4) Travel expense.

Attach a schedule illustrating how travel was computed.

(5) Consultant service.

Identify the contemplated consultants. State the amount of service estimated to be required and the consultant's quoted daily or hourly rate.

(6) When the cost of a subcontract is substantial (25 percent of the estimated contract value or \$10,000, whichever is less), include details of subcontract costs in the same format as the prime Contractor's costs.

(7) Other direct costs.

Attach a schedule illustrating how other direct costs were computed.

(c) Facilities and special equipment, including tooling.

(1) If special purpose facilities or equipment is being proposed, provide a description of the items, details of the proposed cost including competitive prices, and a justification as to why the Government should furnish the

equipment or allow its purchase with contract funds.

(2) If fabrication by the prime Contractor is contemplated, include details of material, labor, and overhead.

(3) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government Agency which has cognizance over the property.

(End of provision)

1552.215-74 Cost Proposal Instructions.

As prescribed in 1515.407(c), insert a provision substantially as follows in negotiated procurement solicitation documents when cost or pricing data is required in an offeror's proposal and it is necessary to obtain the detailed cost data specified in the provision. While designed to obtain cost data for procurements under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Superfund") program, the provision may be used in other negotiated solicitations.

COST PROPOSAL INSTRUCTIONS (APR 1984)

Offerors are instructed to prepare their cost proposals in sufficient detail to permit thorough and complete evaluation by the Government. Categories of labor to be employed, for example, and the associated number of estimated hours per category, shall be clearly identified. All items of equipment, together with estimated usage hours, shall be set forth. All material costs, travel and per diem costs, analysis costs, and transportation and disposal costs shall be identified as well. Where proposed rates are not based upon catalog or list prices, the basis for the proposed rates shall be identified. Equipment rates may be proposed on any basis (e.g., hourly, daily, weekly, monthly).

The cost proposal shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet, prepared in accordance with general instructions in FAR 15.804-6 and FAR Table 15-3. Summary data should be placed on SF 1411, and the following format should be followed in preparing the detailed cost proposal. All items which are subcontracted should be clearly identified and should include the name and address of the proposed subcontractor. Written quotations for all subcontracted services must accompany your cost proposal.

(a) Labor.

<u>Labor Categories</u>	<u>Estimated Hours</u>	<u>Rate/Hour</u>	<u>Total</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
Labor Cost Subtotal			\$ _____

(b) Equipment.

<u>Item Description</u>	<u>Estimated Usage</u>	<u>Rate</u>	<u>Total</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
Equipment Cost Subtotal			\$ _____

(c) Travel and Subsistence.

(1) Travel

<u>No. of Persons</u>	<u>From</u>	<u>To</u>	<u>Mileage</u>	<u>Cost Per Trip</u>	<u>Total</u>
_____	_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	_____	\$ _____	\$ _____

(2) Subsistence.

<u>No. of Persons</u>	<u>No. of Days</u>	<u>Rate/Day</u>	<u>Total</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

Travel and Per Diem Subtotal \$ _____

(d) Materials and Safety Equipment.

<u>Item Description</u>	<u>Estimated Quantity</u>	<u>Unit Price</u>	<u>Total</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

Material Cost Subtotal \$ _____

(e) Sampling and Analytical Services.

<u>Type of Analysis</u>	<u>No. of Analyses</u>	<u>Price/Analysis</u>	<u>Total</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

Analytical Cost Subtotal \$ _____

(f) Transportation.

<u>Type of Material</u>	<u>Size of Load</u>	<u>No. of Miles</u>	<u>Estimated No. of Loads</u>	<u>\$/Mile or \$/Load</u>	<u>Total</u>
_____	_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	_____	\$ _____	\$ _____

Transportation Cost Subtotal \$ _____

(g) Disposal.

<u>Type of Material</u>	<u>Method of Disposal</u>	<u>Estimated Quantity</u>	<u>\$/Gal. or \$/Ton</u>	<u>Total</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

Disposal Cost Subtotal \$ _____

(h) Other Miscellaneous Services or Charges.

Include in this category any costs associated with mobilization and/or demobilization, handling charges on materials or subcontracts, and any other estimated costs not included in the above categories.

(PLEASE ITEMIZE AND PROVIDE BREAKDOWNS WHERE APPLICABLE.)

Other Costs Subtotal \$ _____

(End of Provision)

1552.215-75 [Reserved]

1552.215-76 General Financial and Organizational Information

As prescribed in 1515.407 (a)(3), insert the following provision:

GENERAL FINANCIAL AND ORGANIZATIONAL INFORMATION (APR 1984)

Offerors or quoters are requested to provide information regarding the following items in sufficient detail to allow a full and complete business evaluation. If the question indicated is not applicable or the answer is none, it should be annotated. If the offeror has previously submitted the information, it should certify the validity of that data currently in file at EPA or update all outdated information on file.

(a) Contractor's Name: _____

(b) Address (if financial records are maintained at some other location, show the address of the place where the records are kept): _____

(c) Telephone Number: _____

(d) Individual(s) to contact re this proposal: _____

(e) Cognizant Government:

Audit Agency: _____

Address: _____

Auditor: _____

(f) (1) Work Distribution for the Last Completed Fiscal Accounting Period:

Sales:

Government cost-reimbursement type
prime contracts and subcontracts: \$ _____

Government fixed-price prime
contracts and subcontracts: \$ _____

Commercial Sales: \$ _____

Total Sales: \$ _____

(2) Total Sales for first and second fiscal years immediately preceding last completed fiscal year.

Total Sales for First Preceding Fiscal Year \$ _____

Total Sales for Second Preceding Fiscal Year \$ _____

(8) Is company a separate entity or division?
Yes ____ No ____

If a division or subsidiary corporation, name parent company:

(h) Date Company Organized:

(i) Manpower:

Total Employees: _____

Direct: _____

Indirect: _____

Standard Work Week (Hours): _____

(j) Commercial Products:

(k) Attach a current organizational chart of the company.

(1) Description of Contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks.)

	<u>Estimated/ Actual Cost</u>	<u>Standard Cost</u>
Estimating System		
Job Order	_____	_____
Process	_____	_____
Accumulating System		
Job Order	_____	_____
Process	_____	_____

Has your cost estimating system been approved by any Government agency? Yes _____ No _____

If yes, give name and location of agency:

(m) What is your fiscal year period? (Give month-to-month dates): ____-____-____ through ____-____-____.

What were the indirect cost rates for your last completed fiscal year?

<u>Fiscal Year</u>	<u>Indirect Cost Rate</u>	<u>Basis of Allocation</u>
Fringe Benefits	_____	_____
Overhead	_____	_____
G&A Expense	_____	_____
Other	_____	_____

(n) Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency? Yes _____ No _____

If yes, provide name and location of the Government agency:

Date of last preaward audit review by a Government agency:

(If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G&A must be furnished.)

(o) Cost estimating is performed by:
Accounting Department _____
Contacting Department _____
Other (describe) _____

(p) Has system of control of Government property been approved by a Government agency? Yes _____ No _____

If yes, name and location of the Government agency: _____

(q) Purchasing System:

FAR 44.302 requires EPA, where it is the cognizant Government agency, to conduct a Contractor Purchasing System Review for each contractor whose sales to the Government, using other than sealed bid procedures, are expected to exceed \$10 million (annual billings) during the next twelve months. The \$10 million sales threshold is comprised of prime contracts, subcontracts under Government prime contracts, and modifications (except when the negotiated price is based on established catalog or market prices or is set by law or regulation). Has your purchasing system been approved by a Government agency?

Yes _____ No _____

If yes, name and location of the Government agency:

Period of Approval:

If no, do you estimate that your negotiated sales to the Government during the next twelve months will meet the \$10 million threshold?

Yes _____ No _____

If you respond yes to the \$10 million threshold question, is EPA the cognizant agency for your organization based on the preponderance of Government contract dollars?

Yes _____ No _____

If EPA is not your cognizant Government agency, provide the name and location of the cognizant agency:

Are your purchasing policies and procedures written?

Yes _____ No _____

(r) Does your firm have an established written incentive compensation or bonus plan? Yes _____ No _____

(End of provision)

1552.216-70 Award Fee

As prescribed in 1516.405, insert the following contract clause in cost-plus-award-fee contracts.

AWARD FEE (APR 1984)

The amount of award fee the Government earns, if any, is based on subjective evaluation by the Government of the quality of the Contractor's performance in accordance with the award fee plan. The Government will determine the amount of award fee every _____ months beginning ____-____-____. The Fee Determination Official (FDO) will unilaterally determine the amount of award fee. The FDO's determination will be in writing to the Contractor and is not subject to the "Disputes" clause. The Government may unilaterally change the award fee plan at any time and will provide such changes in writing to the Contractor prior to the beginning of the applicable evaluation period. The Contractor may submit a voucher for the earned award fee. Available award fee not earned during the period does not carry over to subsequent periods.

(End of clause)

1552.216-71 Date of Incurrence of Cost

As prescribed in 1516.307, insert the following contract clause in cost-reimbursement contracts when an anticipatory cost letter has been issued on the project. The beginning dates and the not-to-exceed amount to be inserted in the clause should be those in the anticipatory cost letter.

DATE OF INCURRENCE OF COST (APR 1984)

The Contractor is entitled to reimbursement for allowable, allocable costs incurred during the period of _____ to the award date of this contract in an amount not to exceed \$_____. All terms and conditions of this contract are in effect from _____.

(End of clause)

1552.216-72 Ordering--By Designated Ordering Officers.

As prescribed in 1516.505(a), insert the following in indefinite delivery/indefinite quantity contracts.

ORDERING--BY DESIGNATED ORDERING OFFICERS
(APR 1984)

(a) The Government will order any supplies and services to be furnished under this contract by issuing delivery orders on Optional Form 347, or any agency prescribed form, from _____ through _____. In addition to the Contracting Officer, the following individuals are authorized ordering officers: _____.

(b) A Standard Form 30 will be the method of amending delivery orders.

(c) The Contractor shall acknowledge receipt of each order and shall prepare and forward to the Ordering Officer within ten (10) calendar days the proposed staffing plan for accomplishing the assigned task within the period specified.

(d) If the Contractor considers the estimated labor hours or specified work completion date to be unreasonable, he/she shall promptly notify the Ordering Officer and Contracting Officer in writing within 10 calendar days, stating why the estimated labor hours or specified completion date is considered unreasonable.

(e) Each delivery order will have a ceiling price, which the Contractor may not exceed. When the Contractor has reason to believe that the labor payment and support costs for the order, which will accrue in the next thirty (30) days, will bring total cost to over 85 percent of the ceiling price specified in the order, the Contractor shall notify the Ordering Officer.

(f) Paragraphs (c), (d), and (e) of this clause apply only when services are being ordered.

(End of clause)

1552.216-73 Fixed Rates for Services--Indefinite Delivery/Indefinite Quantity Contract.

As prescribed in 1516.505(b), insert the following clause to specify fixed rates for services in indefinite delivery/indefinite quantity contracts. When the contract contains options, the clause should be modified to reflect the information and data for the base period and any option periods.

FIXED RATES FOR SERVICES--INDEFINITE DELIVERY/INDEFINITE QUANTITY CONTRACT (APR 1984)

The following fixed rates shall apply for payment purposes for the duration of the contract.

<u>Personnel Classification</u>	<u>Skill Level</u>	<u>Estimated Direct Labor Hours</u>	<u>Fixed Hourly Rate</u>	<u>Total</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

The rate, or rates, set forth above cover all expenses, including report preparation, salaries, overhead, general and administrative expenses, and profit.

The Contractor shall voucher for only the time of the Personnel whose services are applied directly to the work called for in individual Delivery Orders and accepted by the EPA Project Officer. The Government shall pay the Contractor for the life of a delivery order at rates in effect when the delivery order was issued, even if performance under the delivery order crosses into another period. The Contractor shall maintain time and labor distribution records for all employees who work under the contract. These records must document time worked and work performed by each individual on all Delivery Orders.

(End of clause)

1552.217-70 Evaluation of Contract Options.

As prescribed in 1517.208(a), insert the following solicitation provision in Requests for Proposals when the solicitation contains options.

EVALUATION OF CONTRACT OPTIONS (APR 1984)

For award purposes, in addition to an offeror's response to the basic requirement, the Government will evaluate its response to all options, both technical and cost. Evaluation of options will not obligate the Government to exercise the

options. For this solicitation the options are as specified in Section H.

(End of provision)

1552.217-71 Option To Extend the Term of the Contract--Cost-Type Contract.

As prescribed in 1517.208(b), insert this contract clause in cost reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly.

**OPTION TO EXTEND THE TERM OF THE CONTRACT--
COST-TYPE CONTRACT (APR 1984)**

The Government has the option to extend the term of this contract for _____ additional period(s). If more than 60 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 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is _____ direct labor hours for the first option period and _____ for the second. Use of an option will result in the following contract modifications:

(a) The "Period of Performance" clause will be amended to cover a base period from _____ to _____ and option periods from _____ to _____ and _____ to _____.

(b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of _____ for the first option period and a new and separate level of effort of _____ for the second option period.

(c) The "Estimated Cost and Fixed Fee" clause will be amended to reflect increased estimated costs and fixed fee for each option period as follows:

	<u>Option 1</u>	<u>Option 2</u>
Estimated Cost	_____	_____
Fixed Fee	_____	_____
Total	_____	_____

(d) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

Other Direct

Cost ItemOption 1Option 2

_____	_____	_____
_____	_____	_____
_____	_____	_____

(End of clause)

1552.217-72 Option To Extend the Term of the Contract--Cost-Plus- Award-Fee Contract.

As prescribed in 1517.208(c), insert this contract clause in cost plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

OPTION TO EXTEND THE TERM OF THE CONTRACT--
COST-PLUS-AWARD-FEE CONTRACT (APR 1984)

(a) The Government has the option to extend the term of this contract for _____ additional periods. If more than 60 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 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. The Government's estimated level of effort is _____ direct labor hours for the first option period and _____ for the second. Use of an option will result in the following contract modifications:

(b) The "Period of Performance" clause will be amended to cover a base period from _____ to _____ and option periods from _____ to _____ and _____ to _____.

(c) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of _____ for the first option period and a new and separate level of effort of _____ for the second option period.

(d) The "Estimated Cost Base Fee and Award Fee" clause will be amended to reflect increased estimated costs and base fee and award fee pool for each option period as follows:

	<u>Option 1</u>	<u>Option 2</u>
Estimated Cost	_____	_____
Base Fee	_____	_____
Award Fee Pool	_____	_____
Total	_____	_____

(e) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

<u>Other Direct Cost Item</u>	<u>Option 1</u>	<u>Option 2</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

(End of clause)

1552.217-73 Option for Increased Quantity--Cost-Type Contract.

As prescribed in 1517.208(d), insert this contract clause in cost reimbursement type term form contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, modify the clause accordingly.

OPTION FOR INCREASED QUANTITY--COST-TYPE CONTRACT (APR 1984)

By issuing a contract modification, the Government may increase the estimated level of effort by _____ direct labor hours during the base period, _____ during the first option period, and _____ during the second option period. The Government may issue a maximum of _____ orders to increase the level of effort in blocks of _____ hours during any given period. The estimated cost and fixed fee of each block of hours is as follows:

	<u>Base Period</u>	<u>Option 1</u>	<u>Option 2</u>
Estimated Cost	_____	_____	_____
Fixed Fee	_____	_____	_____
Total	_____	_____	_____

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost and Fixed Fee" clause will be modified accordingly.

(End of clause)

1552.217-74 Option for Increased Quantity--Cost-Plus-Award-Fee Contract.

As prescribed in 1517.208(e), insert this contract clause in cost plus-award-fee term contracts when applicable. If only one option period is used, enter "NA" in the proper places of the clause. If more than two option periods apply, the clause may be modified accordingly.

OPTION FOR INCREASED QUANTITY--COST-PLUS-AWARD-FEE CONTRACT
(APR 1984)

By issuing a contract modification, the Government may increase the estimated level of effort by _____ direct labor hours during the base period, _____ during the first option period, and _____ during the second option period. The Government may issue a maximum of _____ orders to increase the level of effort in blocks of _____ hours during any given period. The estimated cost, base fee, and award fee pool of each block of hours is as follows:

	<u>Base Period</u>	<u>Option 1</u>	<u>Option 2</u>
Estimated Cost	_____	_____	_____
Base Fee	_____	_____	_____
Award Fee Pool	_____	_____	_____
Total	_____	_____	_____

When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost, Base Fee, and Award Fee" clause will be modified accordingly.

(End of clause)

1552.217-75 Option To Extend the Effective Period of the Contract-- Time and Materials or Labor Hour Contract.

As prescribed in 1517.208(f), insert this clause in time and materials or labor hour type contracts when applicable. This clause will be modified to reflect the actual number of option periods for the acquisition. If only one option period is used, modify (c) accordingly.

OPTION TO EXTEND THE EFFECTIVE PERIOD OF THE CONTRACT--
TIME AND MATERIALS OR LABOR HOUR
CONTRACT (APR 1984)

(a) The Government has the option to extend the effective period of this contract for _____ additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the option(s) are exercised, the "Ceiling Price" clause will be modified to reflect a new and separate ceiling price of \$_____ for the first option period and a new and separate ceiling price of \$_____ for the second option period.

(c) The "Effective Period of the Contract" clause will be

modified to cover a base period from _____ to _____ and
option periods from _____ to _____ and _____ to _____.

(End of clause)

**1552.217-76 Option To Extend the Effective Period of the
Contract-- Indefinite Delivery/Indefinite Quantity Contract.**

As prescribed in 1517.208(g), the following is used in indefinite delivery/indefinite quantity type contracts with options to extend the effective period of the contract. The clause may be adjusted depending upon the number of options. If only one option period is used, modify (b) and (c) accordingly.

**OPTION TO EXTEND THE EFFECTIVE PERIOD OF THE
CONTRACT--INDEFINITE DELIVERY/INDEFINITE QUANTITY CONTRACT**

(a) The Government has the option to extend the effective period of this contract for _____ additional period(s). If more than sixty (60) days remain in the contract effective period, the Government, without prior written notification, may exercise this option by issuing a contract modification. To unilaterally exercise this option within the last 60 days of the effective period, the Government must issue written notification of its intent to exercise the option prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option.

(b) If the options are exercised, the "Minimum and Maximum Contract Amount" clause will be modified to reflect new and separate minimums of _____ for the first option period and _____ for the second option period, and new and separate maximums of _____ for the first option period and _____ for the second option period.

(c) The "Effective Period of the Contract" clause will be modified to cover a base period from _____ to _____ and option periods from _____ to _____ and _____ to _____.

(End of clause)

1552.223-70 Protection of Human Subjects

As prescribed in 1523.303-70, insert the following contract clause when the contract involves human test subjects.

PROTECTION OF HUMAN SUBJECTS (APR 1984)

(a) The Contractor shall protect the rights and welfare of human subjects in accordance with the procedures specified in its current Institutional Assurance on file with the Agency. The Contractor shall certify at least annually that an appropriate institutional committee has reviewed and approved

the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Agency.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract.

(End of clause)

1552.224-70 Social Security Numbers of Consultants and Certain Sole Proprietors and Privacy Act Statement.

As prescribed in 1524.104, insert the following provision in all solicitations.

SOCIAL SECURITY NUMBERS OF CONSULTANTS AND CERTAIN SOLE PROPRIETORS AND PRIVACY ACT STATEMENT (APR 1984)

(a) Section 6041 of Title 26 of the U.S. Code requires EPA to file Internal Revenue Service (IRS) Form 1099 with respect to individuals who receive payments from EPA under purchase orders or contracts. Section 6109 of Title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. Social security numbers obtained for this purpose will be used by EPA for the sole purpose of filing IRS Form 1099 in compliance with Section 6041 of Title 26 of the U.S. Code.

(b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no Employer Identification Number, insert the offeror's or quoter's social security number on the following line.

(End of provision)

1552.228-70 Insurance--Liability to Third Persons--Commercial Organizations.

As prescribed in 1528.311-70, insert the following contract clause in contracts with commercial organizations when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

**INSURANCE--LIABILITY TO THIRD PERSONS--
COMMERCIAL ORGANIZATIONS (APR 1984)**

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by FAR Part 28, in effect as of the date of execution of this contract, and any such insurance as the Contracting Officer may, from time to time, require with

respect to performance of this contract.

(b) At a minimum, the Contractor shall procure and maintain the following types of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts to satisfy State law;

(2) Employer's liability insurance in the minimum amount of \$100,000 per occurrence;

(3) Comprehensive general liability insurance for bodily injury, death or loss of or damage to property of third persons in the minimum amount of \$1,000,000 per occurrence;

(4) When vessels are used in the performance of the contract, vessel collision liability and protection and indemnity liability insurance in such amounts as the Contracting Officer may require or approve: provided, that the Contractor may, with the approval of the Contracting Officer, maintain a self-insurance program. All insurance required pursuant to the provisions of this paragraph shall be in such form and for such periods of time as the Contracting Officer may, from time to time, require or approve and with insurers approved by the contracting Officer.

(c) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement hereunder.

(d) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance (including reserves for self-insurance) as required or approved pursuant to the provisions of this contract clause.

(e) The Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to properly arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. Reimbursement for such liabilities to third persons will not cover liabilities for which the Contractor has failed to insure as required or to maintain insurance as approved by the Contracting Officer. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(f) The Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(g) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions in this clause whereby the contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishings of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Government will indemnify the Contractor with respect to his obligations to subcontractors under such subcontract provisions. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(h) If insurance coverage required or approved by the Contracting Officer is reduced without the Contracting Officer's approval, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(i) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Government; and

(3) Immediately furnish the Government copies of all pertinent papers received by the Contractor. The Government

may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(j) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Government. This agreement to reimburse the contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-71 Insurance--Liability to Third Persons--State or Local Governments.

As prescribed in 1528.311-70, insert the following contract clause in contracts with State or local Governments when routine (nonemergency) removal or remedial action is being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

INSURANCE--LIABILITY TO THIRD PERSONS--
STATE OR LOCAL GOVERNMENTS (APR 1984)

(a) The Contractor shall procure and maintain such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) The Contractor agrees, to the extent and in the manner required by the Contracting Officer, to submit for the approval of the Contracting Officer any other insurance maintained by the Contractor in connection with the performance of this contract (including any self-insurance) and for which the Contractor seeks reimbursement hereunder.

(c) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance (including reserves for self-insurance) as required or approved pursuant to the provisions of this contract clause.

(d) The Federal Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. Reimbursement for such liabilities to third persons will not cover liabilities for which the Contractor has failed to insure as required or to maintain insurance as approved by the Contracting Officer. The contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this

contract.

(e) The Federal Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(f) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provision in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontractors providing for indemnification within the purview of this contract clause shall provide for prompt notification which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Federal Government will indemnify the Contractor with respect to its obligations to subcontractors under such subcontract provisions. The Federal Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

(g) If insurance coverage required or approved by the Contracting Officer is reduced without the Contracting Officer's approval, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(h) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Federal Government; and

(3) Immediately furnish the Federal Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any claim or action. The Contractor shall comply with the Federal Government's directions, and execute any authorizations required in regard to such settlement or defense.

(i) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments

or by settlements approved in writing by the Federal Government. This agreement to reimburse the contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-72 Insurance--Liability to Third Persons--Commercial Organizations (Emergency).

As prescribed in 1528.311-70, insert the following contract clause in contracts with commercial organizations when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

INSURANCE--LIABILITY TO THIRD PERSONS--COMMERCIAL ORGANIZATIONS (EMERGENCY) (APR 1984)

(a) The Contractor shall procure and maintain such insurance as is required by law or regulation, including that required by FAR Part 28 in effect as of the date of execution of this contract, and any such insurance as the Contracting Officer may, from time to time, require with respect to performance of this contract.

(b) At a minimum, the Contractor shall procure and maintain the following types of insurance:

(1) Workmen's compensation and occupational disease insurance in amounts to satisfy state law;

(2) Employer's liability insurance;

(3) Comprehensive general liability (bodily injury) insurance;

(4) Comprehensive automobile liability (bodily injury and property damage) insurance;

(5) When aircraft are used in the performance of the contract, aircraft public and passenger liability insurance; and

(6) When vessels are used in the performance of the contract, vessel collision liability and protection and indemnity liability insurance: Provided, that the Contractor may maintain a self-insurance program.

(c) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance maintained by the Contractor, including reserves for self-insurance.

(d) The Government will hold harmless and indemnify the

Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's directors, officers, managers, superintendents, or other representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(e) The Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(f) The Contractor may include in any subcontract under this contract the same provisions in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contracting Officer of any claim or action against the subcontractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Government will indemnify the Contractor with respect to his obligations to subcontractors under such subcontract provisions. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(g) If insurance maintained by the Contractor is reduced, the liability of the Government under this contract clause will not be increased by reason of such reduction.

(h) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim

or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Government; and

(3) Immediately furnish the Government copies of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(i) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Government. This agreement to reimburse the contractor for certain liabilities shall not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.228-73 Insurance--Liability to Third Persons--State or Local Governments (Emergency).

As prescribed in 1528.311-70, insert the following contract clause in contracts with State or local governments when emergency response to hazardous substance releases or potential releases are being undertaken pursuant to the Comprehensive Environmental Response, Compensation and Liability Act.

**INSURANCE--LIABILITY TO THIRD PERSONS--STATE OR
LOCAL GOVERNMENTS (EMERGENCY) (APR 1984)**

(a) The Contractor shall be reimbursed, for the portion allocable to this contract, the reasonable cost of insurance maintained by the Contractor, including reserves for self-insurance.

(b) The Federal Government will hold harmless and indemnify the Contractor against claims (including expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury, or loss of or damage to property arising out of performance of this contract, to the extent that such a claim is not compensated by insurance or otherwise. Any such claim within deductible amounts of the Contractor's insurance will not be covered under this contract clause. The Contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities) that result from willful misconduct or lack of good faith on the part of any of the Contractor's

directors, officers, managers, superintendents, or other representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed; or

(iii) A separate and complete major industrial operation in connection with the performance of this contract.

(c) The Federal Government may discharge its liability under this contract clause by making payments directly to the Contractor or directly to parties to whom the Contractor may be liable.

(d) The Contractor may include in any subcontract under this contract the same provisions in this contract clause whereby the Contractor shall indemnify the subcontractor. Such a subcontract shall provide the same rights and duties and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this contract clause. Similar indemnification may be provided for subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this contract clause shall provide for prompt notification to the Contracting Officer of any claim or action against the subcontractor which is covered by this contract clause, and shall entitle the Government, at its election, to control or assist in the settlement or defense of any such claim or action. The Federal Government will indemnify the Contractor with respect to its obligations to subcontractors under such subcontract provisions. The Federal Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractors may be liable.

(e) If insurance maintained by the Contractor is reduced, the liability of the Federal Government under this contract clause shall not be increased by reason of such reduction.

(f) The Contractor shall:

(1) Promptly notify the Contracting Officer of any claim or action against the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this contract clause;

(2) Furnish evidence or proof of any claim covered by this contract clause in the manner and form required by the Federal Government; and

(3) Immediately furnish the Federal Government copies

of all pertinent papers received by the Contractor. The Government may direct, control, or assist the settlement or defense of any such claim or action. The Contractor shall comply with the Federal Government's directions, and execute any authorizations required in regard to such settlement or defense.

(g) Reimbursement for any liabilities under this contract clause will not exceed appropriations available at the time such liabilities are represented by final judgments or by settlements approved in writing by the Federal Government. This agreement to reimburse the Contractor for certain liabilities will not be interpreted as implying that Congress will, at a later date, appropriate funds sufficient to meet deficiencies.

(End of clause)

1552.229-70 State and Local Taxes.

As prescribed in 1529.401-70, insert the following clause:

STATE AND LOCAL TAXES (NOV 1989)

In accordance with FAR 29.303 and FAR 31.205-41, the Contractor or any subcontractor under this contract shall not be reimbursed for payment of any State and local taxes for which an exemption is available. The Contractor is responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available. The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts at any tier. The Contractor shall notify the Contracting Officer if problems arise in obtaining a State and local tax exemption. The contractor may seek a waiver by the Contracting Officer from this requirement if the administrative burden of seeking an exemption appears to outweigh the potential savings to the Government.

(End of clause)

1552.232-70 Submission of Invoices.

As prescribed in 1532.908, insert the following clause:

SUBMISSION OF INVOICES (OCT 1989)

In order to be considered properly submitted, an invoice or request for contract financing payment must meet the following requirements in addition to the requirements of FAR 32-905:

(a) Unless otherwise specified in the contract, an invoice or request for contract financing payment shall be submitted as an original and four copies. The contractors shall submit

the invoice to the following offices/individuals designated in the contract; the original and one copy to the Accounting Operations Office; two copies to the project officer (the project officer may direct one of these copies to a separate address); and one copy to the Contracting Officer.

(b)(1) If this is a cost-reimbursement contract, the contractor shall prepare the invoice or request for contract financing payment in accordance with EPA Form 1900-34, "Guide for the Preparation of Contractor's Claim for Reimbursement of Costs and Fees Under Cost Reimbursement Type Contract's" or EPA Form 1900-3A, "Guide for the Preparation of Contractor's Claims for Type Contracts." If the contract is a cost-reimbursement term form contract under which contract work is authorized by individual work assignments, the invoice or request for contract financing payment shall include a summary of amounts claimed against each work assignment.

(2) The invoice for a cost-reimbursement contract shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(c)(1) If this is an indefinite delivery/indefinite quantity contract, the invoice or request for contract financing payment shall include a summary of amounts claimed against each delivery order, unless otherwise specified.

(2) The invoice for an indefinite delivery/indefinite quantity contract shall indicate charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(d) Invoices must clearly indicate the period of performance for which payment is requested and include EPA accounting information necessary to process payments. Separate invoices are required for charges applicable to the basic contract and for each option period. If contract work is ordered, through individual work assignments or delivery orders, invoices must show current and cumulative charges by work assignment or delivery order number and EPA accounting information. When contracts, work assignments or delivery orders contain multiple lines of accounting data, charges that cannot be assigned to a single line of information should be allocated based on the percentage of total dollars, unless otherwise specified (separate invoices shall be submitted for each delivery order). Required accounting information includes the Document Control Number (DCN) and the account number shown in block 14 of the SF 26, block 21 of the SF 33, block 12 of the SF 30, or on the individual work assignment or delivery order.

(e) When the contractor invoices on a monthly basis, the period covered by requests for contract financing payments must be the same as the period for monthly progress reports required under this contract. If, in accordance with FAR 52.216-7, the contractor submits request for contract financing payments more frequently than monthly, one payment request each month must have the same ending period of performance as the monthly progress report. Where cumulative amounts on the monthly progress report differ from the aggregate amounts contained in the request(s) for contract financing payments covering the same ending period, the contractor must provide a reconciliation of the difference as part of the payment request.

(End of clause)

Alternate I (SEP 1990). As prescribed in 1532.908, substitute the following paragraph for (d) in the clause:

(d) Invoices must clearly indicate the period of performance for which payment is requested and include EPA accounting information necessary to process payments. Separate invoices are required for charges applicable to the basic contract and each option period. If contract work is ordered through individual work assignments or delivery orders, invoices must show current and cumulative charges by work assignment or delivery order number and EPA accounting information. When contracts, work assignments or delivery orders contain multiple lines of accounting data, charges that cannot be assigned to a single line of accounting information should be allocated based on the percentage of total dollars, unless otherwise specified (separate invoices shall be submitted for each delivery order). Required accounting information includes the account number shown in block 14 of the SF 26, block 21 of the SF 33, block 12 of the SF 30, or on the individual work assignment or delivery order.

Alternate II (SEP 1990). As prescribed in 1532.908, substitute the following paragraph for (d) in the clause:

(d) Invoices must clearly indicate the period of performance for which payment is requested. Separate invoices are required for charges applicable to the basic contract and each option period. If contract work is ordered through individual work assignments or delivery orders, invoices must show current and cumulative charges by work assignment or delivery order number (separate invoices shall be submitted for each delivery order).

1552.232-71 [Reserved]

1552.232-72 [Reserved]

1552.232-73 Payments--Fixed-Rate Services Contract

As prescribed in 1532.111, insert the following in indefinite delivery/indefinite quantity contracts with fixed services rates.

PAYMENTS--FIXED-RATE SERVICES CONTRACT (APR 1984)

The Government shall pay the Contractor as follows up the submission of invoices or vouchers approved by the Contracting Officer:

(a) Hourly rate.

(1) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the Schedule by the number of direct labor hours performed. The rates shall include wages, indirect costs, general and administrative expenses, and profit. Fractional parts of an hour shall be payable on a prorated basis. Vouchers may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the paying office. The Contractor shall substantiate vouchers by evidence of actual payment and by individual daily job, timecards, or other substantiation approved by the Contracting Officer. Promptly after receipt of each substantiated voucher, the government shall, except as otherwise provided in this contract and subject to the terms of (e) below, pay the voucher as approved by the Contracting Officer.

(2) Unless otherwise prescribed in the Schedule, the Contracting Officer shall withhold 5 percent of the amounts due under this paragraph (a), but the total amount withheld shall not exceed \$50,000. The amounts withheld shall be retained until the execution and delivery of a release by the Contractor as provided in paragraph (f) below.

(3) Unless the schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on overtime work is approved in advance by the Contracting Officer, overtime rates shall be negotiated. Failure to agree upon these overtime rates shall be treated as a dispute under the "Disputes" clause of this contract. If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

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

(1) The allowability of direct materials and other direct costs shall be determined by the Contracting Officer in accordance with Subpart 31.2 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract. Reasonable and allocable material handling costs or indirect costs may be included in the charge for material or other direct costs to the extent they are clearly excluded from the hourly rate. Material handling and/or indirect cost rates are specified in the "Indirect Costs" clause. Material handling costs are comprised of indirect costs, including, when appropriate, general and administrative expense allocated to direct materials in accordance with the Contractor's usual accounting practices consistent with Subpart 31.2 of the FAR. The Contractor shall be reimbursed for items and services purchased directly for the contract only when cash, checks, or other forms of actual payment have been made for such purchased items or services. Direct materials or other direct costs, as used in this clause, are those items which enter directly into the end product, or which are used or consumed directly in connection with the furnishing of the end product.

(2) Subcontracted effort may be included in the fixed hourly rates discussed in paragraph (a)(1) above 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) below. Reimbursable costs in connection with subcontracts shall be limited to the amounts paid to the subcontractor in the same manner as for items and services purchased directly for the contract under subparagraph (1) above; however, this requirement shall not apply to a Contractor that is a small business concern. 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 (a)(1) above.

(3) To the extent able, the Contractor shall (i) obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and (ii) take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and other benefits. When unable to take advantage of the benefits, the Contractor shall promptly notify the Contracting Officer and give the reasons. Credit shall be given to the Government for cash and trade discounts, rebates, allowances, credits, salvage, the value of any appreciable scrap, commissions, and other amounts that have accrued to the benefit of the Contractor, or would have accrued except for the fault or neglect of the Contractor. The benefits lost without fault or neglect on the part of the Contractor, or lost through fault of the Government, shall not be deducted from gross costs.

(4) If the nature of the work to be performed requires

the Contractor to furnish material which is regularly sold to the general public in the normal course of business by the Contractor, the price to be paid for such material, notwithstanding (b)(1) above, shall be on the basis of an established catalog or list price, in effect when the material is furnished, less all applicable discounts to the Government; provided, that in no event shall such price be in excess of the Contractor's sales price to its most favored customer for the same item in like quantity, or the current market price, whichever is lower.

(c) Contracting Officer notification. For contract administration purposes, the Contractor shall notify the Contracting Officer in writing when the total value of all delivery orders issued exceeds 85 percent of the maximum price specified in the schedule.

(d) Maximum amount. The Government shall not be obligated to pay the Contractor any amount in excess of the maximum amount in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the maximum amount set forth in the Schedule, unless or until the Contracting Officer shall have notified the Contractor in writing that the maximum amount has been increased and shall have specified in the notice a revised maximum that shall constitute the maximum amount for performance under this contract. When and to the extent that the maximum amount set forth in the Schedule has been increased, any hours expended, and material or other direct costs incurred by the Contractor in excess of the maximum amount before the increase, shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the maximum amount.

(e) Audit. At any time before final payment under this contract, the Contracting Officer may request audit of the invoices or vouchers and substantiating material. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices or vouchers, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. Upon receipt and approval of the voucher or invoice designated by the Contractor as the "completion voucher" or "completion invoice" and substantiating material, and upon compliance by the Contractor with all terms of this contract (including, without limitation, terms relating to patents and the terms of (f) and (8) below), the Government shall promptly pay any balance due the Contractor. The completion invoice or voucher, and substantiating material, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event, later than one year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(f) Assignment. The Contractor, and each assignee under an assignment entered into under this contract and in effect

at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(1) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible of exact statement by the Contractor.

(2) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(3) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(g) Refunds. The Contractor agrees that any refunds, rebates, or credits (including any related interest) accruing to or received by the Contractor or any assignee, that arise under the materials portion of this contract and for which the Contractor has received reimbursement, shall be paid by the Contractor to the Government. The Contractor and each assignee, under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, an assignment to the Government of such refunds, rebates, or credits (including any interest) in form and substance satisfactory to the Contracting Officer.

(End of clause)

1552.235-70 Screening Business Information for Claims of Confidentiality.

As prescribed in 1535.007-70(a), insert the following contract clause in all types of contracts when the contracting Officer has determined that during performance of this contract, the Contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confidential by the business that has the right to the information. The following clause enables EPA

to resolve any claims of confidentiality concerning the information that the Contractor will furnish under a contract. The clause entitled "Treatment of Confidential Business Information" shall also be included in the contract:

SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY
(APR 1984)

(a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the U.S. Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The Contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.

(ii) Upon receiving the information, the Contractor

shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

(b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.

(c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor collect information.

(End of clause)

1552.235-71 Treatment of Confidential Business Information.

As prescribed in 1535.007-70(b), insert the following contract clause in all types of contracts when the contracting Officer has determined that in the performance of a contract, EPA may furnish confidential business information to the Contractor that EPA obtained under the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), or the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR Part 2 Subpart B require that the Contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the Contractor:

TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (APR 1984)

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the confidential information only under the following

conditions:

(1) The Contractor and Contractor's Employees shall:
(i) use the confidential information only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.

(2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(3) The Contractor agrees that these contract conditions concerning the use and disclosure of confidential information are included for the benefit of and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(4) The Contractor shall not use any confidential information supplied by EPA or obtained during performance hereunder to compete with any business to which the confidential information relates.

(b) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of confidential business information by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded, pursuant to this contract, that require the furnishing of confidential business information to the subcontractor.

(End of clause)

1552.235-72 Data Security--FIFRA and/or TSCA Confidential Business Information.

As prescribed in 1535.007-70(c), insert the following contract clause when the contract involves access to confidential business information related to either the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) or the Toxic Substances Control Act (TSCA) and the "Treatment of Confidential Business Information" clause (1552.235-71) and the "Screening Business Information for Claims of Confidentiality" clause (1552.235-70) are also used.

DATA SECURITY--FIFRA AND/OR TSCA
CONFIDENTIAL BUSINESS INFORMATION (APR 1984)

The Contractor shall handle Federal Insecticide, Fungicide, Rodenticide Act (FIFRA and/or Toxic Substances Control Act (TSCA) confidential business information in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality," the provisions set forth below, and the Contractor's approved detailed security plan.

(a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor shall protect the confidential business information and confidential business information used in its computer operations in accordance with the following requirements.

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the Contractor's security plan(s) approved by EPA.

(2) The Contractor shall, upon request by the Contracting Officer, permit access to and inspection of the Contractor's facilities in use under this contract by representatives of EPA's Assistant Administrator for Administration and Resources Management, EPA's Program Support Division of the Office of Pesticide Programs, EPA's Management Support Division of the Office of Toxic Substances, EPA's Management Information System Division or by the Project Officer.

(3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of the FIFRA/TSCA "Contractor Employee Confidentiality Agreement" from each of the Contractor's employees who will have access to the information before the employee is allowed access.

(b) The Contractor agrees that these requirements concerning protection of confidential business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

(c) The Contractor understands that confidential business information obtained by EPA under the Fungicide, Insecticide, and Rodenticide Act and/or the Toxic Substances Control Act may not be disclosed except as authorized by the Act(s), and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in FIFRA [7 U.S.C. 136h(f)] and/or TSCA [15 U.S.C. 2613(d)]. For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those disclosures set forth in the clause entitled "Treatment of Confidential

Business Information."

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of confidential business information to the subcontractor.

(e) The Contractor shall return all logs and employee confidentiality agreements to EPA at the end of the contract.

(f) If, subsequent to the date of this contract, the Government changes the security requirements, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(End of clause)

1552.236-70 Samples and Certificates.

As prescribed in 1536.521, insert the following contract clause in construction contracts.

SAMPLES AND CERTIFICATES (APR 1984)

When required by the specifications or the Contracting Officer, samples, certificates, and test data shall be submitted after award of the contract, prepaid, in time for proper action by the Contracting Officer or his/her designated representative. Certificates and test data shall be submitted in triplicate to show compliance of materials and construction specified in the contract performance requirements. Samples shall be submitted in duplicate by the Contractor, except as otherwise specified, to show compliance with the contract requirements. Materials or equipment for which samples, certifications or test data are required shall not be used in the work until approved in writing by the Contracting Officer.

(End of clause)

1552.236-71 Additive or Deductive Items.

As prescribed in 1536.570, insert the following solicitation provision in Invitations for Bids for construction that provides for additive or deductive items.

ADDITIVE OR DEDUCTIVE ITEMS (APR 1984)

The low bidder for purposes of award shall be the conforming responsible bidder offering the low aggregate amount for the base bid item, plus or minus (in the order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds. For example, when the amount available is \$100,000 and a bidder's base bid and four successive additives are \$85,000, \$10,000, \$8,000, \$6,000, and \$4,000, the aggregate amount of the bid for purposes of award would be \$99,000 for the base bid plus the first and fourth additives, the second and third additives being skipped because each of them would cause the aggregate bid to exceed \$100,000. In any case, all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order or priority need be followed only for determining the low bidder. If the amount of funds determined and recorded in the contract file by the Contracting Officer as available for the project prior to the opening of bids proves insufficient

so as to preclude an award, the low bidder for purposes of award shall be the conforming responsible bidder offering the low amount for the base bid item, exclusive of any additive or deductive items. After determination of the low bidder as stated, award in the best interests of the Government may be made on the selected base bid and any combination of additive or deductive items for which funds are determined to be available at the time of the award, provided that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items. After the contract has been awarded, any work which should have been part of the contract offered by the solicitation originally (i.e., any additive or deductive item) may be procured by any one of the following methods of procurement listed in descending order of priority:

(a) Full and open competition resulting in a new contract.

(b) Negotiation of a supplemental agreement to the existing contract justified under FAR 6.302.

(End of provision)

1552.237-70 Contract Publication Review Procedures.

As prescribed in 1537.110, insert the following contract clause when the products of the contract are subject to contract publication review.

CONTRACT PUBLICATION REVIEW PROCEDURES (APR 1984)

(a) Material generated under this contract intended for release to the public is subject to the Agency's publication review process in accordance with the EPA Order on this subject and the following.

(b) Except as indicated in paragraph (c) below, the Contractor shall not independently publish or print material generated under this contract until after completion of the EPA review process. The Project Officer will notify the Contractor of review completion within _____ calendar days after the Contractor's transmittal to the Project Officer of material generated under this contract. If the Contractor does not receive Project Officer notification within this period, the Contractor shall immediately notify the Contracting Officer in writing.

(c) The Contractor may publish, in a scientific journal, material resulting directly or indirectly from work performed under this contract, subject to the following:

(1) The Contractor shall submit to the Contracting Officer and the Project Officer, at least 30 days prior to publication, a copy of any paper, article, or other

dissemination of information intended for publication.

(2) The Contractor shall include the following statement in a journal article which has not been subjected to EPA review: "Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency contract (number) to (Name of Contractor), it has not been subject to the Agency's review and therefore does not necessarily reflect the views of the Agency, and no official endorsement should be inferred."

(3) Following publication of the journal article, the Contractor shall submit five copies of the journal article to the Project Officer, and one copy to the Contracting Officer.

(d) If the Government has completed the review process and agreed that the contract material may be attributed to EPA, the Contractor shall include the following statement in the document:

This material has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name). It has been subject to the Agency's review, and it has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(e) If the Government has completed the review process, but decides not to publish the material, the Contractor may independently publish and distribute the material for its own use and at its own expense, and shall include the following statement in any independent publication:

Although the information described in this article has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name), it does not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(End of clause)

1552.237-71 Technical Direction.

As prescribed in 1537.110, insert the following contract clause in cost-reimbursement contracts.

TECHNICAL DIRECTION (APR 1984)

(a) The Project Officer will provide technical direction on contract performance, Technical direction includes:

(1) Direction to the Contractor which assists him in accomplishing the Statement of Work.

(2) Comments on and approval of reports or other deliverables.

(b) Technical direction must be within the contract Statement of Work. The Project Officer does not have the authority to issue technical direction which (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract.

(c) Technical direction will be issued in writing by the Project Officer or confirmed by him in writing within five (5) calendar days after verbal issuance.

(End of clause)

1552.237-72 Key Personnel.

As prescribed in 1537.110, insert the following contract clause when it is necessary for contract performance to identify Contractor key personnel.

KEY PERSONNEL (APR 1984)

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

1552.237-73 Consultant Services and Consent.

As prescribed in 1537.110, insert the following contract clause in contracts where the services of consultants are required. Enter "none" in paragraph (b) if consent is not given for one or more consultants at the time of award.

CONSULTANT SERVICES AND CONSENT (APR 1984)

(a) The Contractor shall obtain the consent of the Contracting Officer prior to using any consultant on this contract. The Contractor shall determine whether any consultant that is used has in effect an agreement with another Federal agency for similar or like services and, if so, shall notify the Contracting Officer.

(b) The Contractor may use the following consultants for the period of time at the rate shown.

Name	Number of (Days) (Hours)	Not To Exceed the (Daily) (Hourly) Rate of
_____	_____	\$ _____
_____	_____	\$ _____

(End of clause)

1552.237-74 Publicity.

As prescribed in 1537.110, insert the following contract clause in contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Super Fund") program. The term "on-scene coordinator" may be substituted with "Project Officer."

PUBLICITY (APR 1984)

(a) The Contractor agrees to notify and obtain the verbal approval of the on-scene coordinator (or Project Officer) prior to releasing any information to the news media regarding the removal or remedial activities being conducted under this contract.

(b) It is also agreed that the Contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media.

(End of clause)

1552.237-75 Paperwork Reduction Act.

As prescribed in 1537.110, insert this contract clause in any contract requiring the collection of identical information from ten (10) or more public respondents.

PAPERWORK REDUCTION ACT (APR 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting Officer that the required Office of Management and Budget (OMB) final clearance was received.

(End of clause)

1552.242-70 Indirect Costs.

As prescribed in 1542.705-70, insert the following clause in all cost-reimbursement type contracts. If ceilings are not being established, enter "not applicable" in (c).

INDIRECT COSTS (APR 1984)

(a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following designated Contracting Officer:

Environmental Protection Agency
Chief, Cost Policy and Rate
Negotiation Section (PM-214-F)
Procurement and Contracts Management
Division Washington, DC 20460

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.804-4) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

(b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost Center	Period	Rate	Base
_____	_____	_____	_____
_____	_____	_____	_____

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, ceilings are hereby established on indirect costs reimbursable under this contract. The Government shall not be obligated to pay the Contractor any additional amount on account of indirect costs in excess of the ceiling rates listed below:

Cost Center	Period	Rate	Base
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(End of clause)

1552.245-70 Decontamination of Government Property.

As prescribed in 1545.106(a) and 1515.303-71, insert the following contract clause when it is anticipated that a Contractor will use Government-furnished or Contractor-acquired property in the cleanup of hazardous or toxic substances in the environment.

DECONTAMINATION OF GOVERNMENT PROPERTY (APR 1984)

In addition to the requirements of the "Government Property" clause, the Contractor shall certify in writing that any Government-furnished property or Contractor-acquired property is returned to the Government free from contamination by any hazardous or toxic substances.

(End of clause)

1552.245-71 Government-Furnished Data.

As prescribed in 1545.106(b), insert the following contract clause in any contract that the Government is to furnish the Contractor data. Identify in the clause the data to be provided.

GOVERNMENT-FURNISHED DATA (APR 1984)

(a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:

(1) The Contractor submits a timely written request for an equitable adjustment; and

(2) The facts warrant an equitable adjustment.

(3) Title to Government-furnished data shall remain in the Government.

(c) The Contractor shall use the Government-furnished data only in connection with this contract.

(d) The following data will be furnished to the Contractor on or about the time indicated:

(End of clause)

1552.246-70 Quality Assurance (QA) Program Plan.

As prescribed in 1546.201(b), insert the following solicitation provision in Requests for Proposals if a program plan is required. A QA program plan is a general statement of an offeror's capability for QA.

QUALITY ASSURANCE (QA) PROGRAM PLAN (APR 1984)

Each offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) program plan setting forth the offeror's capability for quality assurance. The plan shall address the following:

(a) A statement of policy concerning the organization's commitment to implement a Quality Control/Quality Assurance program to assure generation of measurement data of adequate quality to meet the requirements of the Statement of Work.

(b) An organizational chart showing the position of a QA function or person within the organization. It is highly desirable that the QA function or person be independent of the functional groups which generate measurement data.

(c) A delineation of the authority and responsibilities of the QA function or person and the related data quality responsibilities of other functional groups of the organization.

(d) The type and degree of experience in developing and applying Quality Control/Quality Assurance procedures to the proposed sampling and measurement methods needed for performance of the Statement of Work.

(e) The background and experience of the proposed personnel relevant to accomplish the QA specifications in the Statement of Work.

(f) The offeror's general approach for accomplishing the QA specifications in the Statement of Work.

(End of provision)

1552.246-71 Quality Assurance (QA) Project Plan.

As prescribed in 1546.201(c)(1), insert the following solicitation provision in Requests for Proposals when a QA project plan is required as part of the proposal submission. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work. When offerors are required to submit a project plan, a program plan may or may not be required. The project plan may be a part of an offeror's technical proposal, or a deliverable under the contract.

QUALITY ASSURANCE (QA) PROJECT PLAN (APR 1984)

The offeror, as a separate and identifiable part of its technical proposal, shall submit a Quality Assurance (QA) project plan which shall describe specific procedures and responsibilities needed to accomplish the QA specifications in the Statement of Work. The project plan shall consist of the following form and content:

- (a) Title page, with provision for approval signatures.
- (b) Table of contents.
- (c) Project description.
- (d) Project organization(s) and responsibilities.
- (e) Quality Assurance objectives for measurement data, in terms of precision, accuracy, completeness, representativeness and comparability.
- (f) Sampling procedures.
- (g) Sample custody.
- (h) Calibration procedures, references, and frequency.
- (i) Analytical procedures.
- (j) Data reduction, validation, and reporting.
- (k) Internal quality control checks and frequency.
- (l) Quality Assurance performance audits, system audits, and frequency.
- (m) Quality Assurance reports to management.
- (n) Preventive maintenance procedures and schedules.
- (o) Specific procedures to be used in routinely assessing data precision and accuracy, representativeness, comparability, and completeness of the specific measurement parameters involved.

(p) Correction action.

(End of provision)

1552.246-72 Quality Assurance (QA) Project Plan Documentation.

As prescribed in 1546.201(c)(2), insert the following clause in negotiated contracts when QA Project Plan Documentation is needed. A QA project plan is a specific delineation of an offeror's approach for accomplishing the QA specifications in a Statement of Work. When offerors are required to submit a project plan, a program plan may or may not be required. When a QA project plan was not a required part of the technical proposal, the project plan may be required as a deliverable under the contract by use of the following. However, the Statement of Work must contain a specification for the form and content of the project plan before this paragraph may be used.

**QUALITY ASSURANCE (QA) PROJECT PLAN DOCUMENTATION
(APR 1984)**

(a) The Contractor shall submit to the Project Officer _____ copies of a Draft Project Plan for Quality Assurance within _____ days after the effective date of the contract.

(b) The Government will review and return the Draft Project Plan indicating approval or disapproval, and comments, if necessary, within _____ calendar days. In the event the Government delays review and return of the Draft Project Plan beyond the period specified, the Contractor shall immediately notify the Contracting Officer in writing. The Contractor shall deliver the Final Project Plan within _____ days after the effective date of the contract.

(c) The Contracting Officer will incorporate the approved Quality Assurance Project Plan into the contract.

(End of clause)

PART 1553--FORMS

Sec.

1553.000 Scope of part.

Subpart 1553.2--Prescription of Forms

- 1553.209 Contractor qualifications.
- 1553.209-70 EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance.
- 1553.209-71 EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance.
- 1553.213 Small purchases and other simplified purchase procedures.
- 1553.213-70 EPA Form 1900-8, Procurement Request/Order.
- 1553.216 Types of contracts.
- 1553.216-70 EPA Form 1900-41A, CPAF Contract Summary of Significant Performance Observation.
- 1553.216-71 EPA Form 1900-41B, CPAF Contract Individual Performance Event.
- 1553.232 Contract financing.
- 1553.232-70 EPA Form 1900-3, Assignee's Release.
- 1553.232-71 EPA Form 1900-4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.
- 1553.232-72 EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates, and Credits.
- 1553.232-73 EPA Form 1900-6, Contractor's Release.
- 1553.232-74 EPA Form 1900-10, Contractor's Cumulative Claim and Reconciliation.
- 1553.232-75 EPA Form 1900-34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fee Under Cost-Reimbursement Type Contracts.
- 1553.232-76 EPA Form 1900-34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-Fee (CPAF) Type Contracts.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1553.000 Scope of part.

This Part prescribes Agency forms for use in acquisitions and contains requirements and information generally applicable to the forms.

SUBPART 1553.2--PRESCRIPTION OF FORMS**1553.209 Contractor qualifications.****1553.209-70 EPA Form 1900-26, Contracting Officer's Evaluation of Contractor Performance.**

As prescribed in 1509.170-4(a), EPA Form 1900-26 shall be used by the Contracting Officer to record his/her evaluation of Contractor performance.

1553.209-71 EPA Form 1900-27, Project Officer's Evaluation of Contractor Performance.

As prescribed in 1509.170-4(a), EPA Form 1900-27 shall be used by the Project Officer to record his/her evaluation of Contractor performance.

1553.213 Small purchases and other simplified purchase procedures.**1553.213-70 EPA Form 1900-8, Procurement Request/Order.**

As prescribed in 1513.505-2, EPA Form 1900-8 may be used in lieu of Optional Forms 347 and 348 for individual purchases.

1553.216 Types of contracts.**1553.216-70 EPA Form 1900-41A, CPAF Contract Summary of Significant Performance Observation.**

As prescribed in 1516.404-278, EPA Form 1900-41A shall be used to document significant performance observations under CPAF contracts.

1553.216-71 EPA Form 1900-41B, CPAF Contract Individual Performance Event.

As prescribed in 1516.404-278, EPA Form 1900-41B shall be used to document individual performance events under CPAF contracts.

1553.232 Contract financing.**1553.232-70 EPA Form 1900-3, Assignee's Release.**

As prescribed in 1532.805-70(a), the EPA Form 1900-3 is required to be submitted by the assignee for cost-reimbursement contracts prior to final payment under the

contract.

1553.232-71 EPA Form 1900-4, Assignee's Assignment of Refunds, Rebates, Credits and Other Amounts.

As prescribed in 1532.805-70(b), the EPA Form 1900-4 must accompany the assignee's release prior to final payment under cost-reimbursement contracts.

1553.232-72 EPA Form 1900-5, Contractor's Assignment of Refunds, Rebates, and Credits.

As prescribed in 1532.805-70(c), the EPA Form 1900-5 must be prepared by the Contractor prior to final payment under cost-reimbursement contracts and must accompany the Contractor's release.

1553.232-73 EPA Form 1900-6, Contractor's Release.

As prescribed in 1532.805-70(d), the EPA Form 1900-6 must be submitted by the Contractor under cost-reimbursement contracts prior to final payment thereunder.

1553.232-74 EPA Form 1900-10, Contractor's Cumulative Claim and Reconciliation.

As prescribed in 1532.170(a), the EPA Form 1900-10 shall be used for an accounting of the cumulative charges and costs for cost-reimbursement contracts from the inception of the contract to completion. It shall be submitted by the Contractor along with the completion voucher.

1553.232-75 EPA Form 1900-34, Guide for the Preparation of Contractor's Claims for Reimbursement of Costs and Fees Under Cost-Reimbursement Type Contracts.

As prescribed in 1532.170(b), the Contracting Officer shall insert EPA Form 1900-34 in all cost-reimbursement type contracts awarded to Contractors unfamiliar with the Guide.

1553.232-76 EPA Form 1900-34A, Guide for the Preparation of Contractor's Claims for Reimbursement Under Cost-Plus-Award-Fee (CPAF) Type Contracts.

As prescribed in 1532.170(c), the Contracting Officer shall insert EPA Form 1900-34A in all CPAF contracts awarded to Contractors unfamiliar with the Guide.

APPENDIX I

ENVIRONMENTAL PROTECTION AGENCY

CLASS JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION
IN ACQUISITIONS FROM THE FEDERAL PRISON INDUSTRIES AND THE
GOVERNMENT PRINTING OFFICE

1. The Environmental Protection Agency (EPA) anticipates the acquisition of supplies from the Federal Prison Industries (UNICOR) and the acquisition of Government printing and related supplies from the Government Printing Office (GPO) to meet the needs of the Agency.

2. The Agency is authorized to make these acquisitions from the UNICOR and GPO without full and open competition under the authority in 41 U.S.C. 253(c)(5) as sources required by statute, i.e., 18 U.S.C. 4124 and 44 U.S.C. 501-504, 1121.

3. The anticipated cost of these acquisitions to the Agency will be fair and reasonable.

4. This class justification applies to any proposed acquisition made by the EPA from the UNICOR or GPO.

5. This class justification will remain in effect until April 1, 1988.

6. The undersigned certifies that this class justification is accurate and complete to the best of his knowledge and belief.

Dated: March 13, 1985

Brian K. Polly,
Director, Procurement and Contracts
Management Division