Naval Facilities Acquisition Supplement (NFAS)

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NAVFAC
Naval Facilities Engineering Command

NAVAL FACILITIES ENGINEERING COMMAND ACQUISITION SUPPLEMENT (NFAS)
2012 EDITION

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NAVAL FACILITIES ENGINEERING COMMAND ACQUISITION SUPPLEMENT (NFAS)

2006 EDITION

PART 1
FEDERAL ACQUISITION REGULATION SYSTEM

SUBPART 1.1—PURPOSE, AUTHORITY, ISSUANCE

1.101 (NMCARS) Purpose.

(a) The Naval Facilities Engineering Command (NAVFAC) Acquisition Supplement (NFAS) provides general guidance to field contracting officers in the execution of their delegated authority.

(b) The NFAS implements or supplements the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS) and the Navy Marine Corps Acquisition Regulations Supplement (NMCARS). It is not a stand-alone document, but must be read together with the FAR, DFARS, and NMCARS.

(c) To the extent possible, the NFAS coverage parallels the FAR in format, arrangement and numbering system. However, subdivisions below the section and subsection levels may not always correlate directly to the FAR designated paragraphs and subparagraphs. A DFARS or NMCARS cite in parentheses immediately after the NFAS cite means related coverage is contained in the DFARS or NMCARS (e.g., 1.104 (NMCARS). Numbered divisions of this manual with a suffix in the “100” series (e.g., 1.105-2-100) contain subject matter related to but not contained in a FAR, DFARS, or NMCARS numbered division. Omission from the NFAS of a subpart, section or subsection, which appears in the FAR, DFARS, or NMCARS denotes that there is no additional coverage in the NFAS.

(d) The NFAS and other NAVFAC procurement policy and guidance are available electronically via the ACQ Online website. Hard copies may only be obtained by downloading the NFAS since individual hard copy distribution will not be made. Updates to the NFAS will be posted to the ACQ Online website. Each update will include an effective date. An announcement of the update and summary of changes will be issued through a NAVFAC policy memorandum.

(e) The NFAS is maintained by the appropriate Echelon II Division Director. Proposed changes to or deviations from the NFAS along with rationale for the changes or deviations shall be coordinated with your local chain of command and submitted to NAVFAC.

1.104 (NMCARS) Applicability.

The NFAS applies to all NAVFAC activities in the same manner and to the same extent as specified in FAR 1.104, DFARS 201.104, and NMCARS 5201.104.

1.170 (NMCARS) Peer Reviews.

(a) Peer Reviews (PRs) shall be conducted for actions (including task/delivery orders) of $50M or more, including options, except as noted in paragraph (d) below, in accordance with NMCARS 5201.170 and NMCARS Annex 8. PRs shall be conducted using the procedures at DFARS PGI 201.170. For multiple award contracts, one PR shall apply for all resulting contracts.

(b) The PR Authority (PRA), in most cases, will be the Echelon III or Echelon IV CCO. The PRA will identify the PR Leader; designate the PR Team; facilitate the pre-award and post-award PR; and oversee the PR process and ensure completion of reviews. The PRA shall not be re-delegated. The PR Team shall be independent of the SSA and the contracting officer whose procurement is the subject of the PR.

(c) For each phase, the PRA shall prepare a PR Report of Findings and Recommendations. Within 10 working days from the receipt of the PR report, the contracting officer shall prepare a Disposition Memorandum (DM) containing the PRA's recommendations and the disposition of those recommendations. The contracting officer shall maintain a copy of the DM in the file and provide a copy to the PRA.

(d) Echelon III/IV shall coordinate PRs for DoN and OSD review level with the appropriate HQ Division Director. When DoN or OSD is the review level, Echelon III/IV shall perform a senior-level review for each phase. This review shall be performed by a contracting officer with a warrant commensurate with the value of the procurement, and be independent of the SSA and the contracting officer whose procurement is the subject of the review. The senior-level review shall be in accordance with NMCARS 5201.170 and NMCARS Annex 8 and produce the same documentation as required for a PR. The Echelon III/IV CCO shall endorse the review and all attendant corrective actions by approving the resulting senior-level review DM. The CCO shall provide the DM for that PR phase upon submission of the PR request to HQ and shall submit the most recent DM concurrently with business decision documents requiring HQ or higher endorsement or approval, e.g., BCMs, J&As, or D&Fs.

(e) DoD templates with suggested questions for each PR phase, as well as other resources, are provided at the following website:
http://www.acq.osd.mil/dpap/cpic/cp/peer_reviews.html

(f) Peer Review authority and thresholds are as follows:

Type of Action	***Threshold (Base plus all Options)***	***Review Level***	***Peer Review Authority***
Services, Construction, & A-E	$50M to <$250M	Ech III Ech IV	Ech III CCO Ech IV CCO
	$250M to <$500M for *Sole Source $250M to <$1B for Competitive	DoN	DASN(AP)

	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
Supplies	$50M to <$500M for *Sole Source $50M to <$1B for Competitive	Ech III Ech IV	Ech III CCO Ech IV CCO
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
DoN Special Interest	Identified by the Peer Review Authority as “Special Interest” or referred from the Contracting Activity	DoN	DASN(AP)
DoD Special Interest	Identified by OSD as “Special Interest”	OSD	DPAP

*Note: This sole source threshold is applicable for Peer Review only. See NFAS 6.3 for approval of the J&A for a sole source acquisition.

SUBPART 1.3—AGENCY ACQUISITION REGULATIONS

1.304 Agency control and compliance procedures.

1.304-100 (NMCARS) Control of NAVFAC baseline clauses.

Only COMNAVFACENGCOM approved provisions and clauses shall be used in solicitations and contracts. No other provisions or clauses other than those prescribed by FAR, DFARS, NMCARS, or the NFAS may be used without obtaining approval from the appropriate Division Director.

SUBPART 1.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY, AND RESPONSIBILITIES

1.601 (NMCARS) General.

(a) NAVFACENGCOM (Echelon II) contracting authority is delegated by COMNAVFACENGCOM to Echelon III Commanders. Any or all authority may be re-delegated to an Echelon III Commander unless restricted by a provision contained in this manual. Echelon III Commanders may delegate to Echelon IV Commanding Officers unless otherwise restricted.

(b) Echelon III Chiefs of the Contracting Office (CCOs) shall oversee and monitor the contractual procedures, performance, and staffing of field level contracting offices under their cognizance.

(c) An Echelon III or IV CCO may designate an individual to act on their behalf and make any necessary determinations or take any actions that are reserved for the CCO, unless otherwise restricted by a provision contained in this manual. Designated individuals must be Level III warranted.

1.601-90 (NMCARS) Department of the Navy authorities and responsibilities.

(a) When it is unclear which agency is responsible for a requirement, the matter shall be resolved at the local level if at all possible. Local decisions should be focused on satisfying customer requirements in the most efficient and economical means possible.

(b) All requests from other commands for delegation of contracting authority that is under NAVFAC cognizance shall be forwarded to the appropriate Echelon II Division Director. Requests shall include appropriate comments from the affected Echelon III/IV activities concerning the requested delegation.

(c) Only the Assistant Commander for Acquisition has the authority to delegate NAVFAC contracting authority to any individual or activity outside of NAVFAC.

1.601-100 Grant officer authority.

(a) COMNAVFACENGCOM, the Assistant Commander for Acquisition, and the Deputy Director for Acquisition have been appointed grants officers by the Under Secretary of the Navy. This grant officer authority is limited to entering into grants and cooperative agreements:

(1) necessary to execute the Defense Environmental Restoration Program (DERP)
(2) with local governments to provide for certain Caretaker functions at military installations to be closed as authorized under the DoD Base Closure and Realignment Act of 1990 (BRAC)
(3) to execute Cultural Resources Management
(4) to execute Natural Resources Management

(b) The authority for DERP and BRAC MAY NOT be re-delegated.

(c) The authority for Cultural and Natural Resources Management may be re-delegated to the Echelon III CCO with further re-delegation allowed no lower than the Echelon IV CCO only on an as needed basis. This authority shall NOT be re-delegated when performance is NOT on a DoD installation.

(d) Each BRAC Caretaker Services Cooperative Agreement submitted to COMNAVFACENGCOM for signature must contain a written Determination, approved by the authorized designee within ASN (I&E), that the Cooperative Agreement is in the best interests of the United States.

(e) All Cooperative Agreements shall include evidence that funds are available for obligation for the intended purpose and action.

(f) Grants administrators will be appointed in writing by the grants officer. Unless otherwise waived by the NAVFAC Echelon II Assistant Commander for Acquisition, completion of an approved Grants and Cooperative Agreements course is required prior to appointment as a grants administrator. The appointment letter will identify the duties and responsibilities of the grants administrator.

1.602 Contracting Officers.

1.602-1 (NMCARS) Authority.

1.602-1-100 Legal review.

(a) Each solicitation (RFP or IFB) with a total estimated value expected to exceed the simplified acquisition threshold (SAT), as defined in FAR 2.101, shall be reviewed by NAVFAC Counsel prior to issuance. For firm fixed-price contracts with standard terms, provisions, and clauses and with a total value not expected to exceed $5M, the contracting officer may satisfy this requirement by forwarding the standardized provisions and clauses on an annual basis to Counsel for review. Each contract file shall contain written documentation indicating the date each solicitation was reviewed and the identity of the Counsel who performed the review.

(b) Source selection plans (SSPs) for acquisitions above the SAT shall be reviewed by Counsel prior to approval by the Source Selection Authority (SSA); SSPs below the threshold may be reviewed at the discretion of the FEC Legal Counsel. Counsel shall review all evaluation records and narratives from the Source Selection Evaluation Board (SSEB), any Evaluation Notices prepared by the SSEB, and the written comparative analysis and award recommendation from the Source Selection Advisory Council (SSAC) before presentation to the SSA.

(c) NAVFAC Counsel shall provide written concurrence on all determination and findings, justification and approvals, protests, claims, ratification actions, competitive range determinations, substitution of sureties, alternate payment protections, nonresponsiveness determinations, unacknowledged amendments, bid irregularities, bid mistakes, acceptance of late bids or proposals, rejection of all bids or proposals, reassignment issues, individual sureties, assignment of claims, takeover agreements, novation requests, terminations, tax/duty issues, requests for equitable adjustment in excess of the SAT, or other legal reviews requested by the Contracting Officer.

1.602-1-101 NAVFAC contract clause.

Use the clause at 5252.201-9300, Contracting Officer Authority, in all solicitations/contracts except acquisitions for commercial items.

1.602-2 (DFARS) Authorized representatives of the contracting officer.

The following individuals may be designated to assist contracting officers in the technical monitoring or administration of a contract:

(a) Contracting Officer's Representative (COR).

(1) Designation**.** The contracting officer may designate a COR when the contract requires unusual monitoring and surveillance efforts beyond what the Procuring Contracting Officer (PCO)/Administrative Contracting Officer (ACO) is reasonably able to provide. The COR provides technical direction/clarification and guidance with respect to the contract specifications or statement of work.

(2) Appointment. The PCO shall formally appoint individuals as CORs by appointment letter prior to award of the contract action. Appointments shall define the scope and limitations of the COR's authority. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the COR is reassigned or the individual's employment is terminated. Revocation of a COR appointment may be effected at any time by the appointment authority, or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. The COR's contract administration duties can be simple or complex and time consuming, depending on the type of contract, contractor performance, and the nature of the work. COR designees must have the requisite technical experience to provide the technical expertise necessary for performance of the COR function. Prior to appointment of a COR, the contracting officer should take into consideration the ability, training, and experience of COR designees and shall assure that designees are appropriately qualified to act as authorized representatives of the contracting officer. At a minimum, COR designees should have completed CTC 342, NAVFAC Contracting Officer Representative COR/COAR/NTR, and annual Ethics training; CECOS Course A-4A-0101, Introduction to FEAD/ROICC, can be substituted for CTC 342. The activity may consider CLC 106 Contracting Officer's Representative with a Mission Focus or CLC 222 Contracting Officer's Representative Online Training as interim training for CTC 342; however, CTC 342 must be successfully completed within one year of the appointment date. Course fulfillment provides a means to receive credit for courses based on work experience, education, training, or any combination of those. Course requirements may be waived in exceptional circumstances. Waivers must be approved by the Echelon III CCO.

(4) Authority. CORs are responsible to the contracting officer for those actions delegated by the contracting officer as specifically addressed in the letter of appointment. In the performance of COR duties, the COR does not have the authority to take any action, either directly or indirectly, that could change the price/cost or fee, quantity, quality, scope, delivery schedule, labor mix or other terms and conditions of the contract and/or task order. Only the contracting officer has the authority to make such changes.

(5) Evaluation and documentation. Supplementing the normal monitoring of the COR by the contracting officer, the contracting officer shall maintain an activity file on each COR as a part of the contract file. The purpose of this file is to record and maintain the results of reviews conducted annually by the contracting officer of the COR's contract related activities. The contracting officer shall annually evaluate and document the performance of the COR and provide a copy of this evaluation to the COR's organizational head. If the contract performance period is less than one year, this evaluation shall be conducted prior to contract closeout.

(b) Navy Technical Representative (NTR).

(1) Designation**.** The NTR provides technical and administrative assistance to the COR. Contracting officers may designate a NTR when the contract is for Architect Engineering or Environmental Services.

(2) Appointment. The PCO (delegable to the ACO level) shall formally appoint individuals as NTRs by appointment letter prior to award of the contract action. Appointments shall define the scope and limitations of the NTR. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the NTR is reassigned or the individual's employment is terminated. Revocation of a NTR appointment shall be made in writing.

(3) Qualifications/training. The NTR must have the requisite technical experience to provide the technical expertise necessary to assist or support the COR. Prior to appointment of a NTR, the contracting officer should take into consideration the ability, training, and experience of the designee and shall assure that each individual is appropriately qualified to act as an NTR. At a minimum, NTR designees should have completed the course CTC 342, NAVFAC Contracting Officer Representative COR/COAR/NTR, and annual Ethics training; CECOS Course A-4A-0101, Introduction to FEAD/ROICC, can be substituted for CTC 342. The activity may consider CLC 106 Contracting Officer's Representative with a Mission Focus or CLC 222 Contracting Officer's Representative Online Training as interim training for CTC 342; however, CTC 342 must be successfully completed within one year of the appointment date. In addition, the NTR must be knowledgeable of cost reimbursement contracting principles when their responsibilities include environmental cost reimbursement contracts. Course fulfillment provides a means to receive credit for courses based on work experience, education, training, or any combination of those. Course requirements may be waived in exceptional circumstances. Waivers must be approved by the Echelon III CCO.

(4) Authority. The NTR does not have the authority to provide any technical direction or clarification directly to the contractor. NTRs are responsible to the contracting officer for those actions delegated by the contracting officer as specifically addressed in the letter of appointment. In the performance of NTR duties, the NTR does not have the authority to take any action, either directly or indirectly, that could change the price/cost or fee, quantity, quality, scope, delivery schedule, labor mix or other terms and conditions of the contract and/or task order. Only the contracting officer has the authority to make such changes.

(5) Evaluation and documentation. CORs shall maintain an activity file on each NTR.

(c) Performance Assessment Representative (PAR).

(1) Designation**.** The PAR is the government official who functions as the "eyes and ears" of the contracting officer through the COR under facilities support contracts, and ensures the technical requirements of the contract are executed as required by the contract specifications or statement of work.

(2) Appointment. The PCO (delegable to the ACO level) shall formally appoint an individual as a PAR by appointment letter prior to award of the contract action. Appointments shall define the scope and limitations of PAR authority. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the PAR is reassigned or the individual's employment is terminated. Revocation shall be made in writing.

(3) Qualifications/training. PARs must meet mandatory training standards established by the Public Works Business Line.

(4) Authority. PARs are responsible to the contracting officer for those actions specifically addressed in the letter of appointment. The PAR does not have the authority to take any action, either directly or indirectly, that could change the price/cost or fee, quantity, quality, scope, delivery schedule, labor mix or other terms and conditions of the contract and/or task order. Only the contracting officer has the authority to make such changes.

(5) Evaluation and documentation. CORs shall maintain an activity file on each PAR.

(d) Contracting Officer's Authorized Representative (COAR).

(1) Designation. Echelon III/IV CCOs shall delegate COAR authority to civilian engineer/architects in FEAD/ROICC offices in accordance with the following:

(2) Appointment. Echelon III/IV CCOs shall formally appoint individuals as COARs by appointment letter prior to award of the contract action. Appointments shall specify the extent and limitations of the COAR's authority to act on behalf of the contracting officer. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the COAR is reassigned or the individual's employment is terminated. COAR appointment may be revoked at any time by the appointment authority, or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. Prior to appointment, Echelon III and IV CCOs shall ensure COAR designees have the following training:

(a) Minimum training: ACQ 101, CTC 342, and annual Ethics training. CECOS Course A-4A-0101, Introduction to FEAD/ROICC, can be substituted for CTC 342. Course fulfillment provides a means to receive credit for courses based on work experience, education, training, or any combination of those. Course requirements may

be waived in exceptional circumstances. Waivers must be approved by the Echelon III CCO.

(b) Experience. For delegations under $25,000, a minimum of one-year applicable experience in a ROICC environment or equivalent is required. For delegations between $25,000 and $150,000, a minimum of two years applicable experience in a FEAD/ROICC environment or equivalent is required.

(c) Education: A four-year Bachelor of Science or Arts Degree, from an accredited, four-year degree granting institution, in any field of engineering or architecture.

(4) Authority. COARs may be delegated authority to negotiate in-scope changes on construction contracts. The delegations are based on the needs of the FEAD/ROICC office and the qualifications of the COAR. This includes authority to agree to quantities of required materials, equipment, direct labor, time, field overhead, home office overhead, and profit.

(5) Responsibilities. To maintain appropriate separation of contractual and technical functions, as a minimum, the individual responsible for the award of a contract or placement of an order should not perform the receipt, inspection and acceptance function. In addition to typical duties for assigned construction contracts, the COAR shall execute the following duties in accordance with his/her appointment letter:

(a) Request proposals
(b) Negotiate agreements (including the establishment of pre-negotiation positions per FAR 15.406-1)
(c) Properly document (post-negotiation memorandum) the file in a way acceptable to the contracting officer.
(d) COAR's will be responsible for fully completing their actions, e.g. input to SPS/FIS.

(6) Contracting Officer authority and responsibilities. The contracting officer shall:
(a) Retain ultimate authority for overall administration of contracts.
(b) Authorize the use of COAR authority on a contract/task order basis unless the contracting officer determines otherwise.
(c) Approve all COAR negotiated agreements and associated documentation of the agreement (post-negotiation memorandum).
(d) Issue the SF 30 modification.

(e) <u>Ordering Officer</u>. (Except for USCG BOAs)

(1) Designation. The contracting officer may designate individuals, either from within or outside of the contracting organization, as ordering officers, with the authority to execute task/delivery orders thereby obligating funds under NAVFAC indefinite delivery type contracts (IDTC). An ordering officer may be appointed for valid purposes provided the contracting officer determines appointment is essential for the efficient operation of the contracting mission. Strict operational control over ordering officers is necessary to

preclude violations of law and regulations. Care must be exercised in determining how many ordering officers are necessary yet controllable.

(2) Appointment. Contracting officers shall formally appoint individuals as ordering officers by appointment letter. The activity to which the ordering officers are assigned need not have their own contracting authority. The appointment letter shall specify the extent and limitations of the ordering officer's authority to act on behalf of the contracting officer. Unless the appointment contains other provisions for automatic termination, the appointment shall be effective, unless sooner revoked, until the ordering officer is reassigned or the individual's employment is terminated. Revocation of an ordering officer appointment may be affected at any time by the appointment authority, or higher authority, or any successor to either. Revocation shall be made in writing.

(3) Qualifications/training. Because IDTCs vary in dollar value and complexity, the qualifications, skills, and training needed by ordering officers may also vary. The appointment and training of ordering officers requires consideration of the type of ordering to be performed.

(4) Authority/responsibilities. The authority of an ordering officer is limited to placement of task/delivery orders for pre-priced contract line items under an IDTC. Except as authorized for emergency situations, Ordering Officers do not have the authority to modify the basic contract or task/delivery orders. Under limited situations, the designation official (Contracting Officer) may grant an ordering officer limited authority to modify task/delivery orders only for emergency situations. Task/delivery orders requiring negotiation of level of effort or scope may only be executed by a warranted contracting official. Oral orders may be used only when specifically authorized. Such orders may not exceed $10,000 and must be confirmed by issuance of a written task/delivery order within two working days. The contract must identify the individual(s) who have the authority to issue oral orders. Any authority delegated to an ordering officer is not redelegable.

(5) Evaluation and documentation. Supplementing the normal monitoring of the ordering officer, the contracting officer shall maintain an activity file on each ordering officer as part of the contract file. The purpose of this file is to record and maintain the results of reviews by the contracting officer of the ordering officer's contract related activities. The contracting officer shall annually evaluate and document the performance of the ordering officer and provide a copy of this evaluation to the ordering officer's organizational head.

(f) Departmental Accountable Official.

(1) Designation. Departmental Accountable Officials (DAOs) include those individuals who perform a technical oversight function and who provide the Certifying Officer with information that confirms the overall percentage of work that was received/completed in accordance with the terms and conditions of the contract.

(2) Appointment. Contracting Officers shall formally appoint individuals, except comptroller personnel, as DAOs. Appointments shall be made by appointment letter and by completion of a DD Form 577, and shall specify the types of payments authorized for

certification. DAO appointments shall remain in full force and effect until revoked or the individual is reassigned or employment is terminated.

(3) Training. Prior to appointment, the Contacting Officer shall ensure the DAO has successfully completed CTC 342 NAVFAC Contracting Officer Representative, COR/COAR/NTR. CLC 106 Contracting Officer Representative with a Mission Focus or CLC 222 Contracting Officer's Representative Online Training may be substituted as interim training; however, CTC 342 must be successfully completed within one year of the appointment date.

(4) Responsibilities. DAOs are responsible in the performance of their duties for providing to a certifying officer information, data, or services that the certifying officer directly relies upon in the certification of vouchers for payment. DAOs are pecuniarily liable for erroneous payments resulting from their negligent actions in accordance with section 2773a of title 10, United States Code.

1.602-3 Ratification of unauthorized commitments

(a) Unauthorized commitments over $100,000 shall be ratified by Commander, NAVFACENGCOM. This authority is not re-delegable.

(b) By delegation, authority to ratify unauthorized commitments of $100,000 or less is as follows:

$100,000 or less	Echelon II Asst Commander for ACQ/ Deputy Director for ACQ
$50,000 or less	Echelon III Commander*
$25,000 or less	Echelon IV Commanding Officer*

*This authority is only delegated to Commanders/Commanding Officers with a Contracting Officer appointment (does not include GPC warrant). When the Commander/Commanding Officer does not have ratification authority, unauthorized commitments shall be ratified by a higher echelon.

(c) The Contracting Officer identified in FAR 1.602-3 and NMCARS 5201.602-3 does not include a GPC cardholder or an individual with a GPC warrant.

(d) Reports.

(1) A copy of all ratifications of unauthorized commitments must be submitted to the Assistant Commander for Acquisition via the appropriate Division Director.

(2) Echelon III shall consolidate the information required by NMCARS 5201.602-3 (S-90)(h)(2) for its AOR and submit the report within 20 days following the end of each fiscal quarter (20 October, 20 January, 20 April, 20 August), via e-mail to the Echelon II People, Processes and Policy Director.

1.603 Selection, appointment, and termination of appointment.

1.603-1 (NMCARS) General.

Authority for the selection, appointment and termination of appointment of contracting officers is delegated as follows:

(a) Echelon III Commanders are delegated authority to appoint as contracting officers individuals serving in acquisition positions within their commands and at Echelon IV activities, and at field offices under their cognizance. This authority may be redelegated no lower than the Echelon III CCO.

(b) Echelon IV Commanders are delegated authority to appoint as contracting officers individuals serving in acquisition positions within their commands and at field offices under their cognizance. This authority may be redelegated no lower than the Echelon IV CCO.

(c) The dollar threshold limitations on a Contracting Officer's warrant are based on the dollar value of the individual transaction (e.g., contract, modification, supplemental agreement), not the aggregate contract value.

1.603-2 (DFARS) Selection.

(a) Selection criteria for contracting officer appointments (warrants) are listed in DFARS 201.603-2. Education and training requirements for warrants are also set forth in DoD Instruction 5000.66, Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program (21 Dec 05).

DAU courses may be fulfilled by following the guidance at http://icatalog.dau.mil/DAUFulfillmentPgm.aspx. Course fulfillment provides a means for AT&L Workforce members to receive credit for DAU courses based on work experience, education, training, or any combination of those. Position requirements may be waived in exceptional circumstances. Waivers must be approved by the NAVFAC Senior Contracting Official (Assistant Commander for Acquisition) for those instances where a statutory requirement has not been met (i.e., DAU certification courses, education, etc.)

Prior to appointing any individual as a contracting officer, the appointing official shall ensure that the individual has the requisite knowledge and experience as well as a track record of qualitative performance appropriate to the dollar value and complexity of the prospective contracting responsibilities. DAWIA certification is not an entitlement to be warranted. If employee or member of armed service is fully qualified for a warrant at a lower threshold than required by the position, the individual may hold a warrant at the lower level until such time as the higher level qualifications are met. The NAVFAC warrant level requirements specified below must be met in order to qualify to serve in an acquisition position as a contracting officer with authority to award and/or administer simplified acquisitions and contracts:

(1) **SAP**. Award of simplified acquisitions, delivery/task orders and modifications above the micro-purchase threshold but not exceeding the simplified acquisition threshold.

(i) Experience. Six months of recent experience in Government or commercial contracting applicable to the dollar threshold or nature of the procurement actions for which the warrant will be issued.

(ii) Training. Successful completion of CON 237, Simplified Acquisition Procedures. For IT procurement, contracting officers are required to successfully complete SAM 101 Basic Software Acquisition Management. Successful completion of IRM 101, Basic Information Systems Acquisition, in lieu of SAM 101 will satisfy the requirement.

(2) **Level I.** Award of contracts, delivery/task orders and modifications with values up to $1,000,000.

(i) Experience. Two years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. In addition to the required Defense University level courses, the successful completion of the following assignment-specific courses, when applicable.

CON 243, Architect-Engineer Contracting
CON 244, Construction Contracting
CTC 337, Facilities Support Contracting

Additionally, the supervisor is responsible to ensure employee has experience and is knowledgeable of cost reimbursable contract administration principles when employee responsibilities include environmental cost contracts. For IT procurement, contracting officers are required to successfully complete SAM 101 Basic Software Acquisition Management. Successful completion of IRM 101, Basic Information Systems Acquisition, in lieu of SAM 101, will satisfy the requirement.

(3) **Level II.** Award of contracts, delivery/task orders and modifications with values up to $10,000,000.

(i) Experience. Three years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. Same as above.

(4) **Level III.** Award of contracts, delivery/ task orders and modifications with no dollar limitation.

(i) Experience. Four or more years of recent, progressively complex and responsible contracting and/or staff experience in Government or commercial contracting.

(ii) Training. Same as above.

(5) **GPC.** Warranted cardholders executing the following types of transactions: placing electronic delivery/task orders and modifications above the micro-purchase threshold, but not exceeding the SAT, against IDIQ contracts with firm fixed price line items on the DoD eMall; Fleet Logistics Center cardholders supporting NAVFAC, in accordance with the MOA dated 21 July 2005, placing orders for supplies against GSA Schedules above the micro-purchase threshold but not exceeding the SAT; and warranted cardholders located outside the United States as defined by DFARS 213.301(1) making purchases that exceed the micro-purchase threshold but not exceeding $25,000 if the purchase meets the criteria stated in DFARS 213.301(2). The $25,000 limit is absolute. In accordance with NAVSUPINST 4200.99, cardholders making purchases using foreign currency must consider the daily exchange rate when making purchases to ensure they are within their authorized spending limit, not-to-exceed $25,000.

(i) Experience. Six months government procurement experience, which may include: using the DoD eMALL for orders over $2,500, using the GPC for open market purchases up to $2,500, or other related procurement experience.

(ii) Training. In addition to the requirements specified by NAVSUPINST 4200.99, CON 237, SAP Procedures, DAU Purchase Card Training and annual Navy Purchase Card training must be taken. Note: GPC warrants are exempt from the Continuing Education requirement.

(b) Warrants shall only be issued to qualified GS-1102 and Civil Engineer Corps Officers; however, this restriction does not apply to Government Purchase Card (GPC) warrants prescribed in NFAS 13.301.

(c) Warrants shall only be issued to the employee/officer within the command who is currently performing Contracting Officer duties. Warrants are not transferable upon change of duty station.

(d) Certificates of Appointment (SF-1402 Warrants) for non-1102 Government Purchase Cardholders shall be issued and signed by Echelon III Commanders/Echelon IV Commanding Officers or CCOs in accordance with NAVSUPINST 4200.99.

(e) It is NAVFAC policy that an Echelon II warrant can be used throughout the Command. For example a NAVFAC Headquarters or Performance Management Assistance Program (PMAP) Contracting Officer augments an Echelon III or IV command on an ad hoc basis. Similarly, an Echelon III warrant can be used at any Echelon IV command within the purview of the Echelon III command issuing the warrant. However, all warrants terminate once the employee permanently leaves the command which issued the warrant. CCOs will ensure warrants are rescinded if necessary upon the internal movement of personnel to positions which may have duties that no longer require holding a Contracting Officer warrant.

(f) The annual maximum estimated quantity shall be used to determine the warrant level for execution of combination firm-fixed price indefinite quantity contracts. For indefinite delivery contracts that include options, the warrant level must cover the potential maximum ordering amount of the base period.

1.603-3 Appointment.

(a) Appointments will be documented and copies filed as prescribed at FAR 1.603-3. The SF 1402 will contain any warrant limitations (i.e., sole source actions), including limitations on the period of appointment. The original Certificate of Appointment shall be provided to the appointed contracting officer.

(b) Appointing officials shall issue warrants based on the individual's proven capabilities, office workload, and business environment. Changes, either increasing or decreasing the existing warrant level of a contracting officer, shall be made solely at the discretion of the appointing official. When an appointing official determines to make such changes, a new Certificate of Appointment shall be issued.

(c) To maintain their warrant, contracting officers shall adhere to the policy in DoD Instruction 5000.66, Operation of the Defense Acquisition, Technology, and Logistics Workforce Education, Training, and Career Development Program (21 Dec 05), that requires Defense Acquisition Workforce members to acquire 80 Continuous Learning Points every two years.

(d) Echelon III and IV Contracts Support Staff shall conduct periodic reviews of existing warrants and submit an Annual Management Review Report to the Command Warrant Representative.

(e) Only the Assistant Commander for Acquisition has the authority to delegate NAVFAC contracting authority to any individual or activity outside of NAVFAC, with the exception of the GPC warrants issued to Fleet Logistics Center (FLC) cardholders supporting NAVFAC. FLC cardholder warrants are issued in accordance with NAVFAC/NAVSUP MOA dated 21 July 2005.

1.603-4 (NMCARS) Termination.

Appointments of contracting officers remain in effect as long as appointees are assigned to the position stated on the warrant, unless terminated sooner by the appointing official, his successor, COMNAVFACENGCOM or his designee.

1.690 (NMCARS) Requirements to be met before entering into contracts.

(a) This delegation does not apply to Utilities Privatization or Special Ventures acquisitions. All business clearances/negotiation memorandums for Utilities Privatization shall be submitted to the Echelon II Division Director for approval.

(b) Review and approval levels for business clearances/negotiation memorandums shall include the value of all options or option years and maximum award fee under a contract. For indefinite delivery contracts, the approval authorities are based upon the

total ceiling price of the solicitation/contract. For a multiple award indefinite delivery solicitation/contract, the total ceiling price includes the value of all proposed contracts. The dollar value of an indefinite delivery solicitation/contract is not the minimum guarantee amount or the estimated value of the seed project.

(c) Task/delivery orders and associated modifications at any dollar value do not require a Business Clearance Memorandum in the format at NMCARS Annex 2, but do require a Pre-Negotiation and Post-Negotiation Memorandum when discussions/negotiations are held. A combined Pre-/Post-Negotiation Memorandum may be prepared only if no discussions/negotiations are held (award is made on original proposal) or for actions below the SAT.However, for actions below SAT, if negotiations are held, a pre-negotiation position is required to be established prior to negotiations per FAR 15.406-1. Approval level shall be based on the dollar value of the task/delivery order or associated modification.

(d) Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum.

(1) Review of a Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum shall be determined by the Echelon III/IV Commanders/CCOs.

(2) Approval of a Pre-Negotiation Business Clearance/Pre-Negotiation Memorandum shall be as follows:

(i) Actions up to and including SAT shall be approved by the Contracting Officer.

(ii) Actions over SAT shall be approved by a Contracting Officer with appropriate management and oversight of the individual assigned the action.

(iii) The approving Contracting Officer shall hold a warrant commensurate with the absolute dollar value of the action (i.e., absolute dollar value is $700,000 for an action that adds $500,000 of work and deducts $200,000 of work).

(e) Post-Negotiation Business Clearance/Post-Negotiation Memorandum approval levels are as follows:

Dollar Value	Approval Authority
Up to and including SAT	Contracting Officer
Over SAT up to and including $30M	Contracting Officer with appropriate management and oversight of the individual assigned the action
Over $30M up to and including $100M	Echelon III/IV CCO/00/09 (or Acting CCO/00/09)
Over $100M	*Echelon II Division Director

*Echelon III/IV Commanders/CCOs shall ensure business clearances/negotiation memorandums requiring Echelon II approval are reviewed at an appropriate level prior to being forwarded to the Echelon II Division Director.

(f) In no case shall an approving official approve an action for which he/she acted as the source selection authority.

(g) One Bid/Proposal. (Tripwires)

(i) One bid/proposal received under a competitive solicitation, including task orders, will be reported by the PCO to the Chief of Contracting Office (CCO) via email or meeting. In addition, the PCO shall obtain cost and pricing like data from the single offeror, analyze the data, and document the result in the business decision documentation.

(ii) Business decision documentation for all one bid/proposal procurements, including task orders, greater than $1M, will be elevated to the cognizant Echelon III/Echelon IV CCO for approval. The CCO will review business documentation to assure that cost or pricing data was received and analyzed to determine price reasonableness, and will document approval in the Business Clearance Memorandum or Price Negotiation Memorandum. In situations in which the CCO is the SSA for the procurement action, results of the review will also be included in the Source Selection Decision Document (SSDD).

1.691 (NMCARS) Procurement management oversight.

1.691-2 Responsibilities.

1.691-2-100 NAVFAC Process Management and Audit Program (PMAP).

(a) The procurement management oversight process employed by NAVFAC PMAP shall:

(1) Focus on acquisition leadership, acquisition workforce, contract strategy, and contract execution.

(2) Process based review of acquisition processes, contracting files, and business processes.

(3) Provide a feedback system from the NAVFAC Assistant Commander for Acquisition to NAVFAC acquisition organizations that offers timely information to all organizational levels. Feedback addresses the FEC review as a whole (reports are inclusive of the visited FEADs, ROICCs, and IPTs) and provides action items to be addressed in a plan of action and milestone (POA&M) submitted to the PMAP team.

(4) Increase/decrease the level of oversight required based upon a contracting organization's proficiency, quality, business considerations, and internal business assessment (IBA) information.

(b) NAVFAC Process Management and Audit Program (PMAP) on-site visits shall be scheduled and conducted based on the following considerations: HQ Acquisition input, Echelon III & IV CCO input, and other indicators such as time since last PMAP, type of work being performed, or perceived risk.

1.691-2-101 Internal Business Assessment.

Each contracting organization shall be responsible for completing an annual Internal Business Assessment (IBA). The IBA shall be submitted to the Echelon IV CCO, Echelon III CCO, or Echelon II Assistant Commander for Acquisition as appropriate, with a copy to the NAVFAC PMAP Program Manager by 15 February of each calendar year:

FEADs/ROICCs	-->	Echelon IV CCO
Echelon IV CCO	-->	Echelon III CCO
Echelon III CCO	-->	Echelon II Asst CDR for Acquisition

The purpose is to improve the quality and responsiveness of service to the client and to enhance the knowledge and engagement of the Acquisition leadership and workforce.

SUBPART 1.7—DETERMINATIONS AND FINDINGS

1.707 Signatory authority.

All D&Fs forwarded to the appropriate Echelon II Division Director for approval shall contain an endorsement by the Echelon III CCO or 00/09. In addition, D&Fs that require approval above Echelon II (i.e., DASN) shall be routed via the Echelon II Division Director for review and endorsement.

PART 2
DEFINITIONS OF WORDS AND TERMS

SUBPART 2.1—DEFINITIONS

2.101 Definitions.

CHIEF OF CONTRACTING OFFICE (CCO) - The Contracts Director at Echelon III/IV activities only.

FACILITIES ENGINEERING COMMAND (FEC) - Echelon IV component command that is subordinate to NAVFAC Atlantic or NAVFAC Pacific.

FACILITIES ENGINEERING AND ACQUISITION DIVISION (FEAD) - Division within the Public Works Department that provides engineering support, construction project management, and service contract management for the installation and other supported commands.

HEAD OF THE CONTRACTING ACTIVITY (HCA) - For NAVFACENGCOM, the Commander, NAVFACENGCOM and by delegation, the NAVFAC Assistant Commander for Acquisition (Director).

NAVFAC COUNSEL - A member of NAVFAC Office of General Counsel (OGC) located at an activity with contracting authority.

RESIDENT OFFICER IN CHARGE OF CONSTRUCTION (ROICC) - A Civil Engineer Corps officer who is responsible for the administration of assigned contracts at a field contracts office.

Subject Matter Expert

Subject Matter	Phone Number
A-76	202-685-9140
Annual & Quarterly Reports	202-685-9148
Architect-Engineer	202-685-9223
ATFP	202-685-9136
BOS/PW	202-685-9140
Community Management (ACQ)	202-685-9148
Congressional Inquiries	202-685-9148
Construction	202-685-9223
Cooperative Agreements	202-685-9223
Energy Contracts	202-685-9139
Environmental	202-685-9223
Facility Support Services	202-685-9140
Government Purchase Card	619-532-2868
Grants	202-685-9223
Labor	360-396-0272
Lean Six Sigma	202-685-9148
Leasing	202-685-9140
NEPO	202-685-9136
NFACT	805-982-5094
NFAS	805-982-2661
NFI	805-982-5125
Process Management and Audit Program	202-685-9153
Small Business	202-685-9129
Sealift Support Program Office	202-685-9136
Supply Contracting	202-685-9140
Unique Identification Data	202-685-9138
Utilities Privatization	202-685-9139
Vehicle Purchasing/Leasing	202-685-9140

E-Business

Program	Phone Number
CAFU	202-685-9156
eContracts	202-685-9161
EDA	202-685-9152
EMALL	202-685-9156

eSRS/FSRS	202-685-9156
eWGL	202-685-9156
FIS	202-685-9161
FPDS-NG	202-685-9152
NECO/FBO	202-685-9152
PPIRS/FAPIIS	202-685-9156
Seaport	202-685-9146
SPS	202-685-9152
WAWF	202-685-9146

PART 3
(RESERVED)

PART 4
ADMINISTRATIVE MATTERS

SUBPART 4.8—GOVERNMENT CONTRACT FILES

4.804 Closeout of contract files.

4.804-5 Procedures for closing out contract files.

See NFAS 32.1100(e) for closeout procedures for construction and architect-engineer contracts when contractor fails to execute an appropriate release within one year after completion and acceptance.

4.805 Storage, handling and disposal of contract files.

Paper copies of contract files shall be maintained by Contracting Offices unless an approved back-up and retrievable electronic files system is in place. Approval of electronic filing systems shall be coordinated with NAVFAC ACQ.

PART 5
PUBLICIZING CONTRACT ACTIONS

SUBPART 5.2—SYNOPSES OF PROPOSED CONTRACT ACTIONS

5.205 Special situations.

(d) *Architect-engineering services*.

(1) All unrestricted synopses for architect-engineer services over $650,000 shall include a notice that any large firm that is short-listed will be required to submit a subcontracting plan (in addition to addressing the small business criteria in the SF 330) before price negotiations begin for contract award.

(2) Each synopsis of architect-engineer contracts must be concluded with the statement “Architect-engineer firms which meet the requirements described in this announcement are invited to submit a completed SF 330 to the office shown below. Firms responding to this announcement by (date/time) local time will be considered. This is not a request for a proposal."

(3) When a synopsis is not required, the publicly displayed notice should include the statement: "Architect-engineer firms which meet the requirement described in this announcement are invited to submit completed SF 330. Firms responding to this announcement by **(date)** will be considered. This is not a request for proposal."

5.207 Preparation and transmittal of synopses.

(a) All unrestricted synopses over $650,000 for services and $1.5M for construction shall include a notice to large firms that a subcontracting plan is required prior to award.
(b) All set-aside, 8(a) competitive, sources sought, and potential set-aside synopses must include the NAIC Code and size standard.

SUBPART 5.5—PAID ADVERTISEMENTS

5.502 (DFARS) Authority.

An Echelon III/ IV CCO, without power of redelegation, may approve paid advertising in newspapers.

PART 6
COMPETITION REQUIREMENTS

SUBPART 6.3—OTHER THAN FULL AND OPEN COMPETITION

6.304 Approval of the justification.

(a) A warranted contracting officer, acting within the limits of their delegated authority, may approve the justification for proposed contract actions not exceeding $650,000. Echelon III Commander/Echelon IV Commanding Officer may delegate approval authority to a warranted contracting officer for proposed contract actions not exceeding $650,000. The Echelon III Commander/Echelon IV Commanding Officer shall establish internal management controls to ensure proper use of the delegated authority and compliance with legal reviews (see NFAS 1.602-1-100).

(b) For a proposed contract action over $650,000 but not exceeding $5,000,000, the justification shall be approved by the Echelon III Commander/Echelon IV Commanding Officer.

(c) For a proposed contract action over $5,000,000 but not exceeding $12,500,000, the justification shall be approved by the Echelon III Commander.

(d) All justifications over $12,500,000 but not exceeding $85,500,000 shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for approval by the Assistant Commander for Acquisition.

(e) All justifications exceeding $85,500,000 shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for endorsement by the Assistant Commander for Acquisition for submission to ASN(RD&A) for approval.

6.304-100 Requirements for limiting competition under MAC task orders.

(a) In accordance with FAR 8.405-6, a written justification shall be required to waive or limit competition for task orders under MACs and FSSs. Approval of the justification shall be obtained prior to release of a request for proposal. The written justification must address the content requirements at FAR 6.303-2 and FAR 8.405-6.

(b) Approval thresholds for the required written justification are as follows:

(1) For a proposed task order up to and including $650,000, the justification shall be approved by a Level III contracting officer. The Contracting Officer shall ensure that the justification is accurate and complete to the best of their knowledge and belief.

(2) For a proposed task order over $650,000 but not exceeding $5,000,000, the justification shall be approved by the Echelon III Commander/Echelon IV Commanding Officer.

(3) For a proposed task order over $5,000,000 but not exceeding $12,500,000, the justification shall be approved by the Echelon III Commander.

(4) For a proposed task order over $12,500,000 but not exceeding $85,500,000 the justification shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for approval by the Assistant Commander for Acquisition.

(5) For a proposed task order exceeding $85,500,000, the justification shall be forwarded via the Echelon III CCO and the appropriate Echelon II Division Director for endorsement by the Echelon II Assistant Commander for Acquisition for submission to ASN(RD&A) for approval.

6.304-101 Bridge Contract Action Approvals (Tripwires)

(a) Bridge contract actions are defined as sole source actions entered into with the incumbent contractor in order to maintain continued support when a competitive procurement cannot be processed in time to meet the required award date. Contract modifications executed in accordance with FAR 52.217-8 - Option to Extend Services, are considered bridge contract actions if the option period was not evaluated as part of the initial contract competition.

(b) To reduce reliance on bridge contracts and promote real competition, in addition to the justification and approval (J&A) for a sole source requirement, the program manager/requirement owner shall prepare a separate request for authorization to award a bridge contract. This determination shall address the rationale for use of a bridge contract, certify to the urgency of the requirement and be signed by both the program manager/requirement owner and the Contracting Officer. The template entitled "Request for Authorization of Bridge Contract" included as an attachment to DASN AP Memorandum, 3 Oct 12 “Reducing Reliance on Bridge Contracts,” shall be used. For purposes of this guidance, the term "Business Line" is inclusive of Support Line and Functional Area requirement owners.

(c) Approval of the authorization shall be as follows:

(1) For contract actions under $650,000, the authorization shall be approved by the Business Line Coordinator (for Echelon IV) or Business Line Manager (for Echelon III), and by the Echelon III/IV CCO.

(2)For contract actions between $650,000 - $5,000,000 and/or a period of performance greater than 6 months, the authorization shall be approved by the requirements Business Line Leader and the Assistant Commander for Acquisition.

(3) For contract actions greater than $5,000,000 and/or period of performance is for subsequent period (2nd, 3rd, etc bridge) the authorization shall be approved by the Business Line Leader and the Head of the Contracting Activity (HCA). Any authorization for a subsequent bridge contract shall include an explanation of why the competitive timeline on the previous bridge request was not achieved.

(d) J&As for bridge contracts shall not be submitted for review and/or approval before the bridge contract authorization is approved for inclusion in the J&A package. After the bridge contract authorization is obtained, the J&A will be routed to the appropriate approval level for review and approval per NFAS 6.304. Bridge J&As will also include a schedule for award of follow-on competition within Section 8 "Actions to Remove Barriers to Competition".

SUBPART 6.4—SEALED BIDDING AND COMPETITIVE PROPOSALS

6.401 Sealed bidding and competitive proposals.

(b) Document the determination to use other than sealed bidding procedures in the Acquisition Plan or separate memorandum.

SUBPART 6.5—COMPETITION ADVOCATES

6.501 Requirement.

The Echelon II Assistant Commander for Acquisition and the Echelon III/IV Commander/Commanding Officer are designated Competition Advocates. In the event that the Competition Advocate has a conflict of interest due to SSA duties, the Echelon II Assistant Commander for Acquisition will serve as Competition Advocate.

PART 7
ACQUISITION PLANNING

SUBPART 7.1—ACQUISITION PLANS

7.102 Policy.

(a) Contracting officers shall assure adequate acquisition planning including market research is performed consistent with the character and risks associated with the procurement of each requirement prior to issuing solicitations.

7.103 (DFARS) Agency-head responsibilities.

(a) Written acquisition plans for acquisitions delineated in DFARS 207.103

(1) Acquisitions for Development, as defined in FAR 35.001, when the total cost of all contracts for the Acquisition program is estimated at $10 million.

(2) Acquisitions for MILCON when the total cost of all contracts for the acquisition program is estimated at $50 million or more for all years or $10 million or more for any fiscal year.

(3) Acquisitions for Major Station Maintenance/Repair and Commercial items when the total cost of all contracts for acquisition program is estimated at $50 million or more for all years or $25 million for any fiscal year.

(4) Acquisitions for Production or Services when the total cost of all contracts for the acquisition program is estimated at $50 million or more for all years or $25 million or more for any fiscal year.

(b) Acquisition plans shall be approved as follows:

(1) For acquisitions with an estimated value below $100 million (including options), the acquisition plan shall be approved by the appropriate Echelon III/IV CCO. This authority is not re-delegable.

(2) For acquisitions with an estimated value of $100 million or more (including options), the acquisition plan shall be approved by DASN(AP) as prescribed in NMCARS, using the format in the DoN Acquisition Plan Guide. Review/concurrence shall be via the Echelon III/IV CCO and appropriate Echelon II Division Director.

7.105 Contents of written acquisition plans.

Acquisition plans shall include the information required by FAR 7.105 and DFARS 207.105.

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SUBPART 7.4—EQUIPMENT LEASE OR PURCHASE

7.470 (DFARS) Statutory requirements.

Only the NAVFAC Commander is authorized to make a determination to enter into, extend or renew any vessel, aircraft, or vehicle through a lease, charter or similar agreement for a term of 18 months or more. The determination and findings shall be reviewed by Legal Counsel, endorsed by the Echelon III CCO, and forwarded to the appropriate Echelon II Division Director for approval by the NAVFAC Commander.

PART 8
REQUIRED SOURCES OF SUPPLIES

SUBPART 8.4—FEDERAL SUPPLY SCHEDULES

8.405-6 Limited sources justification and approval.

Approval thresholds for limiting competition for task orders under multiple award contracts are prescribed at NFAS 6.304-100.

SUBPART 8.70—COORDINATED ACQUISITION (DFARS)

8.7003 Applicability.

8.7003-1 Assignments under integrated materiel management (IMM).

NAVFAC contracting officers are not normally authorized to purchase automotive vehicles, construction equipment, and weight handling equipment or other material handling equipment. However, special authority may be obtained on a case-by-case basis for specialty or emergency requirements using the DFARS procedures at this subpart. All requests must be coordinated with the responsible transportation equipment manager, and submitted to the appropriate Echelon II Division Director for approval. For NAVFAC Pacific only, the approval authority is delegated to the Echelon III CCO for non-CONUS requests with a copy of the approved request to the appropriate Echelon II Division Director. In the CCO's absence, this authority may be redelegated no lower than the Acting Echelon III CCO.

PART 9
CONTRACTOR QUALIFICATIONS

SUBPART 9.1—RESPONSIBLE PROSPECTIVE CONTRACTORS

9.104-5 Certification regarding responsibility matters.

PCOs/CCOs shall notify the cognizant Echelon II Division Director on issues relevant to FAR 9.104-5(a)(2) and provide a recommendation if the offeror is being considered for award. The Echelon II Division Director/HCA shall determine the appropriate course of action.

SUBPART 9.5—ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

9.507 Solicitation provisions and contract clause.

9.507-2 Contract clause.

(a) (1) Use the clause at 5252.209-9300, Organizational Conflicts of Interest, in all architect-engineer, construction and facilities support services solicitations/contracts.

(2) Use the basic clause with its Alternate I for architect-engineer and construction contracts that involve environmental studies, investigations, design or remedial action.

PART 10
MARKET RESEARCH

10.001 Policy

Market research is a basic precursor to solid acquisition planning. Failure to conduct market research in a timely manner is not a valid justification in attempting to limit

competition later on. Contracting Officers are encouraged to conduct market research at the earliest possible time.

PART 11
DESCRIBING AGENCY NEEDS

11.002 Policy.

Specifications for a contract to be performed in a foreign country and may be prepared both in English and in the appropriate foreign language as necessary.

SUBPART 11.1—SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

11.104 Use of brand name or equal purchase descriptions.

(a) A Level III contracting officer written approval is required to use “brand name or equal” purchase description in contract specifications or statements of work and must be supported by market research in accordance with NFAS 10.001.

(b) A minimum of three manufacturers shall be included in the description followed by the words 'or equal.' The salient characteristics shall be listed in sufficient detail for evaluating acceptability of unlisted products.

11.105-100 Proprietary specifications.

(a) Proprietary specifications shall not be included in NAVFAC contracts unless a J&A is prepared and approved in accordance with FAR Part 6 before solicitation advertisement. The J&A approval level shall be dictated by the estimated value of the proprietary products. This requirement also applies to specifications prepared by other agencies for projects to be constructed by NAVFAC.

(b) When authorized, the brand name justification or documentation shall be publicized with the solicitation. The posting requirement applies to acquisitions exceeding $25,000 that uses brand name specifications, including simplified acquisitions and sole source procurements. If publication of the justification or documentation with the solicitation or the RFQ is inappropriate because of one of the exceptions in FAR 5.102(a)(4) applies, a copy of the justification shall be kept in the contract file. The technical specification shall state: 'Notwithstanding any other provision of this contract, no other product will be acceptable.'

11.106 (DFARS) Purchase descriptions for service contracts.

Purchase descriptions for service contracts and resulting requirements documents (e.g., SOW/PWS) shall include language to provide a clear distinction between Government employees and contractor employees as required by DFARS 211.106.

SUBPART 11.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS

11.201 Identification and availability of specifications.

11.201-100 Construction contract drawings and specifications.

Technical portions of specifications shall not include issues covered by FAR, DFARS, NMCARS or NFAS clauses, provisions, or exceptions thereto.

11.201-101 Collateral equipment.

If collateral equipment is included in specifications, the matter should be coordinated with and approved by the contracting agency normally responsible for procuring the collateral equipment.

SUBPART 11.4—DELIVERY OR PERFORMANCE SCHEDULES

11.402 Factors to consider in establishing schedules.

The maximum term of a contract, including options, shall be three years for knowledge-based services (KBS) and five years for all other services (including construction), unless a waiver is obtained in accordance with NFAS 17.204. Multiple-award IDIQ contracts for KBS may be up to five years when on-ramp provisions are included to promote competition. Additionally, KBS associated with FFRDC contracts and University Affiliated Research Center contracts are exempt from the three year term.

(a) *Supplies or services*. For facilities support contracts, the base performance period and any option performance period shall not exceed twelve months.

(b) *Construction*.

(1) When establishing a completion date for construction contracts requiring performance and/or payment guarantees, a period of 15 days shall be allowed for the mailing of the award and the contractor's submission of the required guarantee.

(2) Time extensions shall not be deferred until completion of work.

(3) All time extensions authorized by FAR clause 52.249-10, Default (Fixed-Price Construction) must be justified in writing. The contracting officer may approve extensions less than 60 days. Extensions of 60 days or greater must be approved at one level above the contracting officer.

(4) Options – see NFAS 17.202-100.

11.404 Contract clauses.

11.404-100 NAVFAC contract clause.

Use the clause at 5252.211-9301, Phased Construction Schedule, in all solicitations/

contracts for construction that require the use of a phased construction schedule. Use with FAR Clause 52.211-12, Liquidated Damages—Construction.

SUBPART 11.5—LIQUIDATED DAMAGES

11.502 Procedures.

(a) The appropriate liquidated damage rate(s) shown in the following tables shall be included in all firm fixed-price construction contracts exceeding the simplified acquisition threshold. These rates may be included in contracts below the simplified acquisition threshold at the discretion of the contracting officer.

(b) If multiple completion dates are specified, provide a liquidated damage rate for each date. If multiple deliverables are specified, state a liquidated damage rate per day per deliverable.

(c) The liquidated damage rates may be increased or decreased up to 50 percent by a contracting officer's written determination that the Government's anticipated loss from delayed completion is less or greater than these amounts. Echelon III/IV CCO approval is required for liquidated damage rates exceeding a 50 percent increase or decrease of the rates in these tables. This authority may not be re-delegated.

(d) If Table 2 is used for Change of Occupancy requirements, the contract must state that the liquidated damage rates set forth in NFAS clause 5252.246-9303, Consequences of Contractor's Failure to Perform Required Services does not apply to the work covered by Table 2.

(e) The final invoice shall include either the statement "The contract was completed within the contract time and no liquidated damages are assessed," or be annotated to show the contract completion date, the actual date of completion, the number of days for which liquidated damages are assessed, the rate per calendar day of liquidated damages and the total amount of liquidated damages assessed by modification for late performance.

(f) Assessment of liquidated damages shall be through issuance of a unilateral modification.

(g) The contractor shall be notified upon initial withholding of Contract Work Hours and Safety Standards Act (CWHSSA) liquidated damages and again upon the issuance of the final order affirming the assessment of the CWHSSA liquidated damages. Liquidated damages for labor violations are assessed in accordance with DFARS 222.302.

LIQUIDATED DAMAGES TABLES

Table 1: General Construction Projects	
Project Cost	Estimated Liquidated Damages Per Calendar Day
$ 2,000 - 25,000 25,000 - 50,000 50,000 - 100,000 100,000 - 500,000 Each additional $100,000 - add $50	$ 80 110 140 200

Table 2: Family Housing Units	
Types of Units	Liquidated Damages Calendar Day Per Unit
GOQ (General Officers' Quarters) SOQ (Senior Officers' Quarters) FGO (Field Grade Officers) CGO (Company Grade Officers) SEM (Senior Enlisted Men) JEM (Junior Enlisted Men)	Average daily Basic Allowance for Housing (BAH) with dependents plus average applicable housing allowances or temporary living allowance, as appropriate.

Table 3: Bachelor Housing			
Type of Housing	Rate Per Calendar Day	No. of Men Per Bldg.	Liquidated Damages Calendar Day Per Bldg.
BOQ	BAH rate for single 03 for area.	x _____	= _____
BEQ	BAH rate for single E-5 for area.	x _____	= _____

Table 4: Storage Space		
LDs Per Calendar Day	Square Feet	LDs Per Square Foot Per Calendar Day
$.15	x _____	= _____

Table 5: Office Space		
LDs Per Calendar Day	Square Feet	LDs Per Square Foot Per Calendar Day
$.30	x _____	= _____

SUBPART 11.6 – PRIORITIES AND ALLOCATIONS

11.602 Policy.

The Defense Priorities and Allocations System (DPAS) implements Title I of the Defense Production Act of 1950 and authorizes the President to require the priority performance of contracts and orders needed to promote the national defense. This authority is delegated to the Department of Commerce (DOC) who ensures compliance with DPAS regulations. The DOC has authorized the Department of Defense (DoD) to apply priority ratings to contracts and orders that support the DoD-approved national defense program categories in the DPAS Schedule 1 of the 15 CFR 700.

11.603 Background.

Priority ratings consist of a rating symbol and a program identification symbol obtained from the 15 CFR 700 Schedule 1. Rating symbols are DX (reserved for highest national defense urgency) and DO (reserved for program vital to the national defense). The DX and DO Priority Rating Authority is delegated to Commander, Naval Supply Systems Command by the Secretary of the Navy and is further delegated to Commander, Naval Facilities Engineering Command. DPAS priority ratings are assigned to DoD-approved Defense Programs. If a project or program is not an approved Defense Program, an activity cannot assign a DPAS DX or DO priority rating.

11.604 Procedures.

(a) Procedures for implementing DoD DPAS are set forth in the Department of Defense Priorities and Allocations Manual (DoD 4400.1-M), the Department of Commerce 15 CFR 700, and the Department of the Navy Priorities and Allocations Program Instruction, NAVSUPINST 4830.1A. The references can be found in full text at https://www.navsup.navy.mil and http://www.dtic.mil/whs/directives.

(b) The authority to rate construction contracts at the DO level exists with the Contracting Officer. All construction contracts are to be rated with DO-C2. Service contracts are not included in DPAS and shall not be rated. The DPAS officer will be the Echelon III/IV CCO. “NAVFAC Echelon II Acquisition Division Directors will function as the DPAS Officer for those NAVFAC contract activities that do not report to an Echelon III/IV CCO.” In the event NAVAC contractors have a conflict between the NAVFAC DO rated contract and one from another activity or agency and cannot meet both with the

DO ratings, the matter will be forwarded to the Echelon II Acquisition Deputy Director via the Echelon II Acquisition Division Director and Echelon III CCO.

PART 12
ACQUISITION OF COMMERCIAL ITEMS

SUBPART 12.4—UNIQUE REQUIREMENTS REGARDING TERMS AND CONDITIONS FOR COMMERCIAL ITEMS

12.403 (NMCARS) Termination for cause.

Submit a termination report, including changes in status of terminations, using the format required by NMCARS 5212.403 within 5 calendar days after issuing the notice of termination or change in termination status. A copy of the report shall be provided to NAVFAC HQ Acquisition by including the cognizant Echelon II Division Director on the copy to address of the email to DASN(AP).

PART 13
SIMPLIFIED ACQUISITION PROCEDURES

13.003 Policy.

Pursuant to 5201.601(90)(b), NAVSUPSYSCOM has responsibility for providing DoN-wide policy for simplified acquisition procedures. See NAVSUPINST 4200.85D for specific policy, procedures and guidance.

SUBPART 13.2—ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

13.270 (DFARS) Use of the Government wide commercial purchase card.

(a) Except in cases where contract terms and conditions must be expressly written, or for items deemed prohibited by the Navy CCPMD Purchase Card Instruction or otherwise prohibited from the use of appropriated funds; all micro-purchases for services and supplies below $3,000. However, GCPC may only be used for services subject to the Service Contract Act up to and including $2,500 and for construction, $2,000. The Echelon III Commander prior to using purchase orders or separate contracts for such actions shall make a written determination in accordance with DFARS 213.270(b) (1). This authority may not be redelegated within this command. However, pursuant to DFARS subpart 213.270(b)(2), if an activity does not have a resident Flag Officer or SES member, the Echelon III Commander may delegate this authority to the senior local CEC Officer.

(b) A written determination is not required when placing orders under existing contracts such as delivery/task orders for indefinite quantity type contracts, purchases under BPAs, or when issuing contracts or purchase orders that will be performed entirely outside of any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SUBPART 13.3 SIMPLIFIED ACQUISITION METHODS

13.301 (DFARS) Governmentwide Commercial Purchase Card

(a) For cardholders without a GPC Warrant, the purchase card will be used for the following categories:

(1) Micro-Purchase Requirements. The purchase card shall be used to buy and/or pay for all requirements valued at or below the micro-purchase threshold (see FAR 2.101). Purchases higher than the micro-purchase threshold are not authorized.

(2) The purchase card MAY be used as a method of payment in conjunction with other contracting methods above the micro-purchase threshold for the following categories provided appropriate authority has been granted and is stated within the delegation letter.

(i) Department of Defense (DOD) printing requisitions/orders valued at $100,000 and below.

(ii) Purchase Orders (SF 1449/DD 1155) valued at SAT and below or up to $6.5 million for commercial items (see FAR Part 2 for the definition of commercial items).

(iii) Blanket Purchase Agreement (BPA) orders valued at SAT and below or up to $6.5 million for commercial items.

(iv) Delivery order against Federal Supply Schedules (FSS) valued at $9,999,900 or below.

(v) Basic Ordering Agreements (BOA) and orders under Indefinite Delivery Type Contracts (IDTC) valued at $9,999,900 and below.

(vi) Training requirements using the SF 182 (Certification of Training) and valued at $25,000 and below.

(b) For cardholders with a GPC Warrant, in addition to the categories listed in (a) above, the purchase card:

(1) Shall be used to place electronic delivery/task orders and modifications above the micro-purchase threshold, but not exceeding the SAT, against IDIQ contracts with firm fixed price line items on the DoD eMall.

(2) May be used by Fleet Logistics Center cardholders supporting NAVFAC, in accordance with the MOA dated 21 July 2005, to place orders for supplies (material buys) only against GSA Schedules above the micro-purchase threshold, but not exceeding the SAT, for firm fixed price line items. Non pre-priced or firm fixed price line items require completion of a GPC Price Reasonableness Form as supporting documentation showing evidence of three quotes and shall be reviewed/approved by the Approving Official in advance of the purchase.

(3) Each purchase must be commensurate with the GPC Warrant and the appointment letter. The local contracting activity will provide internal procedures to accomplish FPDS-NG reporting requirements.

(4) GPC warranted cardholders located outside the United States, as defined by DFARS 213.301(1), may also make purchases that exceed the micro-purchase threshold but do not exceed $25,000 if the purchase meets the criteria stated in DFARS 213.301(2). The $25,000 limit is absolute. In accordance with NAVSUPINST 4200.99, cardholders making purchases using foreign currency must consider the daily exchange rate when making purchases to ensure they are within their authorized spending limit, not-to-exceed $25,000.

13.303 (DFARS) Blanket Purchase Agreements (BPAs).

(a) Blanket Purchase Agreements will be established in accordance with chapter 7 of NAVSUPINST4200.85D, and should be used for non-complex, repetitive procurements that do not require a Performance Work Statement.

(b) Blanket Purchase Agreements for A-E and Design-Build construction projects are not authorized. See Chapter 36 for procurement of A-E and Design-Build construction projects.

PART 14
SEALED BIDDING

SUBPART 14.2—SOLICITATION OF BIDS

14.201 Preparation of invitations for bids.

14.201-100 Bid items.

(a) An alternate bid item is a bid item, which may be used in lieu of or as an alternative to another bid item. Echelon III/IV CCO approval is required prior to the use of alternate bid items. This authority may not be redelegated.

(b) Level III contracting officer approval is required for the use of a combination of additive/deductive or other bidding systems in construction.

(c) Level III contracting officer approval is required if over four additive bid items are used (see NFAS 36.213-70).

(d) Level III contracting officer approval is required for use of the Estimated Total Cost Method in construction contracts.

(e) If unit price bid items are used in construction contracts, FAR clause 52.211-18, Variation in Estimated Quantities, must be included in the solicitation.

14.201-6 Solicitation provisions.

14.201-6-100 NAVFAC provisions.

(a) (1) Use the provision at 5252.214-9300, Basis for Award in invitations for bids for facilities support services work. Use with FAR provision 52.214-10, Contract Award.

(2) Use Alternate I with the basic provision when the performance period is less than 12 months.

(3) Use Alternate II for combination firm fixed-price indefinite quantity facility support service contracts when the firm fixed-price portion will satisfy the minimum guarantee.

(b) Use the provision at 5252.214-9301, Notice to Bidders, in all invitations for bids for construction.

14.211 Release of acquisition information.

(a) All inquiries from prospective bidders regarding issued solicitations shall be directed to the contracts office issuing the solicitation. The following statement shall be included in every solicitation:

> "All questions concerning this solicitation shall be addressed to (include name, address and phone number)."

(b) The contracting officer will maintain a record of all inquiries, including the name of the individual making the inquiry, questions asked and answers given or amendment issued.

SUBPART 14.3—SUBMISSION OF BIDS

14.304 Submission, modification, and withdrawal of bids.

If a hand carried bid is presented after the bid opening official has declared that the time for bid opening stated in the solicitation had arrived, the bid shall be received and the time of receipt and name of the person delivering the bid noted on the bid envelope. The bid shall be retained, unopened, until a determination to accept or reject the bid is made by a level above the contracting officer after obtaining NAVFAC Counsel written review comments.

SUBPART 14.4—OPENING OF BIDS AND AWARD OF CONTRACT

14.402 Opening of bids.

14.402-1 Unclassified bids.

(a) For construction contracts, after all the bids have been read, the Government estimate and the control amount, if applicable, shall then be read.

(b) The contracting officer, and any other persons designated in writing by the CCO for that purpose, is authorized to open bids.

14.404 Rejection of bids.

14.404-1 Cancellation of invitations after opening.

(a) A written determination by a level above the contracting officer is required prior to converting an invitation for bids to a negotiated procurement.

(b) If an invitation for bids has been cancelled and converted to a negotiated procurement, an amendment shall be issued to all responsible bidders stating the authority for the action, the evaluation criteria, and include applicable clauses for negotiated procurements.

14.405 Minor informalities or irregularities in bids.

NAVFAC Counsel written review comments are required prior to waiving unacknowledged amendments.

14.407 Mistakes in bids.

14.407-3 Other mistakes disclosed before award.

(a) The NAVFAC Assistant Commander for Acquisition, without power of redelegation, shall make the determinations required by FAR 14.407-3(a), (b) and (d).

(b) Evidence in support of requests for correction of bids shall be forwarded via the Echelon III CCO to the appropriate Echelon II Division Director. The package shall contain the contracting officer's analysis and recommendation as well the bidder’s original work sheets, a certification by the bidder that the bid sheets are the originals and the mistake and amount to be corrected are accurate and true to the best of their knowledge and belief, and a legal memorandum by NAVFAC Counsel.

(c) Requests for withdrawal of bids must be accompanied by a declaration from the bidder that, if permitted to withdraw and the work is awarded to another bidder, the withdrawing bidder will not participate in the work through subcontract or otherwise.

SUBPART 14.5—TWO-STEP SEALED BIDDING

14.502 Conditions for use.

A Level III contracting officer approval is required prior to using the two-step sealed bidding procurement method.

PART 15
CONTRACTING BY NEGOTIATION

SUBPART 15.1—SOURCE SELECTION PROCESSES AND TECHNIQUES

15.101-2 Lowest price technically acceptable source selection process.

The number of proposals to be evaluated for technical acceptability may be limited to the five lowest priced offers at the discretion of the contracting officer. If the number of proposals to be evaluated is limited, technical proposals shall be provided to the evaluator(s) without any identification of prices or any rank order of prices. If no proposals are found to be technically acceptable within the first group of proposals, then the process described will be conducted again as many times as necessary, until such time as the Government identifies a technically acceptable proposal. The source selection method must be included in the request for proposal. If the contracting officer later determines that discussions are necessary, the procedures in FAR 15.306 shall be followed.

SUBPART 15.2—SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

15.203 Requests for proposals.

Requests for proposals (RFPs) that require Past Performance Questionnaires (PPQs) shall utilize the standard NAVFAC PPQ form. The contracting officer shall allow offerors to submit PPQs with their proposal and shall not require PPQs to be sent directly from the client(s). PPQs sent directly to the contracting officer by the client(s) are acceptable.

15.209 Solicitation provisions and contract clauses.

15.209-100 NAVFAC provisions.

(a) Use the provision at 5252.215-9300, Content of Proposals, in all RFPs for facilities support services work.

(b) Use the provision at 5252.215-9301, Multiple Proposals, in all RFPs for facilities support and construction that allow for submission of multiple proposals.

(c) Use the provision at 5252.215-9302, Number of Copies/Time of Receipt, in RFPs for construction and facilities support construction when submittal of half size copies and full size set of valid prints is required.

SUBPART 15.3—SOURCE SELECTION

15.303 Responsibilities.

(a) Source Selection Authority (SSA). Authority to act as SSA has been delegated as follows:

*Dollar Value	**Source Selection Authority
All Special Ventures at any dollar value	Echelon II
Up to and including $30M	Contracting Officer with appropriate warrant level
Over $30M	***Echelon III/IV 00/09

* The dollar value includes all options or option years. For indefinite delivery contracts, the approval authorities are based upon the total ceiling price of the solicitation/contract. For a multiple award indefinite quantity, the total ceiling price includes the value of all proposed contracts. The contract value of an IDIQ solicitation/contract is not the minimum guarantee amount or the estimated value of the seed project.

** See NFAS 1.690 for Business Clearance Memorandum (BCM) approval levels.

*** The SSA must hold a Level III warrant. Authority may be redelegated to the Echelon III/IV CCO. The CCO may redelegate authority (from $30M up to $50M) on a project-by-project basis to a Division Director within the ACQ CORE organization (only) with commensurate experience/training in the BL/PL (i.e., CI, ENV, FSC) required in the delegated procurement. For acquisitions with a total estimated value of $100M or more, the SSA shall be an individual other than the PCO.

(b) For competitive negotiated acquisitions below $100M, the SSA shall establish a single board comprised of only the Source Selection Evaluation Board (SSEB), unless multiple boards consisting of the SSEB and Source Selection Advisory Council (SSAC) are approved as outlined in 15.303(b)(4) below.

(1) The SSEB will be comprised of a chairperson and evaluators (also known as SSEB members). The SSEB members may be organized into functional teams corresponding to the specific evaluation criteria (e.g., Technical Team, Past Performance Team, Cost Team, etc.). Use of non-Government personnel as voting members of the SSEB is prohibited. Evaluation of Non-Cost/Price factors and cost or price proposals must be performed independent of each other. The SSEB chairperson shall ensure the cost or price proposals are not released to anyone conducting evaluation of Non-Cost/Price factors until that evaluation is completed and findings are documented. The SSEB may deliberate on the overall ranking of offerors only when requested by the SSA or required by the SSP and, if necessary, provide a competitive range recommendation with suggested discussion questions or a best value recommendation. Discussion questions shall be documented on Evaluation Notices and reviewed by the contracting officer and Legal Counsel.

(2) The SSEB should consist of a minimum of two and a maximum of five members. The composition of the SSEB shall be commensurate with the technical complexity of the procurement and minimized to the maximum extent practicable.

(i) The SSEB chairperson does not need to be a warranted contracting officer; however, the chairperson's primary career field must be designated as Contracting. A waiver to serve as the SSEB chairperson may be requested through the Echelon III/IV CCO for Echelon III/IV 00/09 approval. In all cases, a contracting representative with the appropriate training and experience must serve as a member of the SSEB.

(ii) The SSEB may consist of a contracting officer operating within their warrant authority who performs the duties of both the SSA and the SSEB chairperson and a single technical representative.

(3) A single document shall be prepared by the SSEB documenting the outcome of the evaluation of Non-Cost/Price factors, the cost or price analysis, and if necessary the SSEB's deliberations. All evaluation records and narratives from the SSEB shall be reviewed by the contracting officer and Legal Counsel before evaluation results are presented to the SSAC (when used) and the SSA. In the event there is significant disagreement among the SSEB members regarding evaluation results that should be presented to the SSAC (when used) and the SSA, the minority opinion(s) shall also be presented at the decision briefing providing the SSA with sufficient information to fully consider the minority view(s).

(4) If appropriate based on complexity and associated risk of the acquisition, multiple boards (SSEB and SSAC) may be used for acquisitions below $100M when approved by the Echelon III/IV CCO.

(c) For competitive negotiated acquisitions of $100M or more, the SSA shall establish multiple boards as follows:

(1) Source Selection Evaluation Board (SSEB), as described in 15.303(b)(1) above. If Small Business Utilization is a factor in the source selection, the Small Business Specialist shall be assigned to the SSEB as a member to evaluate this criterion.

(2) Source Selection Advisory Council (SSAC), consisting of two or three members.

(i) The SSAC chairperson does not need to be a warranted contracting officer; however, the chairperson's primary career field must be designated as Contracting. A waiver to serve as the chairperson may be requested through the Echelon III/IV CCO for Echelon III/IV 00/09 approval.

(ii) The SSAC provides oversight to the SSEB and serves as the interface between the SSEB and SSA. The SSAC shall review evaluation results of the SSEB to ensure the evaluation process follows the evaluation criteria and that ratings are appropriately and consistently applied. The SSAC shall provide a written comparative

analysis and award recommendation to the SSA after review by Legal Counsel. In the event there is significant disagreement among the SSAC members regarding the recommendation, a minority opinion shall be documented and presented to the SSA as part of the comparative analysis.

(d) Participants of the source selection process (multiple or single board process).

(1) All personnel appointed as members of any board in a source selection, including clients, are required to complete CTC 415 prior to serving on the assigned board. The CCO may grant a temporary waiver to this requirement provided the NAVFAC online course, CTC-W415 Source Selection, is completed and registration and completion of CTC 415 occur within the following twelve (12) months. In those cases where board members are outside of NAVFAC, their equivalent training will be approved by the CCO on a case-by-case basis. Clients participating as advisors are not required to complete this training; however, they will be required to sign the Certificate of Non-Disclosure and Conflict of Interest Statement.

(2) NAVFAC engineers and architects appointed as members of the SSEB performing evaluations of Non-Cost/Price factors must comply with the requirements outlined in NAVFACINST 3540.1C, dated 29 February 2012.

(3) NAVFAC Counsel shall be assigned as an advisor on all source selections.

(4) Non-Government personnel may not be appointed as a member to any board. Use of non-Government personnel as advisors shall be supported by a written determination in accordance with NFAS 37.204 and FAR 37.204. They may not determine ratings or rankings of offerors' proposals and are prohibited from participating in the review and evaluation of past performance information. Non-Government advisors must sign the Non-Disclosure Agreement (NDA) required to be signed by all Government employees participating in the source selection. The contracting officer must ensure the Government has received consent from the offerors before a non-Government advisor is given access to proprietary information. When non-Government advisors are used, the solicitation must contain the following provision in the instructions to offerors in Section L of the UCF or appropriate section when using other formats:

USE OF NON-FEDERAL PERSONNEL IN EVALUATIONS

(a) The Government intends to use one or more non-government personnel as advisor(s) in evaluating proposals. These contractor-advisor(s) are required by the terms of their government contract and the Procurement Integrity Act (41 U.S.C. §23) to maintain the confidentiality of any materials to which they are given access. Submission of your proposal to the government constitutes implied consent to allow review of your proposal by contractor-advisor(s).

(b) An offeror may require the contractor-advisor to execute a supplemental non-disclosure agreement (NDA) by including a copy of the NDA with their proposal. The NDAs are not considered part of the proposal and communications (if any) between the contractor-advisors and the offerors regarding the terms of the NDA are neither discussions nor clarifications.

(c) In the unlikely event the offeror and the contractor-advisor are unable to agree on the terms and conditions to be set forth in the NDA, offerors are advised that the inability of the government to obtain the contractor-advisor's expertise in reviewing the offer may adversely impact the government's evaluation of the proposal.

(End of Provision)

(e) Source Selection Plan (SSP). SSPs are required for all competitive acquisitions over the SAT. SSPs for acquisitions of $100M or more shall be submitted to the appropriate Echelon II Division Director for approval prior to issuance of the solicitation. SSPs submitted by Echelon IV to Echelon II do not require review/approval by Echelon III. The SSA shall approve SSPs for acquisitions below $100M. After the SSP is approved, any changes to the plan except personnel changes require re-approval of the plan by the approval authority. For personnel changes, approval is required by the SSA.

15.304 Evaluation factors and significant subfactors.

(a) In all SSPs, Technical factors shall be equal to Past Performance. Prior to determining Non-Cost/Price factors are more important than Price in the Tradeoff process, the proposed SSP or a detailed memorandum shall be approved by the Assistant Commander for Acquisition via the appropriate ACQ Division Director.

(b) For unrestricted acquisitions using the Tradeoff process, the SSP shall include a separate evaluation factor for Small Business Utilization, which shall be weighted at least equal to the highest ranking Technical factor. When evaluating small business participation, adjectival ratings shall be utilized.

(c) For the LPTA process, evaluation of small business participation is exempt in accordance with DFARS 215.304(c)(i). However, in the event that it is appropriate to include in some circumstances, it shall be a separate evaluation factor.

(d) Solicitations utilizing source selection procedures for procurements within the 50 United States and the District of Columbia shall contain a standard "Safety" Non-Cost/Price factor. This factor shall be included as a stand-alone evaluation factor and not as a subfactor or an element of the Past Performance evaluation factor. This requirement may only be waived by the Echelon III/IV 00/09.

(e) For Stand-alone design-build procurements, see "Capital Improvements Business Line Standard Non-Cost/Price Evaluation Factors."

15.308 Source selection decision.

The SSA shall prepare a source selection decision document (SSDD) for all source selections. The SSDD shall reflect the SSA's independent, integrated, comparative assessment and decision, and include the rationale for any business judgments and tradeoffs made or relied on by the SSA. The SSDD is the single summary document

supporting selection of the best value proposal consistent with the stated evaluation criteria. It shall clearly explain the decision and document the reasoning used by the SSA to reach the decision consistent with FAR 15.308.

15.308-100 Best Value Source Selection Premiums

(a) Any Best Value source selection or task order selection using trade-offs where the cost/price dollar premium is greater than 10% over the lowest acceptable offeror's Total Evaluated Cost/Price will be reviewed as follows:

(i) For Echelon IV Commands, the reviewer is one level above senior technical team participant on the Source Selection Team. For the actions over $30M but less than $100M, the action is reviewed by the Business or Support Line Coordinator.

(ii) For Echelon III Commands, the reviewer is one level above senior technical team participant on the Source Selection Team. For the actions over $30M but less than $100M, the action is reviewed by the Business or Support Line Manager.

(iii) Actions over $100M must be reviewed by the Business or Support Line Lead.

(iv) All source selection premiums that meet tripwire requirements will be reported to the cognizant CCO upon award.

(b) Source Selection premium reviews will be conducted concurrent with BCM review, by inserting additional signature lines on the BCM signature page.

SUBPART 15.4—CONTRACT PRICING

15.403 Obtaining cost or pricing data.

15.403-5 Instructions for submission of certified cost or pricing data and data other than certified cost or pricing data.

(a) For negotiations, which rely on a contractor's cost or pricing data, the business clearance shall state that the government relied on this data.

(b) For cost contracts, extrapolate costs to the total capacity on best value source selections.

(c) Where the total amount of a construction contract modification is over the SAT but does not exceed $700,000, the following may be used in lieu of requiring the contractor to submit a detailed breakdown of overhead:

(1) (i) Ten percent of labor, material and equipment estimates in lieu of field overhead,

(ii) Five percent of subcontract estimates,
(iii) Three percent of the total labor, material and equipment estimates and the amount computed by (i) above in lieu of home office overhead or,

(2) The audited rates for that company established by a DCAA audit less than one year old.

(d) No overhead or profit shall be allowed on bond expenses.

(e) When an architect-engineer contract includes reimbursable travel for an architect-engineer firm located outside the commuting distance of the construction site, the contract shall state that the architect-engineer firm will be reimbursed for authorized travel in accordance with government travel regulations. No profit and overhead will be allowed on reimbursable travel expenses contained in an otherwise fixed-price contract.

15.404 Proposal analysis.

15.404-1 Proposal analysis techniques.

When cost analysis is required or when negotiating the basic award of a multi-tasked, architect-engineer IDIQ arrangement (including CLEAN contracts), the contracting officer shall justify labor and indirect rates in terms of average area rates for similar work. Rates in excess of average area rates should be justified in terms of the need of the government.

15.404-2 Information to support proposal analysis.

When the contracting officer plans to sustain less than 75% of the total recommended questioned costs (excluding unsupported costs) in a DCAA audit report on a proposal valued at $10 million or more, the contracting officer shall attempt to resolve disagreements with the auditor. If the differences cannot be resolved, the contracting officer shall document the discussion, including the basis of the disagreements, in the pre-negotiation business clearance and in writing to the auditor (e.g., email). Negotiations may commence after discussions with DCAA have been documented and the pre-negotiation business clearance has been approved. If DCAA requests higher-level review, the contracting officer shall notify the CCO and provide DCAA with the name and contact information of the CCO.

15.404-4 Profit.

(a) When establishing the profit or fee portion of the Government pre-negotiation objective in price negotiations based on cost analysis, the contracting officer shall use profit/fee analysis to determine the reasonableness of any profit/fee included in the contract price. For actions below the cost or pricing data threshold, refer to FAR 15.404-4(d) for profit analysis factors.

(b) Government set predetermined profit rates shall not be established upon contract award and used in resulting task orders. Profit will be negotiated on individual task

orders based on project risk and complexity. The profit determination must be structured and supported in the business clearance or price negotiation memorandum.

(c) Award Fee. Under environmental cost-plus-award-fee contracts, award fee shall not exceed 10 percent of the Contract Task Order (CTO) total.

15.404-73 (DFARS) Alternate structured approaches.

(b)(2)(S-100) Facilities capital cost of money shall not apply to contracts where reimbursement is provided to contractors through construction equipment use rates or allowances (see FAR 31.105(d)). In other situations where facilities capital cost of money is proposed and verified, follow the procedure in DFARS 215.404-73(b)(2).

15.404-73-100 Alternate structured approaches for construction contracts.

(a) As required by DFARS 215.404-4, for all fixed-price construction contract actions use the alternate approach. For cost reimbursement contracts, the weighted guidelines method described in DFARS 215.404-71 shall be used if cost realism is not assessed in competitive acquisitions.

15.404-73-101 Alternate structured approaches for architect-engineer contracts.

(a) The pre-negotiation profit objective for a firm-fixed-price architect-engineer (including surveying and mapping) contract, contract modification or task order will be determined by the alternate structured approach. The profit objective for all other types of A/E contracts will be determined in accordance with DFARS 215.404-71.

15.404-76 (DFARS) Reporting profit and fee statistics.

See NFAS Appendix A for reporting requirements.

SUBPART 15.6—UNSOLICITED PROPOSALS

15.606 Agency procedures.

Unsolicited proposals shall be forwarded to the Echelon III/IV contracts office via the Acquisition chain of command. The Echelon III/IV CCO shall determine the disposition of the proposal in accordance with applicable regulations. This authority may not be redelegated. Unsolicited proposals received at Echelon II shall be forwarded to the cognizant Echelon II Acquisition Division Director for disposition of the proposal.

PART 16
TYPES OF CONTRACTS

SUBPART 16.2—FIXED-PRICE CONTRACTS

16.203 Fixed-price contracts with economic price adjustment.

16.203-4 Contract clauses.

16.203-4-100 NAVFAC contract clauses.

(a) Use the clause at 5252.216-9307, Price Revision, in solicitations/contracts at U.S. installations in Italy when the contract term exceeds one year.

(b) Use the clause at 5252.216-9314, Economic Price Adjustment for Changes in Landfill/Disposal Fees, in lieu of FAR 52.216-4, Economic Price Adjustment--Labor and Material, where the service requires landfill usage fees or disposal fees set by a county government or other local government body.

SUBPART 16.3—COST-REIMBURSEMENT CONTRACTS

16.306 (DFARS) Cost-plus-fixed-fee contracts.

A request to use MILCON funded cost-plus-fixed-fee contracts shall be forwarded to the appropriate Echelon II Division Director via the Echelon III CCO for final approval by OSD.

SUBPART 16.4—INCENTIVE CONTRACTS

16.404 (DFARS) Fixed price contracts with award fees.

For guidance, see NAVFAC Award Fee Desk Guide.

16.405-2 Cost-plus-award fee.

All cost-plus-award fee (CPAF) contracts must be approved by the Head of the Contracting Activity (HCA)/Assistant Commander for Acquisition. Each determination and finding (D&F) must certify that "the work to be performed is such that it is neither feasible nor effective to devise predetermined objective incentive targets applicable to cost, technical performance or schedule". The D&F shall be forwarded via the Echelon III/IV CCO to the appropriate Echelon II Division Director for approval by the Echelon II Assistant Commander for Acquisition. This authority may not be redelegated.

16.406 Contract clauses.

16.406-100 NAVFAC contract clause.

(a) Use the clause at 5252.216-9315, Award Fee, in solicitations/contracts when a fixed-price award fee contract for services is contemplated.

(b) Use the basic clause with its Alternate I for construction contracts.

SUBPART 16.5—INDEFINITE DELIVERY CONTRACTS

16.503 Requirements contracts.

(a) The contract price on the award document shall be marked “Estimated Total Price”.

(b) No funds shall be obligated at time of award but are obligated at time of issuance of orders against the contract.

16.504 Indefinite-quantity contracts.

(a) The contract price on the award document shall be marked “Not to Exceed.”

(b) Funds are to be obligated at time of award for the minimum quantity only.

16.504-90 (NMCARS) Limitation on single award task or delivery order contracts valued at or below $103M.

The authority to make a determination to award a task or delivery order contract to a single source is delegated to CCOs for actions at or below $103M.

16.504-100 Architect-engineer indefinite-quantity contracts.

For guidance on architect-engineer indefinite quantity contracts, see NFAS 36.601-3-100.

16.504-101 Facilities support indefinite-quantity contracts.

(a) The contract amount on the award document shall be the total of the extended unit prices for each line item for the base year.

(b) The “quantity” column on the Schedule shall be marked “Estimated.”

(c) The solicitation shall advise the contractor that once the estimated quantities for individual line items shown in the Schedule have been ordered, additional quantities may be ordered as long as the overall not-to-exceed (NTE) amount of the contract per year is not exceeded and the contractor agrees by signing the task order.

16.504-102 Combination firm fixed-price/indefinite quantity contracts.

(a) The contract price on the award document shall be marked "Not to Exceed".

(b) The contract amount shall be the price for the base year firm fixed-price (FFP) portion of the contract and the total estimated quantity of the indefinite quantity portion.

(c) The contract minimum guarantee can be satisfied at time of award with the base year firm fixed-price portion of the contract, as long as the firm fixed-price is more than a nominal amount of the total contract value and the work is similar.

(d) The work identified under the firm fixed-price and the indefinite quantity portion of the contract must be of a similar nature.

(e) The indefinite quantity portion of the contract shall specify:

(1) a guaranteed minimum amount to be ordered during a specified period. If appropriate, this may be the firm fixed-price portion of the contract.

(2) the maximum dollar amount of orders that the Government may place during a specified period.

(3) the minimum and maximum quantities or dollar amounts that the Government may order on an individual task order.

(f) The policy stated in NFAS 16.504-101(b) and (c) applies to the indefinite quantity portion of a combination firm fixed-price/indefinite quantity type contract.

16.504-103 DOD EMALL Contracts.

(a) All contracts will include the FAR clause 52.232-36, “Payment by Third Party”.

(b) All contracts will include in Section H the following provision:
“**Contractor Support of Electronic Contracting (DOD EMALL)**

The contractor is required to offer IQ pre-priced line item services to authorized Government personnel when they are ordering the work directly via the Government Purchase Card (GPC) program. When receiving GPC orders against Section B, the contractor shall provide the supplies and services at the offered price without additional markup or handling fee.

The contractor agrees to accept and process electronically submitted GPC orders for IQ services, including those orders issued through the DOD EMALL. The DOD EMALL is a U.S. Government (USG) owned and operated web-based ordering system that enables any Department of Defense (DOD) or Federal activity to search for and order goods and services. Authorized GPC users will receive approved accounts on DOD EMALL to view and order IQ line items.

The contractor is required to receive electronic IQ orders from the DOD EMALL using 128-bit encrypted email. The contractor agrees to purchase, install, and utilize the most recent version of PGP Personal software, or a comparable solution, for the purpose of decrypting order notification emails from the DOD EMALL. In addition, the DoD has established the External Certification Authority (ECA) program to support the issuance of DoD-approved certificates to contractors. The ECA program is designed to provide the mechanism for contractors to securely communicate with the DoD and authenticate to DoD Information Systems. The contractor agrees to purchase, install, maintain and use a DoD-approved ECA certificate. Information on obtaining an ECA certificate can be found at http://iase.disa.mil/pki/eca/certificate.html.

The contractor shall post updates on order delivery schedule and performance to the DOD EMALL in a timely manner.

The contractor shall track quantities and report total ordered quantity in DOD EMALL and approved DD 1155's by line item number each month and year-to-date. The report shall be due to the Contracting Officer by the fifth day of the following month. The contractor must track and report when total dollar value of all orders from both GPC purchases and DD 1155s exceed 75% of the combined Section B Pre-Priced Line Item quantities."

(c) Paragraphs (a) and (b) above apply to both new solicitations and to existing contracts awarded without the DOD EMALL clause and provision.

(d) DOD EMALL orders will not exceed the SAT for services and construction.

(e) Unless an exception in paragraph (f) below applies, no IDIQ orders will be accepted for processing through a NAVFAC contract's office that can be ordered directly by the client through DOD EMALL unless approved by a waiver. It is the intent that IDIQ or combination FP/IDIQ contracts will be placed on DOD EMALL. If a contract has been posted on DOD EMALL and a client request a task order be issued not using DOD EMALL, a waiver by the Echelon III CCO is required for each order. In no case shall the waiver process be utilized to provide a customer the flexibility to circumvent use of DOD EMALL. Use of blanket delivery orders will only be utilized when a waiver has been granted by the Echelon III CCO.

(f) An exception to paragraph (e) above may be made at the discretion of the contracting officer, in coordination with the appropriate technical authority, when service requirements warrant additional contractual and technical oversight due to complexity of the work involved (e.g., crane/technical/safety oversight or similar considerations). Written justification by the contracting officer and appropriate technical authority shall be required prior to issuing an IDIQ order. The written justification shall be included in the contract file and a copy provided to the Echelon III/IV CCO to ensure this exception is applied prudently.

16.505 Ordering.

(a) *General*.

(1) Delivery/task orders may only be executed by a warranted contracting officer or an ordering officer designated pursuant to NFAS 1.602-2(e).

(2) All delivery/task orders may be issued on DD Form 1155 unless it is a DOD EMALL order. EMALL orders will follow the EMALL procedures.

(3) Orders under contracts funded with annual appropriations shall not be executed in one fiscal year with commencement beginning in the next fiscal year (See FAR 32.703-2).

(b) *Orders under multiple award contracts.*

(1) Prior to determining Non-Cost/Price factors, when combined, are more important than Cost/Price for a task order, the proposed evaluation plan or a detailed memorandum shall be approved by the Assistant Commander for Acquisition via the appropriate ACQ Division Director. For design-build task orders, refer to "Capital Improvements Business Line Standard Non-Cost/Price Evaluation Factors".

(2) A written MAC Task Order Evaluation Plan is required for any MAC task order above $10M prior to issuing the solicitation.

(3) Capital Improvements (CI) construction projects exceeding $50M shall not be procured via a MAC task order unless a formal waiver is approved by the Echelon II CI and ACQ. However, this policy does not apply to the Global Contingency Construction contract and no waiver is required.

(4) Competitive task orders over the SAT shall be solicited for a minimum of 30 days, except for architect-engineer MAC task orders which shall have a minimum solicitation period of 14 days. The minimum solicitation period may be waived by the cognizant Echelon III/IV CCO. A copy of the waiver shall be submitted to the Echelon II Division Director.

(5) Solicitations that require PPQs shall utilize the standard NAVFAC PPQ form. The contracting officer shall allow offerors to submit PPQs with their proposal and shall not require PPQs to be sent directly from the client(s). PPQs sent directly to the contracting officer by the client(s) are acceptable.

(6) Approval thresholds for limiting competition for task orders under multiple award contracts are prescribed at NFAS 6.304-100(b).

(7) See 1.690(g) for additional tripwire requirements when only one bid or proposal is received under a MAC task order solicitation.

(8) See 15.308-100 for additional tripwire requirements when a task order selection includes a best value source selection premium.

(c) **(NMCARS)** *Task and Delivery Order Ombudsman.* The Echelon III/IV Competition Advocate is designated as an ombudsman for task order/delivery order contracts under their cognizance. This designation may not be redelegated.

(d) *Undefinitized Task/Delivery Orders*. Undefinitized task/delivery orders are authorized only when the contract provides undefinitized orders as a method for ordering.

16.506 Solicitation provisions and contract clauses.

16.506-100 NAVFAC contract clauses.

(a) Insert the clause at 5252.216-9300, Appointment of Ordering Officer(s), in all facilities support and architect-engineer indefinite quantity or requirements solicitations/contracts.

(b) Use the clause at 5252.216-9301, Task Order Terms and Conditions (Architect-Engineer Indefinite Quantity Contracts), in architect-engineer indefinite quantity solicitations/contracts except those for remedial investigation or design.

(c) Use the clause at 5252.216-9302, Indefinite Quantity, in architect-engineer indefinite quantity solicitations/contracts.

(d)(1) Use the clause at 5252.216-9303, Minimum and Maximum Fees (Architect-Engineer Indefinite Quantity Contracts), in architect-engineer indefinite quantity solicitations/contracts.

(2) Use the clause with its Alternate I when the contract minimum will exceed the initial project amount.

(e) Use the clause at 5252.216-9305, Task Order Procedures (Architect-Engineer Indefinite Quantity Contracts), in all architect-engineer indefinite quantity solicitations/contracts.

(f) Use the clause at 5252.216-9306, Procedures for Issuing Orders, in all facilities support service indefinite quantity or requirements solicitations/contracts.

(g) (1) Use the clause at 5252.216-9310, Combination Firm Fixed-Price/Indefinite Quantity Contract, in all combination firm-fixed price/indefinite quantity facilities support solicitations/contracts.

(2) Use the basic clause with its Alternate I if the firm fixed-price is less than nominal.

(h) (1) Use the clause at 5252.216-9313, Maximum Quantities, in all facilities support service combination fixed-price/indefinite quantity solicitations/contracts.

(2) Use the clause with its Alternate I when the firm fixed-price portion of the contract is less than nominal.

(i) Use the clause at 5252.216-9316, Undefinitized Task/Delivery Orders, in contracts in which task/delivery orders are individually negotiated and when there may be a need to issue undefinitized orders. Ensure that the cost of the work authorized by any undefinitized order is not in excess of the funds available for the order. Establish the time period for the definitization of each undefinitized order and insert the anticipated date of definitization in the clause. The HCA shall approve periods that exceed 180 days.

SUBPART 16.6—TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER CONTRACTS

16.601 (DFARS) Time-and materials contracts.

Determination and Findings (D&F) for a Time and Material (T&M) contract less than or equal to $1 million and a contract term less than or equal to 3 years, including options,

shall be approved by the appropriate Echelon III/Echelon IV CCO. A D&F for a T&M or LH contract greater than $1 million and a contract term less than or equal to three years, including options, shall be approved by the Assistant Commander of Acquisition. When the contract term, including options, exceeds three years, the D&F shall be approved by the HCA as required by FAR 16.601(d). In addition to the requirements at DFARS 216.601, the D&F shall address why a cost-plus-fixed-fee term contract or order is not appropriate.

16.602 Labor-hour contracts.

Determination and Findings (D&F) for a labor hour (LH) contract less than or equal to $1 million and a contract term less than or equal to 3 years, including options, shall be approved by the appropriate Echelon III/Echelon IV CCO. A D&F for a T&M or LH contract greater than $1 million and a contract term less than or equal to three years, including options, shall be approved by the Assistant Commander of Acquisition. When the contract term, including options, exceeds three years, the D&F shall be approved by the HCA as required by FAR 16.601(d). In addition to the requirements at DFARS 216.601, the D&F shall address why a cost-plus-fixed-fee term contract or order is not appropriate.

PART 17
SPECIAL CONTRACTING METHODS

SUBPART 17.2—OPTIONS

17.202 Use of options.

17.202-100 Use of options in construction contracts.

(a) Written approval by a level above the contracting officer is required for the use of options in construction contracts and combination construction and service contracts in which the service work is the option.

(b) Option terms for construction are limited to 365 days from date of contract award. A written request for a longer term shall be submitted to the NAVFAC Assistant Commander for Acquisition for approval via the Echelon III CCO and the appropriate Echelon II Division Director.

17.202-101 Use of options in facilities support contracts.

(a) Written approval of a level above the contracting officer is required to include construction options in facilities support service contracts to be performed in the United States, its territories or trusts.

(b) Leases for equipment may include an option to buy. O&MN funds may not be used to exercise a purchase option in excess of $100,000.

17.202-102 Use of options in architect-engineer contracts.

(a) The Contracting Officer shall make the written determination required by FAR 17.205 justifying why options to extend the contract term beyond the base year is in the government's best interest.

(b) Any options included in an architect-engineer contract must be stated in the scope of services.

(c) Prior to exercise of any option, the contracting officer shall make the written determination required by FAR 17.207 affirming that the architect-engineer firm remains the most highly qualified firm to do the work.

17.204 Contracts.

(a) A waiver must be approved prior to issuing a solicitation if the term of a contract, including options, exceeds three years for knowledge-based services (KBS) or exceeds five years for other services, except utility services, and multiple-award IDIQ KBS. KBS associated with FFRDC contracts and University Affiliated Research Center contracts are exempt from the three year term limit.

(b) The waiver request shall be approved by the Assistant Commander for Acquisition for any solicitation up to $100M. Waiver requests for solicitations over $100M shall be approved by the DASN(AP) Senior Services Manager. The waiver request shall explain/demonstrate any unique circumstances or extreme situations, and how the procurement's competitive history and/or significant capital investment requirement indicates that a longer period of performance is necessary to establish or maintain competition. All waiver requests shall be coordinated via the HQ ACQ Division Director and the Assistant Commander for Acquisition. A waiver request submitted by Echelon IV does not require review/approval by Echelon III but a copy shall be transmitted concurrently to the Echelon III CCO.

(c) Utility Service contracts, as defined in FAR 41.101, may be awarded for periods not exceeding 10 years in accordance with NFAS 41.103 and FAR 41.103.

17.207 Exercise of options.

Prior to exercising an option on a services contract, ensure the language required by DFARS 211.106 is included in the SOW/PWS or incorporated by modification.

17.208 Solicitation provisions and contract clauses.

17.208-100 NAVFAC contract clauses.

(a) Use the clause at 5252.217-9300, Option to Extend the Term of the Contract (Architect-Engineer Indefinite Quantity Contract), in all architect-engineer indefinite quantity solicitations/contracts that include options.

(b) Use the clause at 5252.217-9301, Option to Extend the Term of the Contract - Services, in all facilities support service solicitations/contracts that include options. Use this clause in lieu of FAR clause 52.217-9.

(c) Use the clause at FAR 52.217-7, Option for Increased Quantity-Separately Priced Line Items in:

(1) architect-engineer contracts when the contract provides for exercise of an option for post construction award services other than those specified at DFARS 236.609-70, and

(2) construction contracts with option(s) for additional work.

SUBPART 17.5—INTERAGENCY AND INTRA-AGENCY ACQUISITIONS

17.500-100 Scope of subpart.

The policy in this subpart is applicable to both interagency and intra-agency acquisitions. An interagency or intra-agency acquisition includes any transfer of funds outside of NAVFAC to obtain supplies or services.

17.502-2 (NMCARS) Determinations and findings requirements.

(a) A D&F is required for any transfer of funds outside of NAVFAC for supplies or services, un less an exception is listed in paragraph (b) below. The thresholds and approval authority for D&Fs are as follows:

Threshold	Approval Authority
> Micro-purchase Threshold to SAT (Economy Act only)	Requiring Office Commanding Officer
> SAT to < $5M	Ech III Commander, or Asst Commander for ACQ for Specialty Center
$5M to $50M	Asst Commander for ACQ
> $50M to $500M	DASN(AP)
> $500M	ASN(RDA)

Note: D&Fs that require approval above the Asst Commander for ACQ shall be routed via the Echelon II Division Director for review and endorsement.

(b) Exceptions. In addition to exceptions in NMCARS 5217.502, a D&F is not required for the following types of orders:

(1) DFAS for Defense Working Capital Fund Accounting System
(2) DFAS for Federal Employees' Compensation Act
(3) BUPERS for military labor
(4) DLA for fuel
(5) OPM for civilian recruitment certificates
(6) Orders on a NAVSUP contract for supplies, rental of motor vehicles, or NMCI services.
(7) Orders with DISA for mainframe hosting operations.
(8) Orders with the Government Printing Office.
(9) Orders with GSA for vehicle purchases.

(c) Reporting. D&Fs shall be reported to the cognizant Echelon III CCO , who in turn will submit a quarterly report to HQ ACQ no later than 10 days after the end of each quarter.

SUBPART 17.74—UNDEFINITIZED CONTRACT ACTIONS (DFARS)

17.7403 Policy.

For policies and procedures regarding undefinitized change orders pursuant to the Changes Clause of a contract, refer to NFAS 43.2 Change Orders.

17.7403-100 Management of undefinitized contract actions (UCAs).

The Echelon III/IV CCO shall provide management oversight over UCAs issued by the contracting officers under their cognizance to ensure appropriate use, management attention to backlog, and establishment/adherence to definitization schedules.

17.7404 (DFARS) Limitations.

17.7404-1 Authorization.

(a) Undefinitized Contract Actions (UCA) may be executed either unilaterally or bilaterally. UCAs shall be approved as follows:

(1) Up to and including $1,000,000, approval authority is delegated to the Echelon III/IV Commanders/Commanding Officers and the CCO. This authority may be redelegated to Levels I, II, or III contracting officers up to a maximum dollar value of SAT per UCA.

(2) Over $1,000,000, approval authority is the appropriate Echelon II Division Director.

(b) Only contracting officers having specific UCA authority designated on their warrant shall execute UCA documents, unless delegated one time authority on a case-by-case basis.

17.7404-2 Price ceiling.

A Not-To-Exceed (NTE) ceiling price shall be established for each UCA. This NTE ceiling price may be adjusted by modification during performance if circumstances warrant, but shall not be exceeded at definitization.

17.7404-4 Limitations on obligations.

See the limitations on obligations for UCAs at DFARS 217.7404-4.

PART 18
RESERVED

PART 19
SMALL BUSINESS PROGRAMS

SUBPART 19.5—SET-ASIDES FOR SMALL BUSINESS

19.502 Setting aside acquisitions.

19.502-1 (DFARS) Requirements for setting aside acquisitions.

The $350,000 small business set-aside threshold for architect-engineer contracts applies only to military construction and family housing projects. This includes indefinite delivery and indefinite quantity contracts if the value of all anticipated orders is expected to be less than $350,000.

19.505 (DFARS) Rejecting Small Business Administration recommendations.

Appeals by the SBA procurement center representative shall be forwarded to the Echelon III/IV CCO for a decision. This authority may not be redelegated.

SUBPART 19.7—THE SMALL BUSINESS SUBCONTRACTING PROGRAM

19.702 Statutory requirements.

Public Law 92-582, as amended ("Brooks Act") requires an architect-engineer firm to identify who will perform the work (including subcontractors required under the contract). Contracting officers shall ensure architect-engineer firms address their planned usage of small business, small disadvantaged business, women owned small business, historically black colleges and universities or minority institutions in the SF 330. Additionally, synopses for architect-engineer services expected to exceed $650,000 shall require a short-listed large business firm to submit a subcontracting plan, in addition to the narrative in the SF 330, before price negotiations begin for contract award. If the selected architect-engineer firm fails to negotiate a subcontracting plan acceptable to the contracting officer within the time limit prescribed by the contracting officer, the firm will be ineligible for award.

19.703 (DFARS) Eligibility requirements for participating in the program.

All solicitations shall include a notice to offerors of the opportunity to use JWOD, NISH and NIB organizations to meet subcontracting goals. The notice should include HBCU/MI information as well as a point of contact and telephone number.

19.704 Subcontracting plan requirements.

For architect-engineer contracts over $650,000, a large business firm that is short-listed will be required to submit a subcontracting plan (in addition to addressing small business subcontracting criteria in the SF 330) before price negotiations begin for contract award.

SUBPART 19.8—CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION (THE 8(a) PROGRAM)

19.803 Selecting acquisitions for the 8(a) program.

Architect-engineer contracts may be awarded under the 8(a) program, HUBZone Businesses and Service Disabled Veteran Owned Small Businesses (SDVOSBs) SBA must observe procedures of the “Brooks Act”. The SBA must provide a slate of qualified architect-engineer firms and selection by the NAVFAC activity must be made in accordance with "Brooks Act" selection procedures.

19.805 Competitive 8(a).

19.805-1 General.

The approval of the Assistant Commander for Acquisition is required prior to committing to any acquisition strategy to enter into or award an 8(a) sole source contract pursuant to FAR 19.805-1(b)(2) and DFARS 219.805-1 estimated to exceed $4 million, inclusive of all contract periods or options. The request for approval shall explain how the procurement’s competitive history, current market conditions, or other circumstances support a sole source action. The request shall be forwarded to the appropriate Echelon II Division Director, via the Echelon III CCO, for approval.

PART 20
(RESERVED)

PART 21
(RESERVED)

PART 22
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

SUBPART 22.1—BASIC LABOR POLICIES

22.101 Labor relations.

For guidance, see SECNAV INST 4200.36A, Contractor Labor Relations Manual.

SUBPART 22.3—CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

22.305 Contract clause.

Construction contracts in excess of SAT for work in Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, or Johnson Island are subject to the Contract Work Hours and Safety Standards Act but are not subject to Davis-Bacon Act. Therefore, the following FAR clauses shall be modified to reflect this applicability and included in these contracts.

(1) FAR 52.222-11 Subcontracts (Labor Standards) except that the list of applicable clauses in paragraph b shall be modified to refer only to the clauses: Contract Work Hours and Safety Standards Act-Overtime Compensation, Subcontracts (Labor Standards), and Contract Termination-Debarment, Disputes Concerning Labor Standards;

(2) FAR 52.222-12, Contract Termination-Debarment except that the list of applicable clauses in the first sentence shall be modified to refer only to the Contract Work Hours and Safety Standards Act-Overtime Compensation, Subcontracts (Labor Standards).

SUBPART 22.4—LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

22.406 Administration and enforcement.

22.406-13 (DFARS) Semiannual enforcement reports.

See NFAS Appendix A for reporting requirements.

SUBPART 22.5—USE OF PROJECT LABOR AGREEMENTS FOR FEDERAL CONSTRUCTION PROJECTS

22.503 (FAR) Policy

(a) The Contracting Officer shall prepare a decision memorandum for each construction project of $25M or more to determine whether use of a Project Labor

Agreement (PLA) is appropriate for the project based on the criteria in FAR 22.503. The decision memorandum shall become an attachment to the Acquisition Plan.

(b) The PLA decision memorandum shall be approved prior to issuing the solicitation. Approval authority for the PLA decision memorandum on projects UP TO $100M WHICH RECOMMEND TO NOT USE A PLA SHALL BE THE CCO, and for projects in excess for $100M, it shall be the Assistant Commander for Acquisition. Approval authority for the PLA decision memorandum on projects of ANY DOLLAR VALUE WHICH RECOMMENDS THE USE OF A PLA shall be the Assistant Commander for Acquisition. The memorandum approval shall be coordinated via the appropriate HQ ACQ Division Director.

(c) A copy of the PLA decision memorandum shall be forwarded to the NAVFAC Labor Advisor for a consolidated report to OMB.

SUBPART 22.10—SERVICE CONTRACT ACT OF 1965, AS AMENDED
22.1006 Contract clauses.

22.1006-100 NAVFAC contract clause.

Use the clause at 5252.222-9305, Work Performed by Individual Assigned Categories, in all cost-reimbursement, time-and-materials or labor hour solicitations/contracts.

PART 23
HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

SUBPART 23.100—CONTRACT CLAUSES

23.1000 NAVFAC contract clauses.

(a) Use the clause at 5252.223-9300, Inspection by Regulatory Agencies; in all facilities support services solicitations/contracts.

(b) Use the clause at 5252.223-9301, Wildlife Preservation, in architect-engineer and facilities support solicitations/contracts when applicable.

PART 24
PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 24.2—FREEDOM OF INFORMATION ACT

24.203 Policy.

All FOIA requests shall be coordinated through the Echelon III/IV FOIA Coordinator.

PART 25
FOREIGN ACQUISITION

SUBPART 25.1—BUY AMERICAN ACT-SUPPLIES

25.103 (DFARS) Exceptions.

(a) Public Interest.

(ii)(B)(2) Requests to the HCA shall be forwarded via the Echelon III CCO.

(b) Nonavailability.

(ii)(C) Requests to the HCA shall be forwarded via the Echelon III CCO.

SUBPART 25.2—BUY AMERICAN ACT-CONSTRUCTION MATERIALS

25.202 (NMCARS) Exceptions.

(a)(2) For nonavailability determinations, see 25.103(b)(ii) for approval authority.

SUBPART 25.75—BALANCE OF PAYMENTS PROGRAM

25.7500 (DFARS) Policy.

Before solicitation, the determinations required by DFARS 225.7500 may be made by the Echelon III Commanders. This authority may be delegated no lower than the Echelon III 09/CCO and Echelon IV 00/09/CCOs.

PART 26
(RESERVED)

PART 27
(RESERVED)

PART 28
BONDS AND INSURANCE

SUBPART 28.1—BONDS AND OTHER FINANCIAL PROTECTIONS

28.101 Bid guarantees.

28.101-1 Policy on use.

(a) Annual bid bonds are not acceptable for construction contracts.

(b) Bid guarantees are not required on sole source construction contracts.

28.101-2 Solicitation provision or contract clause.

28.101-2-100 NAVFAC provisions or contract clauses.

(a)(1) Insert the provision at 5252.228-9302, Bid Guarantee, in solicitations requiring bid guarantees. Use in addition to FAR clause 52.228-1.

(2) Use the basic provision with its Alternate I in indefinite quantity and JOC solicitations.

(3) Use the basic provision with its Alternate II in combination firm-fixed-price/indefinite quantity facilities support services solicitations.

(4) Use the basic provision with its Alternate III in requirements solicitations.

(b) Use the clause at 5252.228-9306, Performance Guarantee, in all solicitations/contracts when work will be performed at U.S. installations in Italy to allow the bidder to select which type of performance guarantee to furnish.

28.102 Performance and payment bonds and alternative payment protections for construction contracts.

28.102-1 General.

(a) Level III contracting officers may waive performance and payment bonds for work in foreign countries.

(b) For contracts over $500,000, copies of the payment and performance bonds shall be forwarded to the surety (not the agent's office) for authentication. A copy of this request to the surety shall be sent to the contractor.

(c) Alternative payment protections, other than bonds and those types of security listed in FAR 28.204-1 and 28.204-2, shall be reviewed by NAVFAC Counsel prior to inclusion in solicitations.

(d) For environmental cost reimbursement contracts, if the Echelon III/IV CCO determines that bonds are required, the Contracting Officer shall document in writing their rationale and basis for requiring bonding.

28.102-100 Performance and payment bonds for Multiple Award Contracts.

Performance and Payment Bonds for Multiple Award Contracts are only required at the time of issuance of a task order and shall not be required for the maximum value of the contract. The bonds will be based on the amount of the task order and any subsequent modifications. As an alternative, Contractors may elect to provide annual bonds.

28.102-3 Contract clauses.

28.102-3-100 NAVFAC contract clause.

(a) Use the clause at 5252.228-9305, Notice of Bonding Requirements, in firm fixed-price solicitations/contracts requiring payment and/ performance bonds.

(b) Use the basic clause with its Alternate I in indefinite quantity solicitations/contracts.

(c) Use the basic clause with its Alternate II in combination firm fixed-price/indefinite quantity solicitations/contracts.

(d) Use the basic clause with its Alternate III in requirements solicitations/contracts.

28.103 Performance and payment bonds for other than construction contracts.

28.103-1 General.

(a) Bid, performance, and payment bonds shall not be required for facilities support service contracts estimated to be awarded at less than SAT or for any contracts awarded pursuant to Section 8(a) of the Small Business Act.

(b) A written determination by the Echelon III/IV CCO is required prior to including bonds for other than construction contracts. The determination must specifically address the requirement for bonds that exceed 25 percent of the contract award amount.

28.103-2 Bonds or other security for dismantling, demolition, or removal of improvements.

Contracts for dismantling, demolition, or removal of improvements, see NFAS 37.302 for bonding requirements.

28.106 Administration.

28.106-2 Substitution of surety bonds.

A Level III contracting officer approval is required prior to substituting the original bond with a new surety bond covering all or part of the obligations on the previously approved bond.

SUBPART 28.2—SURETIES AND OTHER SECURITY FOR BONDS

28.203 Acceptability of individual sureties.

The contracting officer shall submit documentation in support of individuals proposed as sureties to NAVFAC Counsel for review prior to making a determination of acceptability.

28.203-100 NAVFAC provision.

Use the provision at 5252.228-9300, Individual Surety/Sureties, in solicitations requiring bid guarantees and performance and payment bonds.

SUBPART 28.3—INSURANCE

28.306 Insurance under fixed-price contracts.

(a) Contractors shall not be required to provide insurance coverage on government owned/furnished equipment and materials without Echelon III/IV CCO approval. This authority may not be redelegated.

(b) Contracts requiring work on government property and which include transportation or transportation related services shall specify insurance coverage as required by state and local laws or by FAR 28.307-2, whichever results in higher coverage. On a case-by- case basis, Level III contracting officers are authorized to specify higher coverage.

PART 29
TAXES

SUBPART 29.4—CONTRACT CLAUSES

29.402 Foreign contracts.

29.402-100 NAVFAC contract clauses.

(a) Use the clause at 5252.229-9302, Consumption Tax Exemption Procedures on Purchase of Goods and Services by the United States Armed Forces in Japan (Japanese Law No. 108, 1988), in solicitations/contracts when work will be performed at U.S. installations in Japan. Use this clause in addition to FAR clause 52.229-6, Taxes—Foreign Fixed-Price Contracts.

(b) (1) Use the clause at 5252.229-9304, Tax Relief, in solicitations/contracts when work will be performed at U.S. installations in Italy. Use this clause in addition to FAR clause 52.229-6, Taxes—Foreign Fixed-Price Contracts.

(2) Use Alternate I if contract performance is in Spain.

(3) Use Alternate II if contract performance is in Greece.

PART 30
(RESERVED)

PART 31
(RESERVED)

PART 32
CONTRACT COST PRINCIPLES AND PROCEDURES

SUBPART 32.1—NON-COMMERCIAL ITEM PURCHASE FINANCING

32.111 Contract clauses for non-commercial purchases.

32.111-100 NAVFAC contract clauses.

Use the clause at 5252.232-9300, Contractor Accounting System--Segregation of Costs, in solicitations/contracts when the contractor is required to segregate costs for payment.

32.112 Nonpayment of subcontractors under contracts for noncommercial items.

32.112-1 Subcontractor assertions of nonpayment.

The contract file shall contain documentation of all actions taken, results, and all efforts made by the contracting officer to facilitate the payment of subcontractors.

SUBPART 32.6—CONTRACT DEBT

32.610 Demand for payment of contract debt.

(a) Payments made as a consequence of a contract debt arising from a default termination/overpayment should only be made by check payable to the “U.S. Treasury” and forwarded to a cognizant Defense Finance and Accounting Officer.

(b) Whenever a contracting officer renders a final decision that results in a contractor being contractually indebted to the Government, the contracting officer shall simultaneously issue a demand letter to the contractor, with a copy to the ROICC/contract administration office and the appropriate finance office. The demand letter shall be issued in all such cases, irrespective of any action taken or planned by the contractor to appeal the contracting officer’s decision.

(c) Contractor requests for installments or deferments in payment should be made to the contracting officer. The recipient office shall forward requests for deferment or installments of contract debts to the Echelon III CCO. The Echelon III CCO shall submit, on a priority basis, an evaluation of the contractor’s proposal with the necessary reporting information recommendation to the appropriate Echelon II Division Director for forwarding to the Assistant Secretary of the Navy (Financial Management & Comptroller via Deputy Secretary of the Navy (Acquisition).

32.613 Deferment of collection.

Collecting delinquent contract debts is the responsibility of the DFAS-Columbus Debt Management Office (DFAS-BKRD/CC).

SUBPART 32.7—CONTRACT FUNDING

32.702 Policy.

(a) Based on the customer and project history, contracting officers may use their own discretion in requiring either a commitment of funds or actual funds in hand before issuing solicitations or RFPs for delivery/task orders or modifications. A COAR, acting within their authority, is authorized to negotiate in-scope changes for a modification under $100,000 on construction projects prior to obtaining an actual funding document or commitment of funds. The Program/Project Manager remains responsible for validation of funds availability and communicating this to the contracting officer.

(b) Except for MILCON, when making an in scope change on construction contracts in a fiscal year other than the year of award you must determine whether fiscal year funds from the year of award or current fiscal year funding can be used to finance a change to the contract. Contracting officers in concert with counsel shall provide an analysis as to whether the obligation to pay is a pre-existing duty arising out of the terms of the contract at time of award, or new/additional work that is in scope and needed by the customer for a complete and useable facility but work which may/should be paid with current year funds.

SUBPART 32.8—ASSIGNMENT OF CLAIMS

32.803 Policies.

When a payment is made under an assigned contract, the contractor shall immediately be told the date and amount of all payments.

32.805 Procedure.

(a) The contracting officer shall obtain review comments from NAVFAC Counsel on all assignment of claims.

(b) A release shall be obtained from both the assignee and the contractor prior to final payment.

SUBPART 32.11—FINAL PAYMENT

32.1100 Final payment for construction and architect-engineer contracts.

(a) If the contract payment is assigned, an assignee's release of claims (NAVFAC Form 4330/14) is required. All final vouchers shall reflect the status of liquidated damages. A contractor's final release on NAVFAC Form 4330/7 is required and shall reflect the total contract price, amounts previously paid, and the amount of the final voucher.

(b) For contracts where the contractor pays the government, NAVFAC Form 4330/7 should be modified by deleting the first seven lines and replacing it with the following:

"In consideration of the premise and the receipt of all material as set forth in the specification under the above-mentioned contract, the undersigned contractor does and by the receipt of said material shall".....

(c) The contractor shall clearly indicate the basis and amount of any claim.

(d) When a release contains an exception that the contracting officer considers acceptable, the following notation shall be placed on the release:

"Release approved by contracting officer this
_____ day of ____(Month/Year)___
_____
(signature)"

(e) To close out contracts one year after completion and acceptance of the work when the contractor fails to execute an appropriate release, the contracting officer must obtain a certification of final payment from a level above the contracting officer of the contract balance and obtain a check from the disbursing office. The check shall be mailed to the contractor, certified mail return receipt, notifying the contractor that this is final payment. Any surety should also be provided with this notification. Thirty calendar days after the return of the certified mail receipt, the contracting officer may close out the contract. If the contractor refuses to accept the certified letter or cannot be located, the check shall be returned to the disbursing office and the contracting officer may deobligate the contract balance and close out the contract.

PART 33
PROTESTS, DISPUTES, AND APPEALS

SUBPART 33.1—PROTESTS

33.102 General.

See NFAS Appendix A for reporting requirements.

33.103 (NMCARS) Protests to the agency.

All agency level protests received by any NAVFAC contracting office shall be subject to administrative review.

(a) Protests received on solicitations advertised at Echelon IV field contracting activities (i.e. FEADs/ROICCs, IPTs) shall be reviewed by the cognizant Echelon IV CCO.

(b) Protests received on solicitations advertised by Echelon IV contracting activities shall be reviewed by the cognizant Echelon III CCO.

(c) Protests received on solicitations advertised by Echelon III activities shall be referred to the appropriate Echelon II Division Director for review.

33.104 (NMCARS) Protests to GAO.

All GAO protests will be reviewed and coordinated with the appropriate Echelon II Division Director and NAVFAC HQ Counsel via the Echelon III CCO.

33.170 (NMCARS) Briefing requirement for protested acquisitions valued at $1 billion or more.

Echelon III/IV CCOs shall submit the notice to the appropriate Echelon II Acquisition Division Director via the Echelon III CCO prior to submitting the report to DASN(AP) not later than 3 days after receipt of the protest.

SUBPART 33.2—DISPUTES AND APPEALS

33.211 Contracting officer's decision.

(a) Personnel who, at the request of NAVFAC Counsel, prepare memoranda or notes concerning a claim shall place a legend on each page as follows:

> "ATTORNEY-CLIENT PRIVILEGE FOR OFFICIAL USE ONLY: This document is prepared for use by government or attorneys in connection with a contractor's claim. It is not to be released outside the government or to government personnel not having a need to know."

(b) A log shall be maintained of all Final Decisions issued.

(c) See NFAS Appendix A for reporting requirements.

33.214 Alternative dispute resolution (ADR).

(a) NAVFAC encourages ADR as a means of resolving disputes. Echelon III activities shall establish appropriate procedures for their utilization.

(b) See NFAS Appendix A for reporting requirements.

33.214-100 Disputes resolution board (DRB).

The Board shall be chaired by a representative from the contracts office and have at least one technical and one legal representative.

33.2100 Remand by NAVFAC for settlement by negotiation.

(a) A memorandum of negotiations shall be prepared to support a negotiated settlement.

(b) If a settlement cannot be reached, a report shall be prepared setting forth-specific reasons why an agreement could not be reached and the claim package returned to the appropriate Echelon II Division Director.

(c) See NFAS Appendix A for reporting requirements.

SUBPART 33.90—PROCEDURES (NMCARS)

33.9001 Claims approval requirements.

(a) Proposed claim settlements and final decisions of the contracting officer shall be reviewed and approved—

(1) For claims less than $1,000,000 by a Level III contracting officer with in house NAVFAC Counsel support.

(2) For claims between $1,000,000 and $5,000,000 by an Echelon III Level III contracting officer with in house NAVFAC Counsel support.

(3) For claims over $5,000,000, by the appropriate Echelon II Division Director.

(b) For claims over $5,000,000, the CCO shall:

(1) Notify the appropriate Echelon II Division Director within 10 days of receipt. Include the target date for submission of the claim package to the appropriate Echelon II Division Director and the projected final decision date. The projected final decision date shall include 90 days for the appropriate Echelon II Division Director review and approval.

(2) Notify the contractor of the projected final decision date within 30 days of claim receipt. The CCO shall notify the contractor, giving reasons for any changes to the original projected date. The CCO shall provide copies of these letters to the appropriate Echelon II Division Director.

(3) Submit the claim package, including a draft final decision, to the appropriate Echelon II Division Director via the Echelon III Commander.

PART 34
(RESERVED)

PART 35
(RESERVED)

PART 36
CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

SUBPART 36.2—SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

36.201 (FAR/DFARS) Evaluation of contractor performance.

See NFAS 42.1503 for general guidance on preparation and distribution of construction contractor performance evaluations.

36.202 Construction Specification Institute (CSI) format.

Contracts for construction shall be prepared in the CSI format. Document Sections (00xxx) contain the contractual requirements and General Requirements Sections (01xxx) contain the administrative requirements.

36.205 Statutory cost limitations.

When more than one project is included in a single contract, and the estimated cost of the contract is over the current statutory cost limitation for unspecified minor construction (less estimated SIOH), the solicitation documents shall require the projects to be separately priced and contain a certification that the price for each project includes an approximate apportionment of all estimated direct cost, allocable indirect costs, and profit. The solicitation must state the applicable cost limitation for each affected item in a separate schedule.

36.213 Special procedures for sealed bidding in construction contracting.

36.213-3 Invitations for bids.

36.213-3-101 Budgeted amount.

For construction of family housing projects, the solicitation shall contain the budgeted amount.

36.213-70 (DFARS) Additive or deductive items.

A Level III contracting officer's approval is required prior to issuing a solicitation including more than four additive bid items.

36.215 Special procedure for cost-reimbursement contracts for construction.

For guidance, see NAVFAC P-398, Cost Reimbursement Construction Contract Manual.

36.2100 Environmental remedial action contracts.

For guidance, see Environmental Cost Reimbursement Contract Manual P-1160.

36.2101 [Removed and Reserved]

36.2102 Non-appropriated funded (NAF) contracts.

(a) Requests to waive FAR procedures for solicitations funded from non-appropriated sources shall be approved by the Echelon III/IV Commander. This authority may be redelegated no lower than the Echelon III/IV CCO. Each request must identify the FAR provisions to be waived, the criteria to be used to select firms who will be given the opportunity to submit bids or proposals if other than full and open competition is to be used and the rationale why the identified waivers from the FAR make prudent business sense. All documentation related to each approved request shall be retained in the contract file.

(b) If combining appropriated and non-appropriated funding under one solicitation/contract, FAR provisions cannot be waived.

(c) Any firm that may seek to compete for NAF work, even if not initially provided a solicitation, must be given an opportunity to participate.

SUBPART 36.3—TWO-PHASE DESIGN-BUILD SELECTION PROCEDURES

36.303-1-100 Phase One.

The number and identity of the most highly qualified offerors selected to submit phase-two proposals are considered "Source Selection Information" as defined in FAR 2.101, and shall only be disclosed to persons specifically granted access to source selection sensitive information.

SUBPART 36.5—CONTRACT CLAUSES

36.5100 NAVFAC provision and contract clauses.

(a) Use the clause at 5252.236-9301, Special Working Conditions and Entry to Work Area, in solicitations/contracts for construction work to be performed in and around secured areas or ammunition depots and magazines.

(b) Use the clause at 5252.236-9303, Accident Prevention, in all solicitations/ contracts for construction and dismantling, demolition or removal of improvements. Use this clause in addition to FAR clause 52.236-13, Accident Prevention.

(c) Use the clause at 5252.236-9304, Utilities for Construction and Testing, in lieu of FAR clause 52.236-14, Availability and Use of Utility Services, in fixed-price solicitations/contracts for construction, dismantling, demolition or removal of improvements when utilities are to be contractor-furnished.

(d) Use the clause at 5252.236-9305, Availability of Utilities, in all fixed-price solicitations/contracts for construction and dismantling, demolition or removal of improvements that include FAR clause 52.236-14.

(e) Use the provision at 5252.236-9308, Information Concerning Cost Limitations, in solicitations when the provision at DFARS 252.236-7006 is used.

(f) (1) Use the clause at 5252.236-9310, Record Drawings, or its alternate as appropriate in solicitations/contracts when record drawings are required.

(2) Use the clause with its Alternate I when as-built drawings are not required.

(3) Use the clause with Alternate II as appropriate in Design-Build solicitations/contracts when record drawings are required.

(g) Use the clause at 5252.236-9312, Design-Build Contract Order of Precedence, as required in solicitations/contracts.

(h) Use the DFARS Clause 252.236-7003 or 252.236-7004 as required for solicitations/contracts that use a separate bid item for mobilization and preparatory work.

(i) Use the clause at 5252.236-9313, Design-Build Contract - Incorporation of Designer-of-Record Final Design, in all design-build solicitations/contracts. The clause allows for either a single Designer of Record (DOR) signed and stamped final design submission to be submitted by the Contractor or, for fast track design-build, DOR signed and stamped design submissions for definable portions of the work. Fast track design-build allows the Contractor to submit a Designer of Record (DOR) signed and stamped design submission for a portion of the work and then to proceed with that work prior to completion of the remainder of the design.

SUBPART 36.6—ARCHITECT-ENGINEER SERVICES

36.601 Policy.

36.601-3 Applicable contracting procedures.

36.601-3-100 Indefinite quantity architect-engineer contracts.

(a) See NFAS 17.202-102 for use of options/phases.

(b) Contracts shall be restricted to small projects requiring similar types of work. Projects under these contracts shall be restricted to the locations designated in the contracts. Parallel contracts for the same services shall not be used except when using multiple award contract procedures.

(c) Multiple award contracts may not be established for Architect-Engineer services without Echelon II Division Director approval. Contract task order requirements must be competed using a streamlined “Brooks Act” source selection process. Once a multiple award contract is awarded, any decision not to compete a task order requirement must be approved by the established task order ‘Ombudsman’. See NFAS 16.505(c).

(d) The contract term shall not exceed five years, including options. The Contracting Officer shall make the requisite pre-award and post-award determinations required by FAR 17.205 and FAR 17.207. See NFAS 17.202-102.

(e) The contract amount is the maximum "Not to exceed" amount.

(f) The total estimated dollar value of the contract, including any option year, shall be used as the threshold for certified cost or pricing data, field pricing reports (DCAA audit) and business clearance approval requirements.

(g) Prepriced options for construction support may be included in task orders, but the exercise period shall not exceed eighteen months from final design without Echelon III/IV CCO approval. This approval authority may not be redelegated.

(h) See NAVFAC P-1160, Environmental Cost Reimbursement Manual, for guidance on environmental cost reimbursement contracts.

36.602 Selection of firms for architect-engineer contracts.

36.602-1 Selection criteria.

The architect engineer firm's experience in sustainable design and their quality control program shall be evaluated during selection.

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36.602-2 Evaluation boards.

(a) Engineers/Architects serving on boards shall be registered professionals unless the Echelon III/IV Commander/Commanding Officer grants a waiver. NAVFAC engineers and architects appointed as members of a board performing A/E evaluations must comply with the requirements outlined in NAVFACINST 3540.1C, dated 29 February 2012. Contracting officers shall not appoint NAVFAC Engineers/Architects as board members unless they are licensed or have been granted a waiver by the appropriate authority. All NAVFAC members of the board shall have successfully completed CTC 466. The licensing requirements for the chairperson shall not be waived. In those cases of board members who are outside of NAVFAC, their equivalent training will be approved by the CCO on a case-by-case basis.

(b) Chairpersons shall have experience serving on A-E selection boards and shall have been briefed by the contracting officer and NAVFAC Counsel concerning procurement rules and ethics.

36.602-3 Evaluation board recommendations.

Board recommendations are considered source selection information and should be safeguarded from unauthorized disclosure.

36.602-4 Selection authority.

Whenever the estimated total contract value exceeds $30,000,000, slate/selection board reports shall be forwarded via the Echelon III/IV CCO to the appropriate Echelon II Division Director for approval. When the total contract value is under $30,000,000, contracting officers with appropriate warrant authority shall approve such reports in accordance with Echelon III/IV procedures.

36.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

Contracting officers are authorized to use the short selection processes described in FAR Subpart 36.602-5. Firms shall be identified and evaluated exclusively from SF 330's submitted or currently on file.

36.604 Performance evaluation.

See NFAS 42.1503 for guidance on the preparation and distribution of performance evaluation reports.

36.605 Government cost estimate for architect-engineer work.

The independent government estimate shall be provided to the contracting officer prior to receipt of a firm's proposal.

36.606 Negotiations.

A firm shall be requested to provide as part of their proposal separate prices for preparation of plans and specifications and for engineering services.

36.607 Release of information on firm selection.

See U.S. Code 10, Sec. 2807 for clearance requirements for 2807 Notification for MILCON and Family Housing projects.

36.608 Liability for Government costs resulting from design errors or deficiencies.

(a) Whenever there is a modification to a construction contract resulting from a design deficiency in plans or specifications, the contracting officer shall make a written determination of the extent to which the architect-engineer firm may be responsible for such design deficiency and whether any increased costs resulting from such design deficiency shall be assessed against the architect-engineer firm. The determination and subsequent action shall be documented in the contract file.

(b) Where possible architect-engineer liability is not pursued, the contracting officer's reasons supporting this decision shall be documented in the contract file.

(c) If the architect-engineer firm and the construction contractor directly negotiate additional compensation for the additional work performed by the contractor, a

modification may be issued by the contracting officer to extend the time for contract completion under the construction contract.

36.609 Contract clauses.

36.609-100 NAVFAC contract clauses.

(a) Use the clause at 5252.236-9300, Limitations on Authority of Architect-Engineer, in architect-engineer solicitations/contracts that require post construction award services. This clause shall be used in addition to the clause at DFARS 252.236-7009.

(b) Use the clause at 5252.236-9302, Architect-Engineer Contracts for Consultation and Advice, in all architect-engineer solicitations/contracts that require consultation services during construction.

(c) Use the clause at 5252.236-9307, Drawings Prepared by an Architect-Engineer, in architect-engineer solicitations/contracts to be performed outside the United States.

(d) Use the clause at 5252.236-9309, Key Personnel, in architect-engineer solicitations/contracts when contractor personnel are key for performance of the contract and/or were a factor in the selection process.

36.6100 Inspection services.

(a) General construction inspection services by the architect-engineer firm are only permitted when all the general inspection required for the job is procured through contract; however, specialty inspection services that require specialized knowledge/experience/skills may be obtained by contract even when the general inspection services are not.

(b) Inspectors may be used to check contractor compliance with labor standards provisions provided such duties are restricted to checking and making reports to the contracting officer.

(c) For environmental CLEAN contracts, the inspection services may be compensated through a cost reimbursement contract.

PART 37
SERVICE CONTRACTS

SUBPART 37.1—SERVICE CONTRACTS—GENERAL
37.104 (DFARS) Personal service contracts.

The determination to acquire a personal services contract for expert and consultant services shall be reviewed by NAVFAC Counsel and approved by a contracting officer one level above the contracting officer executing the action.

37.170 (DFARS) Approval of Contracts and Task Orders for Services.

37.170-2 (NMCARS) Approval Requirements. The MOPAS Acquisition Strategy document for a contract or task order for acquisition of services that are **NOT** performance based shall be reviewed and approved as follows:

NON-PERFORMANCE BASED SERVICES*

Total Planned Dollar Value	Acquisition Review	Approval
SAT up to $5M	Level above PCO	Echelon III/IV CCO
>$5M up to $85.5M	Echelon III CCO	HCA Dir of ACQ/Deputy
>**$85.5M	HCA Dir of ACQ/Deputy	DASN(AP)

***Note: This section does not apply to A&E services.
**The MOPAS Acquisition Strategy document for a non-performance based contract/task order in excess of $85.5M shall be submitted to the cognizant Echelon II Acquisition Division Director for review/endorsement.

37.170-100 Labor Rates and Performance. Cost Reimbursement, Time and Material or Labor Hour contracts for knowledge based services.
For cost-reimbursable, time and material, (T&M) or labor hour (LH) contracts for knowledge based services, the following actions are required:

(a) Prior to Award: Knowledge based services with fully burdened hourly rates in excess of $111/hour* per individual (in any labor category) should be fully discussed in the business decision documentation. The documentation for all contracts/task orders shall outline the reasoning by the acquisition team (technical and acquisition) for moving forward with these salaries. For pre-award actions, both the BCM and SSA Best Value Determination memorandum shall specifically cite salaries in excess of the threshold and the rationale for why these rates are considered fair and reasonable. The CCO shall be notified prior to award and will maintain a log for reporting purposes.

(b) Post Award: The Contracting Officer's Representative (COR) will monitor monthly invoices and contractor reports and will notify, via email, the PCO and Business Line Coordinator for Echelon IV, Business Line Manager for Echelon III) of all fully burdened labor charges in any labor category in excess of $111/hour* which were not originally specified at award. The COR will also document this information in the applicable monthly report.

*Current hourly rate for aggregate limit on pay, per 2012 Pay Schedules, per Office of Personnel Management Transmittal CPM 2011-21. Please refer to current year OPM transmittal for aggregate pay limits, available at http://www.chcoc.gov/transmittals/index.aspx

SUBPART 37.2—ADVISORY AND ASSISTANCE SERVICES

37.203 Policy.

37.203-100 Required approval.

Prior to contracting for Advisory and Assistance Services, approval shall be obtained from Echelon II NAVFAC Financial Management Proponent.

37.204 (NMCARS) Guidelines for determining availability of personnel.

A Determination and Findings that personnel with the required training and capabilities are not readily available within the agency or other Federal agencies (as defined by FAR 2.101) to conduct evaluations or analysis of proposals for an initial contract award shall be approved by the Assistant Commander for Acquisition via the appropriate Division Director. This D&F is required for the use of any third-party personnel to conduct evaluations or analysis of proposals through a contract or any other means, whether paid or unpaid.

SUBPART 37.3—DISMANTLING, DEMOLITION OR REMOVAL OF IMPROVEMENTS

37.302 Bonds or other security.

(a) A contract for demolition or timber cutting to clear an area to permit new construction shall include Miller Act bonds. However, if the demolition is part of an environmental cost-reimbursement contract, Miller Act bonds are not required.

(b) Bid security shall be 20 percent of the estimated cost of demolition, exclusive of salvage.

(c) A performance bond shall be required in a minimum amount of 50 percent of the estimated cost of demolition, exclusive of salvage.

SUBPART 37.5—MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

37.504 Contracting Officer's Responsibilities.

(a) The Department of Navy Management and Oversight Process for the Acquisition of Services (Revised) (MOPAS 2) policy ensures that service acquisitions are, to the maximum extent possible, based on clear, performance based requirements. In addition, MOPAS 2 will ensure that required outcomes are identified and measurable, properly planned, and administered to achieve the intended results.

(b) For all service acquisitions over the SAT, including task orders, a written MOPAS Acquisition Strategy document shall be prepared after market research is conducted. Exception: Pre-priced task orders under NAVFAC single award IDIQ contracts do not require a MOPAS document. Review and approval of the MOPAS Acquisition Strategy document for performance based service acquisitions is delegated as follows:

***PERFORMANCE BASED AND NON-PERFORMANCE BASED A-E SERVICES**

Total Planned Dollar Value	Requirements Review	Acquisition Strategy Review	Decision Authority/Approval
> SAT up to & incl $30M	Requiring Activity	PCO	Level above PCO
> $30M up to & incl $100M	Requiring Activity	Level above PCO	Echelon III/IV CCO
> $100M up to & incl $1B	Requiring Activity	**Asst CDR for ACQ/Deputy Director	DASN(AP)
> $1B or ASN(RDA) Special Interest	Budget Submitting Office	DASN(AP)	ASN(RDA)
AT&L Special Interest	Budget Submitting Office	ASN(RDA)	USD(AT&L)

*****Note: Review and approval for Non-Performance Based Services shall be in accordance with NFAS 37.170-2 with the exception of A-E services, for which the above approval matrix applies.

******MOPAS Acquisition Strategy documents submitted by Echelon IV to Echelon II do not require review/approval by Echelon III.

(c) MOPAS 2 does not apply to contracts for construction or for utility contracts providing natural gas, electricity, water and wastewater treatment processing at other than Government owned generation, production or treatment facilities. Similarly, MOPAS 2 does not apply to contracts for the provision of energy conservation services using Energy Savings Performance Contracts or Utility Energy Service Contracts. However, market research and acquisition planning must be performed and documented for all requirements.

(d) An Acquisition Plan is not required when a MOPAS 2 Acquisition Strategy document is approved for a service acquisition.

SUBPART 37.100—FACILITIES SUPPORT CONTRACTING

37.1000 Contract format.

All facility support contract actions in excess of $25,000 must utilize NAVFAC's FSC/BOS Template as applicable. The Contracting Officer should consult with the cognizant Public Works Business Line Point of Contact to ensure strict compliance with Template guidance and, if applicable, ensure any waivers have been requested and approved prior to accepting the Performance Work Statement.

37.1001 Schedule of deductions.

(a) For firm fixed-price contracts and combination firm fixed-price/indefinite quantity contracts, the solicitation will usually require the contractor to submit a schedule of deductions. If required, the contractor will not be permitted to commence work until the schedule has been approved. If the fixed-price portion of the work is broken down into contract line items in the firm fixed-price schedule in sufficient detail to permit deductions to the contract, a schedule of deductions will not be required.

(b) For indefinite quantity contracts, solicitations shall state that unit prices provided by the successful offeror will be utilized as the basis of deductions pursuant to the clause at 5252.246-9303, Consequences of Contractor's Failure to Perform Required Services.

37.1002 Evaluation of contractor performance.

See NFAS 42.1503 for guidance on the preparation and distribution of performance evaluation reports.

37.1003 Solicitation provision and contract clauses.

(a) Use the clause at 5252.237-9300, Schedule of Deductions; in all facilities support services solicitations/contracts.

(b) Use the clause at 5252.237-9301, Substitutions of Key Personnel in all facilities support solicitations/contracts when a fixed price contract is contemplated and personnel are key to performance of the contract and/or were a factor in the selection process.

(c) Use the provision at 5252.237-9302, Site Visit, in all facilities support solicitations. This provision is to be used in addition to FAR provision 52.237-1.

SUBPART 37.101—FORESTRY CONTRACTING

37.1010 Policy.

(a) *Service contracts*. Reforestation, timber stand improvement, or fire prevention shall be accomplished in accordance with the provisions of NFAS Subpart 37.100.

(b) *Timber sale contracts*. Sale contracts shall be accomplished in accordance with applicable provisions of Federal Property Management Regulations (FPMR (41 CFR) 101-45.3).

(c) Sales and service-type work shall not be combined under one contract, but shall be accomplished by separate contracts.

SUBPART 37.3100—DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS

37.3100 NAVFAC policy.

(a) No demolition contract shall be executed until the requiring activity has complied with the requirements of Federal Property Management Regulation (41 CFR 101-47) and SECNAVINST 11011.47.

(b) The Uniform Contract Format (UCF) will be utilized for contracts solely for dismantling, demolition, or removal of improvements and the CSI format utilized for contracts with follow-on construction.

(c) When payment is made to the government, the payment check and a conformed copy of the contract shall be transmitted to the local disbursing officer as promptly as possible. The contracting officer shall request the disbursing officer to hold the check in a suspense account until such time as the contracting officer is certain that no modifications to the contract that result in a refund to the contractor will be required.

PART 38
(RESERVED)

PART 39
ACQUISITION OF INFORMATION TECHNOLOGY

39.002 Definitions.

"Information technology" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. This includes computers, ancillary equipment, software firmware and similar procedures, services (including support services), and related resources.

An "information system" is a combination of elements that shall function together to produce the capabilities required to fulfill a mission need, including hardware, ancillary equipment, software or any combination thereof, but excluding construction or other improvements to real property.

SUBPART 39.1—GENERAL

39.101 Policy.

(a) Echelon III/IV 00/09 are delegated authority to procure information technology resources up to the SAT level. This authority may be redelegated to no more than three (3) designated individuals at the Contracting Core level.

(b) NAVFAC Atlantic and Pacific Commanders may request a waiver on a case-by-case basis for increased IT procurement authority. The waiver may be requested via the cognizant HQ Division Director for approval by the Assistant Commander for Acquisition.

(c) Naval Facilities Engineering and Expeditionary Warfare Center (EXWC) has unlimited authority to procure IT resources. EXWC must still seek review and approval in accordance with NFAS 1.690. The approval levels at NFAS 1.690 are not redelegable.

(d) Only contracting officers having specific IT procurement authority designated on their warrant shall procure IT resources.

(e) NAVFAC Headquarters Information System (IS) approval is still required for information technology acquisitions unless the information system is classified as construction or other improvements to real property (i.e., computer hardware and software used to control HVAC systems, building security, fire protection applications and the installation of data lines).

PART 40
(RESERVED)

PART 41
ACQUISITION OF UTILITY SERVICES

SUBPART 41.1—GENERAL

41.102 Applicability.

(a) *Rubbish removal/trash collection.*

(1) The collection and removal of garbage, trash and rubbish are typically considered to be service type requirements. However, where this service is regulated and the rates charged customers and the wages paid employees are controlled by a governmental body, the federal government contracts with a local governmental body to provide the service and there is no opportunity to compete this requirement, it may be considered a utility service.

(2) In such circumstances where considered a utility, the services are exempt from the Service Contract Act (SCA) provisions.

(3) If the service is controlled and provided by a governmental body through a franchised or similar mechanism to restrict who may perform the service and the federal government must contract with only authorized providers, the service is exempt from the SCA provisions.

(4) If the service is provided by municipal workers, the SCA wage rates should be those rates set by the governmental body as part of their regular pay plan. Therefore, a unique wage determination should be requested from the Department of Labor to incorporate the governmental body's wage rates.

(b) *Miscellaneous community services*. Military activities located within corporate or geographical limits of governmental units are entitled to the same community services that are provided to the public generally without charge when such services are supported by taxation. These services may include fire and police protection, snow removal, street cleaning or other miscellaneous community type services. However, if these services are furnished to the public on a contractual basis, or are provided the military activity outside the corporate limits, they may be obtained by contract on a reimbursable basis. All questions concerning the propriety of obtaining these type services by contract should be coordinated with NAVFAC Counsel or coordinated with the NAVFAC Acquisition Proponent.

(c) *Sale of utility service to private parties.* NAVFAC contracting officers are authorized to execute contracts for the sale of utility services to private parties authorized by NAVCOMPT Manual 035875 and prevailing policy governing these actions. NAVFAC Form 4330/16, Utility Sales Contract, may be used as appropriate.

(d) Notwithstanding the prohibition of obtaining community services by contract from governmental units, military installations subject to base closure may be eligible for certain types of services under cooperative agreements. NAVFAC Acquisition Proponent should be contacted for information concerning special rules affecting bases to be closed.

41.103 Statutory and delegated authority.

(a) Echelon III Commanders/Echelon IV Commanding Officers have been delegated authority to contract for utility services for terms up to 10 years in accordance with the authority delegated to the Department of Defense by GSA in accordance with 40 U.S.C. 501.

(b) 10 U.S.C 2913 as implemented by the Secretary authorizes military departments to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation.

Further the Secretary of Defense may authorize any military installation to accept any financial incentive, goods, or services generally available from a gas or electric utility, to adopt technologies and practices that the Secretary determines are in the interests of the United States and consistent with the energy performance goals for the Department of Defense.

However this authority to enter agreements or accept incentives, goods or services does not preclude the requirement to seek competition if appropriated funds are to be expended to study, design or implement energy conservation measures. The authority provided by the statute in and of itself does not justify or permit entering into a sole source contract with the utility. Each proposed non-competitive award must be publicly announced in accordance with FAR 5.207 and if appropriate subsequently supported with a J&A prepared in accordance with the requirements of FAR Part 6.3.

Further any resulting Utility Energy Service Contracts (UESC) are NOT utility contracts but must contain those clauses normally included in contracts for construction or services as appropriate.

While GSA permits UESC actions to be awarded on their area wide utility agreements, as a matter of policy, all NAVFAC actions shall be awarded as stand alone actions in order to accommodate requirements to properly report this work and distinguish it from true utility type requirements.

(c) 42 U.S.C. 8287, as modified by the Energy Policy Act of 1992, authorizes energy savings contracts with terms up to 25 years.

SUBPART 41.2—ACQUIRING UTILITY SERVICES

41.201 Policy.

(a) *Energy Savings Performance Contracts.*

(1) The Naval Facilities Engineering and Expeditionary Warfare Center (EXWC) at Pt. Hueneme, CA is the only NAVFAC contracting office currently authorized to award Energy Savings Performance Contracts authorized by 42 U.S.C. 8287 as modified by the Energy Policy Act of 1992.

(2) These special authorities are not yet incorporated in the FAR and rules governing the application and use of these special authorities are found in various Executive Orders, Department of Energy final rules, and other assorted instructions and documents. Questions concerning use of these special authorities should be directed to EXWC or NAVFAC Acquisition Proponent.

(3) Use of Department of Energy area-wide Energy Savings Performance Contracts are subject to the procedures governing the Economy Act transfers outside the Department of Defense.

(4) Frequently, contracts awarded subject to these special authorities do not specify a contract value. For the purposes of establishing approval thresholds, the estimated value of the maximum capital investment shall be used to determine the appropriate approval authority.

(b) *Existing contracts*. Actions to correct existing contracts which may not now be considered inappropriate for award under the provisions of FAR Part 41 (i.e., trash collection, cable television, telecommunication services, etc.) are left to the discretion and judgment of the cognizant contracting officer. Contracting officers should coordinate closely all new contract actions with NAVFAC Counsel to assure new awards are consistent with current law and regulation.

(c) *Contract modifications*. Proposed modifications to existing contracts to reduce utility costs by establishing reduced rates (not subject to regulation) or alternate terms and conditions are subject to the same review and approval thresholds as are any other contract action having a similar value. In those situations where the contract has no

fixed term (indefinite term utility contracts), the term shall be considered to be five years for purposes of establishing the contract value for determining review and approval thresholds. Proposed modifications which change regulated rates are not subject to any review and approval beyond that locally established.

(d) *Advance payments.* Any requirement to include provisions for advance payments in a utility contract shall be referred to the NAVFAC Acquisition Proponent. Each request shall document that no other means of financing is available and all attempts to negotiate other payment terms were unsuccessful.

41.202 Procedures.

(a) Procurement of utility services, particularly electricity, is significantly affected by state law and regulation. Contracting officers are responsible for maintaining an awareness of local regulations governing the acquisition of utility services and the feasibility of competing utility requirements as state laws are changed and utilities become deregulated.

(b) A J&A should be available supporting each contract awarded without competition. Where utility services are procured under an indefinite term agreement, a new J&A should be prepared annually.

SUBPART 41.4—ADMINISTRATION

41.401 Monthly and annual review.

Upon completion of the annual review, the contracting officer shall make a written determination that the rates are fair and reasonable for the type of service provided.

41.4100 Contract records.

(a) The contracting officer shall maintain a record of all utility contracts to include contract number, name of contractor, activity served, type of service and other pertinent information relating to the characteristics of the service and the circumstances under which it is furnished. This record should also contain:

(1) monthly records of billing data for accounts over $25,000 per year abstracted from invoices;

(2) a complete current inventory of all company-owned facilities and equipment installed at each activity; and

(3) a current file of the rates, rules, and regulations under which service is furnished to the public by the various contractors, including abstracts of special contracts with industrial or other customers.

(b) The using activity shall be instructed to submit annually to the EFD a tabulation of the billing data including units of consumption and the amount of billings for all accounts $25,000 or less per year.

(c) Records of outages, their duration and cause, meter tests, changes, and adjustments should be maintained until all required contract administrative actions have been completed and the final payment made.

(d) See NFAS Appendix A for reporting requirements.

PART 42
CONTRACT ADMINISTRATION AND AUDIT SERVICES

SUBPART 42.2—ASSIGNMENT OF CONTRACT ADMINISTRATION

42.202 Assignment of contract administration.

(a) Delegating functions. Cognizant PCO's shall, when appropriate, formally delegate in writing to a Contract Administration Office (CAO), i.e. FEAD, ROICC, IPT or DCMA, specific contract administration functions or specialized support services, as outlined in and in accordance with FAR 42.302 and DFARS 242.302. The delegation shall include all the specific information listed at FAR 42.202(b) through (f). The delegation should outline all specific or additional functions or services delegated and shall also include any functions or services that are not delegated to the CAO and retained by the PCO.

(b) Special instructions. As necessary, the contracting officer also shall advise the contractor (and other activities as appropriate) in writing of contract administration delegated to a CAO and any functions withheld from or additional functions delegated to the CAO.

42.202-100 Contracting officers' representatives.

See Part 1.602-2 for appointment and responsibilities of CORs, COARs, NTRs and Ordering Officers.

SUBPART 42.5—POSTAWARD ORIENTATION
42.570 (DFARS) Contract clauses.

42.570-100 NAVFAC contract clauses.

(a) Use the clause at 5252.242-9300, Government Representatives, in all solicitations/contracts. Use this clause in addition to DFARS clause 252.201-7000, Contracting Officer's Representative.

(b) Use the clause at 5252.242-9305 Pre-Performance Conference, in all solicitations/contracts requiring a pre-performance conference.

SUBPART 42.12—NOVATION AND CHANGE-OF-NAME AGREEMENT

42.1202 Responsibility for executing agreements.

If the novation agreement affects contracts other than those of the activity, the documentation shall be forwarded to the Echelon III/IV CCO or the appropriate Echelon II Division Director, as appropriate, for action.

SUBPART 42.15—CONTRACTOR PERFORMANCE INFORMATION

42.1503 Procedures.

42.1503-100 Preparation and use of contractor performance evaluation reports.

(a) **General**. Performance evaluation reports shall be prepared for all A-E, Construction, Facility Support Services, Service and Information Technology (IT), and other contracts/contract actions meeting the award amount thresholds and other requirements specified herein:

Summary of Award Amount Thresholds at Which Performance Evaluations are Required

$30,000 and above	A-E (all terminations for default regardless of dollar amount)
$650,000 and above	Construction (all terminations for default regardless of dollar amount)
Above $1,000,000	Facility Support Services, Service and IT (all terminations for default regardless of dollar amount)
Above SAT	All other contracts

For IDIQ contracts and BPAs, an evaluation shall be completed for each order that meets the reporting threshold. Orders that are under the threshold may be consolidated and reported annually.

Unless otherwise stated, performance evaluations shall be initiated promptly upon the completion of work, at the end of an evaluation period, or when the need to initiate an evaluation is identified. Evaluation reports shall be completed and finalized in the system within 120 days from completion or evaluation period.

Contractor Performance Evaluation Report Entry Systems

ACASS - Architect-Engineer Contract Administration Support System
CCASS - Construction Contractor Appraisal Support System
CPARS - Contractor Performance Assessment Reporting System

After Contractor performance evaluations are prepared and completed in ACASS, CCASS and CPARS, they are placed in the Federal Government's Past Performance Information Retrieval System (PPIRS) for use by contract specialist and source selection officials when considering contractors for award of new contracts.

All contracts/contract actions that meet these requirements shall include the following statement in the solicitation:

"Contractor's performance will be evaluated using the respective contractor performance evaluation report entry system located on the website http://www.cpars.csd.disa.mil/. Prior to commencement of work the contractor is required to provide the government with the name, phone number and e-mail address of the "Contractor's Representative" that will be responsible for receipt and review of draft performance evaluations prepared by the government in the appropriate system. It is the contractor's responsibility to keep this contact information current."

(b) **Architect-Engineer Contracts**.

(1) For all Architect-Engineer (A-E) contracts and task/delivery orders meeting thresholds in (a) above, register the contract action in ACASS and prepare a final performance evaluation in ACASS at completion of the service. For Design Build construction contracts see requirements under Construction Contracts below.

(2) For all A-E contracts, task/delivery orders terminated for default, regardless of dollar amount, prepare a final performance evaluation in ACASS.

(3) For A-E contractors that are designers of record for construction contracts, prepare two final evaluations in ACASS for the A-E's performance. One final evaluation at the completion of the design contract and one final evaluation for the A-E's performance of construction contract support services at the completion of the construction contract.

(4) Prepare interim evaluations at any point during the term of the contract if overall performance is unsatisfactory or as necessary to bring attention to problem performance. If the term of the contract is for 18 months or more, prepare an interim evaluation at the mid-way point. Interim evaluations are superseded by the next interim or final evaluation. For record purposes, the preparer is required to summarize in the new evaluation the content of any previous evaluation being superseded. This includes summarizing any comments provided by the contractor and the government.

(c) **Construction Contracts**.

(1) For all construction contracts and task/delivery orders meeting thresholds in (a) above, register the contract action in CCASS and prepare a final evaluation upon completion.

(2) Prepare interim evaluations at any point during the term of the contract if overall performance is unsatisfactory or if necessary to bring attention to problem performance. If the term of the contract is for two or more years, prepare an interim evaluation at the mid-way point. Interim evaluations are superseded by the next interim or final evaluation. For record purposes, the preparer is required to summarize in the new evaluation the content of any previous evaluation being superseded. This includes summarizing any comments provided by the contractor and the government.

(3) Prepare amended final evaluations (done after final evaluation if necessary to document closeout, warranty or other issues), if any. For record purposes, the preparer is required to summarize in the new evaluation the content of any previous evaluation being superseded. This includes summarizing any comments provided by the contractor and the government.

(4) For all construction contracts, task/delivery orders terminated for default, regardless of dollar amount, prepare a final evaluation in CCASS.

(5) For Design Build construction contracts, a brief evaluation of the A-E's performance shall be provided in the remarks section of the construction contractor's final CCASS performance evaluation. This information is to be provided by the NAVFAC office responsible for design review.

(6) See paragraph (b)(3) above for requirements on preparing a performance evaluation on construction contract support services provided by an A-E.

(7) Completed final evaluations are due within 60 days after the Beneficial Occupancy Date (BOD).

(d) **Facilities Support Service, Service, and Information Technology Contracts.**

(1) For all contracts and task/delivery orders for Facility Support Service, Service and Information Technology contracts meeting the thresholds in (a) above, prepare performance evaluations in CPARS.

(2) Prepare an initial CPAR that reflects an evaluation of at least the first 180 days of performance under the contract. This initial evaluation shall be prepared and forwarded to the contractor within 30 days after this first time period.

(3) Prepare intermediate evaluations for each 12 month period after initial evaluation and up to final report.

(4) Each performance evaluation, including any interim or intermediate evaluations, stands alone and is for a specific period of time. Completed evaluations remains in the CPARS and PPIRS databases for three years for official use.

(5) For all contracts, task/delivery orders terminated for default, regardless of dollar amount, prepare a final performance evaluation in CPARS.

PART 43
CONTRACT MODIFICATIONS

SUBPART 43.1—GENERAL

43.102 Policy.

43.102-100 Execution of modifications.

(a) *General*.

(1) Bilateral modifications shall not be executed by the government until after execution by the contractor. If the contractor places conditions on the modification, a written reply shall immediately be sent to the contractor stating that the government will not execute the modification as returned and will treat it as null and void.

(2) All firm fixed price supplemental agreements shall include the following statement unless waived by the Echelon III/IV CCO:

> "Acceptance of this modification by the contractor constitutes an accord and satisfaction and represents payment in full for both time and money and for any and all costs, impact effect, and for delays and disruptions arising out of, or incidental to, the work as herein revised."

(3) Level III contracting officer approval is required when the price of a modification will exceed the original contract price or when the sum of the modifications issued to date, together with the one proposed, exceeds the original contract price. This approval is not required for utility service contracts with approved tariffs.

(4) A government estimate is not required for contract modifications under the SAT. However, in the absence of a government estimate, a determination of price reasonableness must still be made in accordance with local procedures.

(5) Prior to final payment and contract closeout, a unilateral modification shall be prepared to adjust the contract price for any liquidated damages assessed against the contractor.

(6) If a modification includes both additions and deductions, the absolute dollar value determines the warrant level required for approval (i.e., the absolute dollar value of an action that adds $500,000 of work and deducts $200,000 of work is $700,000.)

(b) *Facilities support contract modifications.*

(1) If labor requirements are affected by out-of-scope work, a new SCA wage determination must be requested and made a part of the modification.

(2) A unilateral modification shall be issued to adjust the contract price for unperformed work in accordance with NAVFAC clause 5252.246-9303, Consequences of Contractor's Failure to Perform Required Services.

(c) *Construction contract modifications.* All modifications must include either an adjustment of the contract completion date or the statement 'extension of contract time is not required by reason of this modification.

SUBPART 43.2—CHANGE ORDERS

43.201 (NMCARS) General.

(a) The policies and procedures of DFARS 217.74 and NFAS 17.74 as outlined in this subpart shall be applied to all undefinitized change orders.

(b) Refer to NFAS 32.702(b) for guidance on funding construction modifications on contracts that were awarded in a prior fiscal year.

43.201-100 Policy.

(a) It is NAVFAC policy to negotiate in advance the cost and time associated with all contract changes except in unusual circumstances where it is not possible as a consequence of the character of the changed work. In those instances, an undefinitized change order may be issued in accordance with the policies and procedures outlined below.

(b) The following elements of DFARS 217.74 and NFAS 17.74 shall be applied to all undefinitized change orders, except value engineering change proposals:

(1) Ensure undefinitized change orders are issued only when:

(i) The negotiation of an definitive in-scope modification is not possible in sufficient time to meet the Government's requirements; and

(ii) The Government's interest demands that the contractor be given a binding commitment so that performance can begin immediately.

(2) Ensure undefinitized change orders are as complete and definite as practicable under the particular circumstances.

(3) A Not-To-Exceed (NTE) ceiling price shall be established for each undefinitized change order, unless a written determination is made by the CCO to waive the NTE amount. The NTE ceiling price may be adjusted by modification during the performance if circumstances warrant, but shall not be exceeded at definitization.

(4) Each undefinitized change order shall include a definitization schedule that provides for definitization by (i) or (ii) below, whichever occurs earlier:

(i) The date that is 180 days after issuance of the undefinitized change order. This date may be extended by may not exceed the date that is 180 days after the contractor submits a qualifying proposal; or

(ii) The date on which the amount of funds obligated on the undefinitized change order is equal to more than 50 percent of the not-to-exceed price.

(5) Ensure a qualifying proposal is submitted by the contractor in accordance with the definitization schedule. If the contractor does not submit a timely qualifying proposal, the contracting office may suspend or reduce progress payments under FAR 32.503-6, or take other appropriate action.

(6) Approval Authority:

(i) Only contracting officers having specific undefinitized contract action authority designated on their warrant shall execute undefinitized change orders, unless delegated one time authority on a case-by-case basis.

(ii) See 17.7404-1 for approval levels for UCA actions.

(7) Echelon III/IV Chief of the Contracting Office:

(i) Provide management oversight of undefinitized change orders issued by the Echelon III/IV activities and field activities under their cognizance to:

(ii) Ensure appropriate use of the instrument.

(iii) Apply management attention to backlog.

(iv) Establish a definitization schedule.

(c) When the government and the contractor cannot reach agreement on the cost and time associated with changed or additional work, a unilateral definitized change order may be issued to direct the contractor to proceed with the work despite the absence of a forward priced agreement of equitable adjustment. In such circumstances, the unilateral definitized change order shall contain an equitable adjustment to the contract, both in terms of time and money, in amounts thought to be reasonable by the contracting officer. The equitable adjustment to the contract should be broken down in sufficient detail to clearly document the basis for the contracting officer's determination of what was reasonable should the contractor seek additional compensation via the disputes provisions of the contract.

PART 44
(RESERVED)

PART 45
GOVERNMENT PROPERTY

SUBPART 45.1—GENERAL

45.106 Government property clauses.

45.106-100 NAVFAC clauses.

(a) Use the clause at 5252.245-9300; Government-Furnished Property, Materials and Services, in facilities support solicitations/contracts. This clause is to be used in addition to the clause at FAR 52.245-1.

(b) Use the clause at 5252.245-9302, Limited Assumption of Risk by Government, in all construction solicitations/contracts that will be performed at or near ammunition depots or magazines when it is determined that the government will assume part of the risk.

SUBPART 45.70—APPOINTMENT OF PROPERTY ADMINISTRATORS AND PLANT CLEARANCE OFFICERS (DFARS)

45.7001 Selection, appointment and termination.

(a) The contracting officer shall designate a property administrator for each contract involving government property furnished to or acquired by the contractor.

(b) All property administrators shall be members of the Defense Acquisition Workforce and shall attend the DOD training course for property administrators. NAVFAC contracting officers shall obtain assurance from customers that properly trained property administrators (if required) will be available prior to the issuance of any solicitation for customer requirements.

PART 46
QUALITY ASSURANCE

SUBPART 46.1—GENERAL

46.104 Contract administration office responsibilities.

Quality assurance responsibilities should be assigned by the contracting officer according to the quality assurance needs, regardless of the type of contract.

SUBPART 46.2—CONTRACT QUALITY REQUIREMENTS

46.202 Types of contract quality requirements.

46.202-2 Government reliance on inspection by contractor.

For guidance, see NAVFAC P-455, Construction Quality Management program.

46.202-2-100 Construction surveillance and inspection (Title II) services.

For guidance, see NAVFAC P-1015, Guidelines for Architect-Engineering Construction and Inspection (Title II) Services.

SUBPART 46.4—GOVERNMENT CONTRACT QUALITY ASSURANCE

46.407 Nonconforming supplies or services.

46.407-100 NAVFAC contract clauses.

(a) (1) Use the clause at 5252.246-9303, Consequences of Contractor's Failure to Perform Required Services, in all firm fixed-price and firm fixed-price/indefinite quantity solicitations/contracts for facilities support services.

(2) The clause with its Alternate I may be used in family housing maintenance contracts to specify additional liquidated damages the Government may assess when a contractor fails to complete change of occupancy maintenance within the time period allowed.

(b) Use the clause at 5252.246-9304, Estimating the Price of Nonperformed or Unsatisfactory Work, in all firm fixed-price/indefinite delivery solicitations/contracts for facilities support services.

46.4100 NAVFAC contract quality assurance requirements.

Specific Quality Control (QC) and Quality Assurance (QA) requirements and procedures are provided in NAVFAC P-445, Construction Quality Management Program, NAVFAC P-1015, Guidelines for Architect-Engineer Construction and Inspection (Title II) Services, and Environmental Contract Quality Management Guide NAVFAC P-1071.

SUBPART 46.7—WARRANTIES

46.704 Authority for use of warranties.

All warranties shall be standard or customary in the trade unless a Level III contracting officer has made a written determination documenting that the extra warranty protection is needed.

PART 47
TRANSPORTATION

SUBPART 47.5—OCEAN TRANSPORTATION BY U.S.—FLAG VESSELS

47.574 (DFARS) Solicitation provisions and contract clauses.

(a) DFARS Clauses 252.247-7022 Representation of Extent of Transportation by Sea, 252.247-7023 Transportation of Supplies by Sea, and 252.247-7024 Notification of Transportation of Supplies by Sea shall be included in full text in all overseas construction solicitations and contracts.

PART 48
VALUE ENGINEERING

SUBPART 48.2—CONTRACT CLAUSES

48.201 Clauses for supply or service contracts.

Use the clause at 5252.248-1, Value Engineering (NAVFAC DEVIATION I) (NOV 1998) in lieu of FAR 52.248-1, Value Engineering, for Base Operating Services (BOS) contracts.

PART 49
TERMINATION OF CONTRACTS

SUBPART 49.1—GENERAL PRINCIPLES

49.101 Authorities and responsibilities.

49.101-100 Reporting requirements.

A log shall be kept of all contracts terminated.

SUBPART 49.4—TERMINATION FOR DEFAULT

49.402 Termination of fixed-price contracts for default

49.402-3 Procedure for default.

(a) Contracts shall be terminated by contracting officer's Final Decision with a copy to the appropriate Echelon II Division Director.

(b) Each Echelon III/IV activity shall maintain a tracking system to assure that applicable field office completion reports, initial and follow-up demand letters, and when appropriate, files forwarded to NAVCOMPT for nonpayment are done in a timely manner.

(c) The title block of a completion contract shall contain a statement: “This contract is for completion of defaulted contract #_____.”

(d) See NFAS Appendix A for reporting requirements.

49.405 Completion by another contractor.

49.405-100 Four-party agreements.

If the surety for a failing contractor, prior to termination and with the consent of the failing contractor, offers another firm to take over the work, this shall be accomplished by a four-party agreement (government, existing contractor, new contractor, and surety), patterned after the novation agreement set forth in FAR 42.1204. The surety must state in the agreement that the existing performance and payment bonds extend to and cover all work by the new contractor, or new bonds must be issued.

PART 50
(RESERVED)

PART 51
(RESERVED)

PART 52
SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 52.1—INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

52.101 (NMCARS) Using Part 52.

The NMCARS 11 digit numbering system is used for NAVFAC provisions and clauses, using the last four digit sequential numbers of 9300 through 9399.

SUBPART 52.2—TEXTS OF PROVISIONS AND CLAUSES

52.200 Scope of subpart.

This subpart sets forth the texts of all NAVFAC provisions and clauses.

5252.201-9300 Contracting Officer Authority. As prescribed in 1.602-1-101, insert the following clause:

CONTRACTING OFFICER AUTHORITY
(JUN 1994)

In no event shall any understanding or agreement between the Contractor and any Government employee other than the Contracting Officer on any contract, modification, change order, letter or verbal direction to the Contractor be effective or binding upon the Government. All such actions must be formalized by a proper contractual document executed by an appointed Contracting Officer. The Contractor is hereby put on notice that in the event a Government employee other than the Contracting Officer directs a change in the work to be performed or increases the scope of the work to be performed, it is the Contractor's responsibility to make inquiry of the Contracting Officer before

making the deviation. Payments will not be made without being authorized by an appointed Contracting Officer with the legal authority to bind the Government. (End of clause)

5252.207-2 [Removed]

5252.209-9300 Organizational Conflicts of Interest. As prescribed in 9.507-2, insert the following clause:

ORGANIZATIONAL CONFLICTS OF INTEREST (JUN 1994)

The restrictions described herein shall apply to the Contractor and its affiliates, consultants and subcontracts under this contract. If the Contractor under this contract prepares or assists in preparing a statement of work, specifications and plans, the Contractor and its affiliates shall be ineligible to bid or participate, in any capacity, in any contractual effort which is based on such statement of work or specifications and plans as a prime contractor, subcontractor, consultant or in any similar capacity. The Contractor shall not incorporate its products or services in such statement of work or specification unless so directed in writing by the Contracting Officer, in which case the restriction shall not apply. This contract shall include this clause in its subcontractor's or consultants' agreements concerning the performance of this contract.
(End of clause)

ALTERNATE I (JUN 1994). As prescribed in 9.507-2(a)(2), add the following paragraphs to the basic clause:

(b) Some remedial action may be performed by the architect-engineer firm in order to prevent continued contamination that immediately endangers population or property.

(c) The Contractor shall provide a statement with his bid or proposal which concisely describes all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder. 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 prior to award. If a potential conflict is discovered after award, the Contractor shall make a full disclosure in writing to the Contracting Officer. The disclosure shall include a description of action which the Contractor proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the conflict of interest.

(d) In addition, the Contractor shall notify the Contracting Officer, in writing, of its intention to compete for, or accept the award of any contract for similar or related work for any Department of Defense, other Agency of the federal government, or state regulatory agency which may involve Navy sites. Such notification shall be made before the Contractor either competes for or accepts any such contract.

(e) Remedies: The Government 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 organization 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, or debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.

(f) 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 (f). (End of clause)

5252.211-9301 Phased Construction Schedule. As prescribed in 11.404-100, insert the following clause:

PHASED CONSTRUCTION SCHEDULE (SEP 1996)

Within the overall project schedule, commence and complete the work in phases. Complete each phase of the work within the number of calendar days stated in the following schedule:

a. Schedule start day: The day designated as the beginning of a particular phase; the number listed is the number of calendar days from the award of contract.

b. Completion day: The day designated as the end of a given phase and the day the work in that phase must be completed; the number listed is the number of calendar days from the award of the contract.

c. Schedule:

Phase	Description	Schedule Start Day	Completion Day
A	[_____]	[_____]	[_____]
B	[_____]	[_____]	[_____]
C	Completion of remaining	[_____]	[_____]

[Contracting Officer insert start and completion day for each phase. The completion day of the last phase must be the same number as indicated in FAR 52.211-10, Commencement, Prosecution, and Completion of Work.]

d. If the work of a particular phase is complete and accepted before the scheduled completion day, immediately begin work on the subsequent phase unless otherwise restricted. (End of clause)

5252.212-9300 [Removed]

5252.214-9300 Basis for Award. As prescribed in 14.201-6-100(a)(1), insert the following provision:

BASIS FOR AWARD (MAR 2002)

(a) The low bidder for purposes of award shall be the conforming, responsive, responsible bidder offering the lowest total price of Contract Line Item(s) *(insert CLINs)* CLIN prices are to be summarized from the detailed line items listed in the Schedule and any accompanying exhibits. Bids are to be submitted for each line item listed. Bids are solicited on an "all or none" basis. Failure to submit bids for all items and quantities listed shall be cause for rejection of the bid. Subparagraph (c) of FAR 52.214-10, "CONTRACT AWARD-SEALED BIDDING (JUL 1990)" does not apply to this award. (End of provision)

5252.214-9300 BASIS FOR AWARD ALTERNATE I (MAR 2002)

(a) The low bidder for purposes of award shall be the conforming, responsive, responsible bidder offering the lowest total price of Contract Line Item(s) *(insert CLINs)* CLIN prices are to be summarized from the detailed line items listed in the Schedule and any accompanying exhibits. Bids are to be submitted for each line item listed. Bids are solicited on an "all or none" basis. Failure to submit bids for all items and quantities listed shall be cause for rejection of the bid. Subparagraph (c) of FAR 52.214-10, "CONTRACT AWARD-SEALED BIDDING (JUL 1990)" does not apply to this award.

(b) Bidders are cautioned that the initial term of the contract may be for a period of less than a full year. (End of provision)

5252.214-9300 BASIS FOR AWARD ALTERNATE II (MAR 2002).

(a) The low bidder for purposes of award shall be the conforming, responsive, responsible bidder offering the lowest total price for Contract Line Item(s) *(insert CLIN(s)*. CLIN prices are to be summarized from the detailed line items listed in the Schedule and any accompanying exhibits. Bids are to be submitted for each line item listed. However, the initial award will include only Contract Line Item(s) *(insert CLIN(s)).*

(b) Bids are solicited on an "all or none" basis. Failure to submit bids for all items and quantities listed shall be cause for rejection of the bid. Subparagraph (c) of FAR 52.214-10, "CONTRACT AWARD-SEALED BIDDING" does not apply to this award. (End of provision)

5252.214-9301 Notice to Bidders. As prescribed in 14.201-6-100(b), insert the following provision:

NOTICE TO BIDDERS (JUN 1994)

(a) Under the bidding items furnished on Standard Form 1442 (Solicitation, Offer, and Award) the bidder shall state prices for each basis for bid given hereinafter: (check if applicable)

____ (i) Base Bid Item 0001 shall be the entire work complete in accordance with the drawings and specifications, but not including work indicated or specified to be provided under any of the other bid items.

____ (ii) Additive Bid Item(s) _____ shall be for the work as identified in and not included in any other bid item.

BIDS MUST BE SUBMITTED ON ALL ITEMS. FAILURE TO PROPOSE ON ALL ITEMS MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

(b) All hand delivered bids must be deposited in the bid box at the office of *(identify name and address of activity)* prior to the time and date set for bid opening. Any bids submitted by hand after the time set for receipt will be stamped with the date and hour of receipt and held unopened until after award. The file shall be documented in accordance with FAR 14.304-4. (End of provision)

5252.215-9300 Content of Proposals. As prescribed in 15.209-100(a), insert the following provision:

CONTENT OF PROPOSALS (JAN 2003)

(a) PROPOSAL REQUIREMENTS. The technical proposal and the price/cost proposal shall be submitted in separate volumes. The technical proposal shall not contain any cost/pricing information, except for salary information provided on resumes. The technical proposal presented by the offeror to whom the award is made will be incorporated into the contract at time of award.

(b) The offeror shall submit the following information:

(1) (#) completed signed solicitation packages, including executed representations and certifications, and cost/prices in Section B and any accompanying exhibits.

(2) (#) copies of the technical proposal.

(3) (#) copies of the cost/price proposal.

(c) TECHNICAL PROPOSAL. Each technical proposal shall be precise, detailed, and complete as to clearly and fully demonstrate a thorough knowledge and understanding of the requirements. As a minimum, the proposal must contain sufficient detail so that it may be evaluated in accordance with the EVALUATION FACTORS provision, Section M.

(d) PRICE/COST PROPOSAL. Each price/cost proposal shall contain a breakdown of direct labor costs; direct material cost (identifying the quantity, type and unit price); subcontracting costs; overhead costs; general and administrative costs; and profit.

(1) Offers are solicited on an “all or none” basis and FAR 52.215-1, INSTRUCTIONS TO OFFERORS-COMPETITIVE ACQUISITION (MAY 2001)” in Section L, is hereby modified. Failure to submit offers for all line items listed shall be cause for rejection of the offer. (End of clause)

5252.215-9301 Multiple Proposals. As prescribed in 15.209-100(b), insert the following provision:

MULTIPLE PROPOSALS (JUN 1994)

Proposers may, if they desire, submit multiple proposals. If multiple proposals are submitted, proposers must price separately each such proposal and assure that the required guarantee is in a sum sufficient to cover the highest possible amount upon which award can be made. In addition, they should assure that full technical and pricing details, as may be appropriate, are furnished so as to assure that their proposals can properly be evaluated without the need for the request for additional information. Unsolicited alternates, either additive or deductive, will not be considered. (End of provision)

5252.215-9302 Number of Copies/Time of Receipt. As prescribed in 15.209-100(c), insert the following provision:

NUMBER OF COPIES/TIME OF RECEIPT (JUN 1994)

All proposals should be submitted in _(#)_ copies of half-size copies and one full-size set of ozalid prints. Instructions concerning the time and place of delivery are provided on the first page (Standard Form 1442) of this Request for Proposals. The price proposal, including acknowledgment of amendments, guarantee bond and completed representations and certifications, need only be submitted in triplicate. (End of provision)

5252.216-9300 Appointment of Ordering Officer(s). As prescribed in 16.506-100(a), insert the following clause:

APPOINTMENT OF ORDERING OFFICER(S) (OCT 1996)

Ordering Officers under this contract are authorized by the Contracting Officer to execute delivery/task orders provided the total price for the delivery/task order does not exceed the individual Contracting Officer(s) warrant limitations. The ordering officers and their specific authority shall be stated in this contract or in an appointment letter. (End of clause)

5252.216-9301 Task Order Terms and Conditions [Architect-Engineer Indefinite Quantity Contracts]. As prescribed in 16.506-100(b), insert the following clause:

TASK ORDER TERMS AND CONDITIONS
[ARCHITECT-ENGINEER INDEFINITE QUANTITY CONTRACTS]
(OCT 1996)

At the sole option of the Government, and in accordance with all terms and conditions set forth herein, the architect-engineer firm may be authorized to perform either partial or total design, engineering and related services on variable projects covered by this contract. Authorization for performance of these services shall be by issuance of a task order which shall be executed as follows:

(a) The Government shall have the right, at any time during the term of this contract, to request a proposal from the architect-engineer firm for furnishing specified design,

engineering and related services for projects. Each request for proposal will set out the proposed scope of work, design criteria and other considerations, scope of architect-engineer services, proposed schedule of submissions, and, if applicable, the estimated construction cost amount (ECC) for the project contemplated.

(b) The Government reserves the right to make award of a task order based on the contractor's proposal. However, if the proposal is not acceptable as submitted, the parties hereto shall enter into negotiations, targeting a mutually acceptable agreement. If agreement on all terms of the task order is not achievable, the services for that specific order shall be deemed excluded from the scope of this contract and the Government shall be under no obligation to establish a task order or provide for any payments.

(c) The architect-engineer firm shall complete all services required pursuant to each resultant task order in accordance with the scope of work, design criteria and schedule of submissions set forth herein. The standard terms and conditions of this basic contract shall take precedence. (End of clause)

5252.216-9302 Indefinite Quantity. As prescribed in 16.506-100(c), insert the following clause:

INDEFINITE QUANTITY (JUN 1994)

This is an indefinite-quantity contract for the services specified, and effective for the period stated previously.

Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the services specified in the Schedule up to an including the "maximum" fee total designated previously.

There is no limit on the number of orders that may be issued subject only to the maximum annual value of the contract.

Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period. (End of clause)

5252.216-9303 Minimum and Maximum Fees [Architect-Engineer Indefinite-Quantity Contracts]. As prescribed in 16.506-100(d)(1), insert the following clause:

MINIMUM AND MAXIMUM FEES
[ARCHITECT-ENGINEER INDEFINITE-QUANTITY CONTRACTS]
(OCT 1996)

As the contract minimum has been established with project #1 identified in the basic award, the contract maximum annual total is $ *(insert amount)* (End of clause)

ALTERNATE I (NOV 1998) As prescribed in 16.506-100(d)(2), substitute the following paragraph for the basic clause:

The contract minimum is $ *(insert amount)* . The contract maximum annual total is $. (End of clause)

5252.216-9305 Task Order Procedures [Architect-Engineer Indefinite-Quantity Contracts]. As prescribed in 16.506-100(e) insert the following clause:

TASK ORDER PROCEDURES
[ARCHITECT-ENGINEER INDEFINITE-QUANTITY CONTRACTS]
(OCT 1996)

To order work under the contract, the Contracting Officer will provide the Contractor a scope of work detailing the Government's requirements and request a cost proposal for the proposed work. The Contractor shall respond with a proposal in an expeditious manner, but in no event later than directed in the request for proposal.

Price Breakdown. The Contractor shall provide a price breakdown for all proposals, itemized, as directed by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all materials, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the scope of work. Any amount claimed for subcontractors shall be supported by a similar breakdown.

Negotiations. In the event there are differences in the Contractor's proposal and the Government Estimate, the Contractor and the Contracting Officer shall meet at the direction of the Contracting Officer to negotiate the extent of effort and costs of the proposed work.

Task orders for the contract work will be on Department of Defense DD Form 1155. The contractor shall submit one copy of the task order with the invoice for payment.

Oral or Written Telecommunications Orders. The Contracting Officer may issue oral or written telecommunications orders only in emergency circumstances. Oral or written telecommunications orders will be confirmed by issuance of a written task order on DD Form 1155 within two (2) working days.

Modifications to Task Orders. Orders may be modified by the Contracting Officer. Modifications to task orders shall be effected on a Standard Form 30. Orders may be modified orally or by written telecommunications by the Contracting Officer in emergency circumstances. Oral or written telecommunication modifications shall be confirmed by issuance of a written modification on Standard Form 30 within two (2) working days from the time of the communication modifying the order. (See Attachment #__ Section__).

If a task order is deposited in the U.S. mail, mailing time (5 working days for regular mail and 1 working day for express mail) will be incorporated into the task order submittal schedule. The Contracting Officer will notify the architect-engineer firm when an order is deposited in the mail. If delays are encountered in mailing without the fault of

the Contractor, a time extension may be granted by the Contracting Officer. (End of clause)

5252.216-9306 Procedures For Issuing Orders. As prescribed in 16.506-100(f), insert the following clause:

PROCEDURES FOR ISSUING ORDERS (NOV 2009)

(a) Services to be furnished under this contract shall be furnished at such times as ordered by the issuance of task orders by the Ordering Officer designated by the Contracting Officer. All orders issued hereunder are subject to the terms and conditions of this contract. This contract shall control in the event of conflict with any order. A task order will be considered "issued" for the purpose of this contract at the time the Government deposits the order in the mail or, if transmitted by other means, when physically delivered to the Contractor.

(b) Except in emergency situations, only a Contracting Officer may modify task/delivery orders. An Ordering Officer, when authorized by the designation official (Contracting Officer), may issue modifications to task/delivery orders only during an emergency. Modifications to task/delivery orders will be issued on a Standard Form (SF 30).

Task orders may be modified orally by the Ordering Officer in emergency circumstances. Oral modifications will be confirmed in writing by issuance of a SF 30 within two (2) working days from the time the oral direction is issued. (End of clause)

5252.216-9307 Price Revision. As prescribed in 16.203-4-100(a), insert the following clause:

PRICE REVISION (JUN 1994)

General. This contract shall be subject to price revision as set forth below. A percent
(___%) threshold shall be applied. The adjustment in the contract price to reflect the increases and decreases outlined above shall be made prior to final payment under this contract or at such other time as mutually agreed upon by the parties. The method of such computation of the price revision shall be as described in paragraph 26.2. For purpose of calculating price revision, Table __ of Building Regulations published by the Civil Engineer's Office of the province where work is to be performed, shall be used. The bid opening date shall be the effective date for price revision computations for the original contract whether or not the cost variation tables for that month have been published. The effective date for price revision for changes to the contract shall be determined during negotiations for any change in contract price and be stated in the subsequent modification. No price revision will be paid for work accomplished after the contract completion date. The method of payment shall be by formal modification to the contract. Any money paid for price revision shall not subject itself to higher price revision payments.

Method of Payment. Payment shall be made based on work completed and documented by the OICC MED Contract Performance Statement (OICC MED Form 10-7300/31). Any work documented on the performance statement shall be assumed completed as of the date of the document and not further subdivided. Contractor shall complete OICC MED Form (4330/26) "Computation of Multiplier" and OICC MED Form (4330/25) "Payment Summary", and submit the completed forms along with copies of all applicable performance statements to the Contracting Officer for review and approval. Copies of forms are available from the Contracting Officer. The Contractor shall also submit copies of the applicable cost variations tables used in calculating multipliers. Price revision for all contract modifications shall be submitted separately and not included as part of the original contract. Back-up documentation for price revision applicable to contract modifications shall be the same as for the original contract. (End of clause)

5252.216-9310 Combination Firm Fixed-Price/Indefinite Quantity Contract. As prescribed in 16.506-100(g)(1), insert the following clause:

COMBINATION FIRM FIXED-PRICE/INDEFINITE QUANTITY CONTRACT (MAR 2002)

(a) This is a combination firm fixed-price/indefinite quantity contract for the supplies or services specified, and effective for the period stated in the Schedule and any accompanying exhibits. Work items for the fixed-price portion are identified in the Schedule and any accompanying exhibits and include all work except that identified as Indefinite Quantity. The fixed-price quantities shown in the Schedule and any accompanying exhibits are considered to be accurate estimates for this contract period.

(b) Work items for the indefinite quantity portion of the contract are identified in the Schedule and any accompanying exhibits. The quantities of supplies and services specified in accompanying exhibits and the Schedule as Indefinite Quantity are estimates only and may be ordered by issuance of separate task orders.

(c) Delivery or performance shall be made only as authorized by orders issued in accordance with FAR clause 52.216-18. Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule and any accompanying exhibits up to the contract stated maximum. The minimum guarantee of work to be ordered is the firm fixed-price portion of the contract.

(d) Except for any limitations on quantities in FAR clause 52.216-19, in the Schedule, and in any accompanying exhibits, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period. (End of clause)

ALTERNATE I (OCT 1996). As prescribed in 16.506-100(g)(2), substitute the following when paragraph (c) applies:

(a) This is a combination firm fixed-price/indefinite quantity contract for the supplies or services specified, and effective for the period stated in the Schedule and any accompanying exhibits. Work items for the fixed-price portion are identified in the Schedule and any accompanying exhibits and include all work except that identified as Indefinite Quantity. The fixed-price quantities shown in the Schedule and any accompanying exhibits are considered to be accurate estimates for this contract period.

(b) Work items for the indefinite quantity portion of the contract are identified in the Schedule and any accompanying exhibits. The quantities of supplies and services specified in the Schedule and any accompanying exhibits are estimates only and may be ordered by issuance of separate task orders.

(c) Delivery or performance shall be made only as authorized by task orders issued in accordance with the ORDERING clause. . The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule and any accompanying exhibits up to the contract stated maximum. The minimum guarantee of work to be ordered is (fill-in)% of the total estimated quantity.

(d) Except for any limitations on quantities in FAR clause 52.216-19, in the Schedule, and any accompanying exhibits, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(e) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period. (End of clause)

5252.216-9312 [Removed]

5252.216-9313 Maximum Quantities. As prescribed in 16.506-100(h)(1), insert the following clause:

MAXIMUM QUANTITIES (JUN 1994)

As referred to in 5252.216-9310, "COMBINATION FIRM FIXED-PRICE/INDEFINITE-QUANTITY CONTRACT" clause, the minimum guarantee of work is the firm fixed-price portion of the contract. The maximum dollar value of the contract is the total dollar value of the fixed- price and indefinite quantity Items. The maximum shall not be exceeded except as may be provided for by formal modification to the contract. (End of clause)

ALTERNATE I (NOV 1998). As prescribed in 16.506-100(h)(2), substitute the following paragraph for the basic clause:

As referred to in 5252.216-9310, "COMBINATION FIRM FIXED-PRICE/ INDEFINITE- QUANTITY CONTRACT, ALT I" clause, the minimum guarantee of work is (fill-in)% of the estimated total quantity. The maximum dollar value of the contract is the total dollar value of the fixed-price and indefinite quantity items. The maximum shall not be exceeded except as may be provided by formal modification to the contract. (End of clause)

5252.216-9314 Economic Price Adjustment For Changes in Landfill/Disposal Fees. As prescribed in 16.203-4-100(b), insert the following clause:

ECONOMIC PRICE ADJUSTMENT FOR CHANGES IN LANDFILL/DISPOSAL FEES (JUN 1994)

(a) The Contractor shall notify the Contracting Officer, at any time during contract performance, the disposal fee unit prices shown in the schedule in Section B either increase or decrease as a result of new landfill/disposal fees set by the County Commissioners. The Contractor shall furnish this notice within 20 calendar days after being notified of any increase or decrease, or within any additional period that the Contracting Officer may approve in writing. Adjustment for increases shall not be retroactive beyond the 20 calendar day notification period or such time as approved in writing by the Contracting Officer. Adjustments for decreases shall be made effective immediately on the date they are implemented by the landfill. The notice shall include the amount of the adjustment (increase or decrease), the effective date and supporting data explaining the cause of the adjustment.

(b) Promptly after the Contracting Officer receives the notice and date under paragraph (a) above, the Contracting Officer shall modify this contract to include the increase or decrease in the disposal fee (resulting from the adjustment) and its effective date. The contractor shall continue performance pending adjustment.

(c) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(d) No increase shall exceed the cost of using other alternative landfills which are available for use by the Contractor, considering the disposal fees, labor and transportation cost.

(e) Any price adjustment under this clause is subject to the following limitations:

(1) Any adjustment shall be limited to the effect on unit prices as a result of new landfill/disposal fees set by the_____ County Commissioners. There shall be no adjustment for (i) changes in rates or unit prices other than those shown in the Schedule, or (ii) changes in the quantities of labor or material used from those shown in the Schedule for each item.

(2) No upward adjustment shall apply to supplies or services that are required to be
delivered or performed before the effective date of the adjustment.

(3) No upward adjustment shall be approved for any disposal fee increase that does not apply equally to all landfill customers of similar conditions of service.

(4) The aggregate of the increases in any contract unit price for disposal fees made under this clause shall not exceed 100 percent of the originally awarded unit price for line item, disposal fees for the base period. There is no percentage limitation on the amount of decreases that may be made under this clause.

(5) There will be no adjustment for any increase in the disposal fees which will not result in a net change of at least 3 (three) percent of the total unit price for the then current contract term (not the cumulative total contract price).

(f) The Government's obligation under this clause is contingent upon the availability of appropriated funds before payment for this increase can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this increase and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer. The clause entitle"Availability of Funds" in Section I, paragraph __ applies. (End of clause)

5252.216-9315 Award Fee. As prescribed in 16.406-100(a), insert a clause substantially the same as the following

AWARD FEE (AUG 2004)

(a) Determination of Award Fee. An Award Fee Evaluation Procedure is hereby established for determination of award fee payable under this contract. The payment of any award fee is contingent upon compliance with contractual requirements and performance at the satisfactory level in each of the individual criteria set forth in the contract. It is the Government's intent that the contractor performs the required services in such a manner as to warrant the highest possible rating and award fee. The Contractor's failure to maintain acceptable levels of performance in all areas of this contract, whether specified as award fee areas or not, will result in no award fee being issued. The Fee Determining Official will make award fee determinations. Each determination will cover the preceding evaluation period. This determination and the methodology for determining the award fee are unilateral decisions made solely at the discretion of the Government. Any amount not awarded in one evaluation period will not be carried over the next evaluation period.

(b) Award Fee Amount. The total amount of award fee that can be earned for a twelve month period is $_____ . The amount of award fee that may be earned for each evaluation period is $_____.

(c) Procedures.

(1) Performance Evaluation Board. A Performance Evaluation Board (PEB) composed of selected technical and administrative personnel from the *(Activity)* will evaluate the Contractor's performance as related to the criteria listed elsewhere herein. The PEB will make specific performance evaluations each month. Within fifteen (15) calendar days after the end of each evaluation period, the PEB will submit a formal evaluation report to the Fee Determination Official. The PEB report will include a

narrative of each element evaluated, which supports the recommended rating assigned. A copy of the PEB's report will be furnished to the Contractor.

(2) Contractor Self-Evaluation. Within fifteen (15) days after the end of each evaluation period, the Contractor shall submit two copies of a concise, written self-evaluation of his performance similar to the PEB report and limited to approximately 5 pages. This report will be submitted to the Contracting Officer.

(3) Fee Determining Official. A Fee Determining Official (FDO) will be established to determine the amount of award fee, if any, to be paid to the Contractor. The FDO will review the Performance Evaluation Board's report, the contractor's self-evaluation, and take such other action and consider such other facts pertinent to this contractor's performance as is required to determine the rating and the amount of the performance award fee for the evaluation period under consideration. The Contracting Officer will notify the Contractor in writing of the FDO's decision. The Contractor will signify acceptance by submitting an invoice in accordance with the Contracting Officer's instructions.

(d) Evaluation Criteria, Grades and Definitions. Percentages will be assigned to each criterion according to the relative order of importance determined by the Government using the grades, definitions, and criteria presented herein. A rating will be assigned for each major
evaluation criterion for each period. The performance criteria and weighting will be applied to arrive at a weighted score.

(e) Grades and Definitions.

(1) Any changes to the award fee determination criteria, which shall apply during each
award fee period will be provided to the Contractor in writing by the Contracting Officer at least fifteen (15) calendar days prior to the start of each award fee period. Notification at a later date or alteration of criteria, both parties must agree to include added criteria, after an award fee period has begun.

(2) The award fee determination criteria for award fee are established herein.

(f) Performance Criteria and Weighting. Criteria elements listed below will be used to evaluate performance. Each element is individually graded with a percentage score. Normally a percentage score below 80 in any of the criteria elements listed below will result in no award fee paid to the contractor. The percentage score for each criteria element will multiply the maximum points for each criteria element. The sum of the scores for all criteria elements will yield the numerical point value to determine the percentage of earned award fee for evaluation as shown on the following Table 1, Performance Evaluation Report Criteria.

TABLE 1. PERFORMANCE EVALUATION REPORT CRITERIA

Category	Evaluation Criteria	Satisfactory Below 80	Above Satisfactory 80-84	Excellent 85-89	Outstanding 90-94	Superior 95-100

TABLE 1. PERFORMANCE EVALUATION REPORT CRITERIA

Category	Evaluation Criteria	Satisfactory Below 80	Above Satisfactory 80-84	Excellent 85-89	Outstanding 90-94	Superior 95-100
Quality of Work	Fixed-Price Work (40%)	Inferior quality of workmanship with excessive number of deficiencies	Adequate quality of workmanship with substantial number of deficiencies	Acceptable quality of workmanship with limited number of deficiencies	High quality of workmanship with minor deficiencies	Superior quality of workmanship with no deficiencies
	Indefinite Quantity Work (40%)	Inferior quality of workmanship with excessive number of deficiencies	Adequate quality of workmanship with substantial number of deficiencies	Acceptable quality of workmanship with limited number of deficiencies	High quality of workmanship with minor deficiencies	Superior quality of workmanship with no deficiencies
	Effectiveness of Quality Control Program (20%)	Consistently requires Govt input to rework unsatisfactory jobs	Occasionally requires Govt input to rework unsatisfactory jobs	Rarely requires Govt input to rework unsatisfactory jobs	Contractor QC Program affects all rework requirements	Most jobs do not require rework, QC program very effective
Timely Completion of Work	Fixed-Price Work (40%)	Frequently misses scheduled time frames; requires Govt prodding	Meets schedule but requires Govt prodding	Meets schedule without reminders	Sometimes responds and performs faster than scheduled	Often responds and performs faster than scheduled
	Indefinite Quantity Work (40%)	Frequently misses time frames scheduled in DO/TO and requires Govt prodding	Meets DO/TO schedule but requires Govt prodding	Meets DO/TO schedule without reminders	Sometimes responds and performs faster than DO/TO schedule	Often responds and performs faster than DO/TO schedule
	Scheduling (20%)	Schedules not submitted; DO/TO dates consistently not met	Schedules submitted but not complied with; DO/TO dates occasionally not met	Schedules submitted and usually complied with; DO/TO dates rarely missed	Schedules submitted; meets dates of all approved schedules and DO/TO's	Schedules submitted; completes work of approved schedules and DO/TO's ahead of schedule
Response to Service Calls	Emergency service calls (50%)	Consistently late in meeting response times and situations not timely arrested	Occasionally late in meeting response times and situations not timely arrested	Rarely late in meeting response times but situations timely arrested	Responds in a timely manner and arrests all situations with little Govt direction	Always responds immediately and quickly arrests all situations

TABLE 1. PERFORMANCE EVALUATION REPORT CRITERIA						
Category	Evaluation Criteria	Satisfactory Below 80	Above Satisfactory 80-84	Excellent 85-89	Outstanding 90-94	Superior 95-100
	Urgent service calls (25%)	Consistently late in meeting response times and situations not timely arrested	Occasionally late in meeting response times and situations not timely arrested	Rarely late in meeting response times but situations timely arrested	Responds in a timely manner and arrests all situations with little Govt direction	Always responds immediately and quickly arrests all situations
	Routine service calls (25%)	Consistently late in meeting response times and situations not timely arrested	Occasionally late in meeting response times and situations not timely arrested	Rarely late in meeting response times but situations timely arrested	Responds in a timely manner and arrests all situations with little Govt direction	Always responds immediately and quickly arrests all situations
Administration and Management	Cooperation (50%)	Contractor and employees do not demonstrate cooperation in accomplishment of the contract	Contractor and employees occasionally demonstrate cooperation in accomplishment of the contract	Contractor and employees usually demonstrate cooperation in accomplishment of the contract	Cooperation and teamwork exceed normal expectations	Cooperation and teamwork substantially exceed normal expectations
	Ingenuity and/or Flexibility (50%)	Contractor and employees display no ingenuity or willingness to improve	Contractor and employees occasionally display ingenuity and willingness to improve	Contractor and employees attempt improvement and ingenuity and occasionally are successful	Contractor and employees generally are ingenious and innovative with success and Govt benefit	Contractor and employees highly ingenious and innovative with substantial Govt benefit

Ref: FAR16.406(e) and DFARS 216.470

ALTERNATE I (NOV 1998) As prescribed in 16.406-100(b), delete paragraph (f) of the basic clause and substitute the following paragraphs (b), (d) and (e) for paragraphs (b), (d) and (e) of the basic clause. **NOTE: <u>CANNOT</u> BE USED TO ACCELERATE PERFORMANCE**.

(b) <u>Award Fee Amount</u>. The total amount of award fee that can be earned under this contract is $_____. This amount will not be increased if work is added to the contract but will be reduced proportionately if work is deleted from the contract. For the fifth evaluation period, the payment of any award fee is contingent on the Contractor's not having incurred any liquidated damages in the performance of the contract. The Fee Determination Official will make the award fee determination after the first __, __, __, and ___ days after contract award and ____ after establishment of <u>final acceptance</u>. The amount of award fee that can be earned for each evaluation period is as follows:

(d) Grades and Definitions.

(1) Any changes to the award fee determination criteria that shall apply during each award fee period will be provided to the Contractor in writing by the Contracting Officer at least fifteen (15) calendar days prior to the start of each award fee period. Notification at a later date or alteration of criteria, including added criteria, after an award fee period has begun must be agreed to by both parties.

(2) The award fee determination criteria for award fee are established herein.

(e) Performance Criteria. Criteria listed in the tables attached hereto will be used to evaluate performance. Each criteria is individually graded with adjectival rating. A rating below satisfactory in any one of the individual criteria will result in no award fee paid to the Contractor.

Award Fee Period	Period Covered - Days from Contract Award	Award Fee Pool Available
1	0 - _____	$_____
2	_____ - _____	$_____
3	_____ - _____	$_____
4	_____ - _____	$_____
5	FIRST 90 DAYS AFTER (final acceptance)	$_____

5252.216-9316 Undefinitized Task/Delivery Orders. As prescribed in 16.506-100(k), insert a clause substantially the same as the following:

UNDEFINITIZED TASK/DELIVERY ORDERS (OCT 2007)

(a) Prior to the issuance of a task/delivery order under this contract, it is anticipated that the government and the contractor will reach agreement on the price or total cost and fee (if applicable) for the services to be provided under the order. The Contracting Officer may authorize commencement of work prior to final agreement on cost or price. In such case, the contractor shall immediately commence performance of the services specified in the order and shall submit a pricing proposal within 15 days of receipt of the order. Upon completion of negotiations, the final negotiated cost or price will be set forth in a supplemental agreement that is executed by the contractor and the Contracting Officer. Failure to agree upon the cost or price shall be considered a dispute subject to the Disputes clause of this contract.

(b) Undefinitized task/delivery orders shall indicate a "not to exceed" amount for the order; however, such amount shall not exceed 50 percent of the estimated cost of the order. The order shall only require the Contracting Officer's signature, but shall also comply with all other order requirements. Undefinitized task/delivery orders shall indicate

the date by which the government anticipates that the cost or price of the order will be definitized. (End of clause)

5252.217-9300 Option to Extend the Term of the Contract [Architect-Engineer Indefinite Quantity Contract]. As prescribed in 17.208-100(a), insert the following clause:

OPTION TO EXTEND THE TERM OF THE CONTRACT
[ARCHITECT-ENGINEER INDEFINITE-QUANTITY CONTRACT]
(NOV 1998)

The term of this contract shall expire one year from the date of execution of this contract. However, all terms and conditions of this contract shall remain in full force and effect for any project added within the one-year term until completion of and payment for the services thereunder.

The Government may extend the term of this contract by written notice to the Contractor within the performance period specified in the schedule, provided that the Government will give the Contractor a preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the Government to an extension. The Government may exercise this option if: (1) a need for the services exists, and (2) performance in the first year has been satisfactory. If the Government exercises this option, the extended contract shall be considered to include this option provision.

The total duration of this contract, including the exercise of any options under this clause, shall not exceed _____ months for ordering purposes. (End of clause)

5252.217-9301 Option To Extend the Term of the Contract - Services. As prescribed in 17.208-100(b), insert the following clause:

OPTION TO EXTEND THE TERM OF THE CONTRACT – SERVICES (JUN 1994)

(a) The Government may extend the term of this contract for a term of one (1) to twelve (12) months by written notice to the Contractor within the performance period specified in the Schedule; provided that the Government shall give the Contractor a preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed ___ months. [Insert number of months] (End of clause)

5252.222-9305 Work Performed By Individual Assigned Categories. As prescribed in 22.1006-100, insert the following clause:

WORK PERFORMED BY INDIVIDUAL ASSIGNED CATEGORIES (JUN 1994)

Regardless of any individual employee's normally assigned category of labor, the functions being performed by that individual during any period of work at a specific site shall determine the rate to be paid for that employee (e.g., a Chemist who is performing the duties of a Technician, Level 1, shall be charged at the fixed rate for a Technician, Level 1, during the period of time he or she is performing those duties).
(End of clause)

5252.223-9300 Inspection By Regulatory Agencies. As prescribed in 23.1000(a), insert the following clause:

INSPECTION BY REGULATORY AGENCIES (JUN 1994)

(a) Work performed under this contract is subject to inspection by State and Federal Government Regulatory agencies including those described below.

(b) Permission has been granted by the Navy permitting Federal and State occupational health and safety officials to enter Navy shore installations, without delay and at reasonable times, to conduct routine safety and health investigations. Permission also extends to safety and health investigations based on reports of unsafe conditions. Occupational Health and Safety Administration (OSHA) officials may also investigate accidents or illnesses involving the Contractor's employees. Inspections may also be carried out by the Department of Labor to inspect for compliance with labor laws.

(c) The Contractor shall cooperate with regulatory agencies and shall provide personnel to accompany the agency inspection or review teams. Contractor personnel shall be knowledgeable concerning the work being inspected, and participate in responding to all requests for information, inspection or review findings by regulatory agencies. (End of clause)

5252.223-9301 Wildlife Preservation. As prescribed in 23.1000(b), insert the following clause:

WILDLIFE PRESERVATION (JUN 1994)

(Insert name of activity) is a designated (insert description of designation). Before commencing work that may disturb wildlife, the Contractor shall obtain all necessary state, local and federal permits. Following is a list of applicable restrictions: (list as applicable) (End of clause)

5252.228-9300 Individual Surety/Sureties. As prescribed in 28.203-100, insert the following provision:

INDIVIDUAL SURETY/SURETIES (JUN 1994)

As prescribed in FAR 28.203(a), individual sureties will be permitted. In order for the Contracting Officer to make a determination as to the acceptability of individuals proposed as sureties, as prescribed in FAR 28-203(b), all proposers who submit bonds which are executed by individual sureties are requested to furnish additional information

in support of SF-28, Affidavit of Individual Surety, with the bonds. Pursuant to Instruction 3(b) of Standard Form 24, the Bond, Standard Form 25, the Performance Bond, and the Standard Form 25A, the Payment Bond, the Contracting Officer requests the following information:

(a) Equity Securities (Stock):

(1) State the place(s) of incorporation and address of the principal place of business for each issuing corporation listed.

(2) State whether the security issued was issued by public or private offering and give the place of registration of the security.

(3) State whether the security is presently, actively traded.

(b) Debt Securities (Bonds) and Certificates of Deposit:

(1) List the type of bonds held and their maturity dates.

(2) State the name, address, and telephone number of the issuing agency, firm or individual.

(3) State the complete address(es) where the bonds are held.

(4) State whether the bonds have been pledged as security or have otherwise been encumbered.

(c) Real Property Interests:

(1) Provide complete recording data for the conveyance of each parcel or interest listed to the individual proposed as surety.

(2) State whether the values listed are based upon personal evaluation or evaluation of an experienced real estate appraiser. If available, provide copies of written appraisals.

(3) State the method(s) of valuation upon which appraisal is based.

(4) Provide the assessed value of each property interest listed utilized by the appropriate tax assessor for purposes of property taxation.

(5) Provide the telephone number, including area code, for the tax assessor who performed the most recent tax assessment.

(6) State whether each real property interest listed is currently under lien or in any way encumbered and the dollar amount of each such lien or encumbrance
.

(d) Persons Proposed as Individual Sureties:

(1) A current list of all other bonds (bid, performance, and payment) on which the individual is a surety and bonds for which the individual is requesting to be a surety.

(2) A statement as to the percent of completion of projects for which the individual is bound on a performance bond.

This information is necessary to enable the Contracting Officer to evaluate the sufficiency of the surety's net worth in a timely manner. (End of provision)

5252.228-9302 Bid Guarantee. As prescribed in 28.101-2-100(a)(1), insert the following provision:

BID GUARANTEE (OCT 2004)

To assure the execution of the contract and the performance and payment bonds, each bidder/offeror shall submit with its bid/offer a guarantee bond (Standard Form 24) executed by a surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety, or other security as provided in FAR Clause 52.228-1, "Bid Guarantee". Security shall be in a penal sum equal to at least 20 percent of the largest amount for which award can be made under the bid submitted, but in no case to exceed $3,000,000. A copy of the agent's authority to sign bonds for the surety company shall accompany the bid guarantee bond. (End of provision)

ALTERNATE I – As prescribed in 28.101-2-100(a) (2), for indefinite quantity and JOC contracts, substitute "...largest amount for which award can be made...." in the basic provision with "...price payable for the contract guaranteed minimum".

ALTERNATE II – As prescribed in 28.101-2-100(a)(3), for combination firm fixed-price/indefinite quantity facility support service contracts where the firm fixed-price portion constitutes the guaranteed minimum, substitute "… largest amount for which award can be made" in the basic provision with either "...the firm fixed-price portion of the contract. If the firm fixed-price portion and a minimum amount of the indefinite quantity portion will constitute the guaranteed minimum, substitute "…largest amount for which award can be made" for "...the firm fixed-price portion and the guaranteed minimum amount of the Indefinite Quantity portion of the contract."

ALTERNATE III - As prescribed in 28.101-2-100(a) (4), for requirements solicitations, replace "...largest amount for which award can be made..." in the basic provision with "...price payable for the estimated quantity".

5252.228-9305 Notice of Bonding Requirements. As prescribed in 28.102-3-100(a), insert the following clause:

NOTICE OF BONDING REQUIREMENTS (DEC 2000)

(a) Within _____ days after receipt of award, the bidder/offeror to whom the award is made shall furnish the following bond(s) each with satisfactory security:

____ A Performance Bond (Standard Form 25). The performance bond shall be in a penal sum equal to 100% percent of the contract price.

____ A Payment Bond (Standard Form 25A). The payment bond shall be in a penal sum equal to 100% of the contract price.

(b) Any surety company holding a certificate of authority from the Secretary of Treasury as an acceptable Surety on Federal bonds will be accepted. Individual sureties will be permitted as prescribed in FAR 28.203 and FAC 5252.228-9300. Alternative types of security in lieu of furnishing sureties on performance and/or payment bonds will be permitted as prescribed in FAR 28.204, and will be held for at least one year after the completion of the contract. Additional bond security may be required as prescribed in FAR 52.228-2. Bonds shall be accompanied by a document authenticating the agent's authority to sign bonds for the surety company.

(c) The contract time for purposes of fixing the completion date, default, and liquidated damages shall begin to run ____ days from the date of award, regardless of when performance and payment bonds or deposits in lieu of surety are executed. (End of clause)

ALTERNATE I – As prescribed in 28.102-3-100(b), for indefinite quantity solicitations, substitute "contract price" in the basic provision with "the price payable for the contract guaranteed minimum".

ALTERNATE II – As prescribed in 28.102-3-100(c), for combination firm fixed-price/indefinite quantity solicitations where the firm fixed-price portion constitutes the guaranteed minimum, replace "contract price" in the basic provision with "the price payable for the firm fixed-price portion". Where the firm fixed-price portion and a percentage of the indefinite quantity portion will constitute the guaranteed minimum, substitute "contract price" in the basic provision with "the price payable for the firm fixed-price portion and the guaranteed minimum amount of the IQ portion".

ALTERNATE III - As prescribed in 28.102-3-100(d), for requirements solicitations, substitute "contract price" in the basic provision with "the price payable for the estimated quantity".

5252.228-9306 Performance Guarantee. As prescribed in 28.101-2-100(b), insert the following clause:

PERFORMANCE GUARANTEE (JUN 1994)

Submittal Time. The bidder whose bid is accepted shall furnish a performance guarantee within ten (10) days after the contract forms are presented to him for signature. If he fails to give such guarantee within ten (10) days, his contract may be terminated for default. In such event he shall be liable for any cost of procuring the work which exceeds the amount of his bid and the bid guarantee shall be available toward offsetting such difference.

Form of Performance Guarantee. The bidder whose bid is accepted shall furnish a performance guarantee in the form of a cashier's check to the order of the (Office

Designated for Contract Administration) in the amount of eight percent (8%) of the contract price, which will be cashed and deposited in the account of the U. S. Government. The performance guarantee shall take effect upon the date of signature of the contract and remain valid and irrevocable until one (1) year after the work has been finally inspected and accepted by the Government. However, upon acceptance of all work by the Government, the Contractor may, with the approval of the Contracting Officer, replace this guarantee with a reduced guarantee in the amount of four percent (4%) of the then existing contract price, with modifications, if any. Such replacement guarantee will then remain in effect for one year after the final acceptance of the work by the Government.

Optional Performance Bond. In lieu of a performance guarantee in the above stated form of a cashier's check, the Contractor may submit a performance bond in which the Contractor and the surety obligate themselves in the amount of ten percent (10%) of the contract price, that the Contractor shall undertake the performance of the contract and that said performance bond ensures the fulfillment of all agreements contained in the contract.

a. The bond shall be from a registered bank, bonding firm, or registered insurance firm approved by the Contracting Officer.

b. The bond shall be of the U. S. standard type or of another approved type and shall include the following concepts: (1) name of Surety and name of agent signing in behalf of Surety; (2) name of Principal; (3) a statement that the Principal and Surety are firmly bound on the United States of America in the penal sum of the bond; (4) Contract number; (5) Penal sum of bond and the statement "This bond will be in force until the Contracting Officer of the above-cited Contract authorized cancellation of the bond"; and (6) date of issuance of bond and signature of Surety's agent. (End of clause)

5252.229-9302 Consumption Tax Exemption Procedures on Purchase of Goods and Services By the United States Armed Forces in Japan [Japanese Law No. 108, 1988]. As prescribed in 29.402-100(a), insert the following clause:

CONSUMPTION TAX EXEMPTION PROCEDURES ON PURCHASE OF GOODS AND SERVICES BY THE UNITED STATES ARMED FORCES IN JAPAN [JAPANESE LAW NO. 108, 1988] (JUN 1994)

(a) The Consumption Tax Law (Law No. 108, 1988) was enacted in the Diet of Japan on 24 December 1988, and applied from April 1, 1989. The Government of Japan (GOJ) and the United States Government (USG), in accordance with paragraph 3, Article XII, of the "The Agreement Under Article VI of the Treaty of Mutual Cooperation And Security Between Japan And The United States of America Regarding Facilities And Areas And The Status of United States Armed Forces In Japan" (SOFA), have agreed upon procedures for exempting the United States from the Consumption Tax on the following transactions upon appropriate certification:

(1) Goods and services purchased in Japan for official purposes of the U. S. Armed Forces by the U. S. Armed Forces or its authorized procurement agencies;

(2) Goods and services purchased in Japan, by persons, including corporations, who are designated by the USG in accordance with the provisions of paragraphs 1 and 2, Article XIV of the SOFA (Article XIV Contractors), solely for the purpose of performing the business of construction, maintenance or operation under the contract for construction, etc., for use by the U. S. Armed Forces, or film and gasoline purchased in Japan by Article XIV Contractors solely for the business activities described above.

(b) The underlying objective is to obtain the full amount of the exemption from the tax on U.S. Forces procurements immediately at the time of purchase, and at the same time give the Contractor a proof of purchase document, acceptable to GOJ tax authorities, which he/she can present to the tax authorities to obtain a tax credit and/or refund for tax already collected and paid by previous sellers.

(c) By the submission of their offer, the offeror certifies that Japanese consumption tax is not part of the bid price, nor will it be a part of any subsequent modification to the contract. Procedures for Contractors to obtain a consumption tax credit are described in a handbook that may be obtained from the Procuring Contracting Office. (End of clause)

5252.229-9304 Tax Relief. As prescribed in 29.402-100(b)(1), insert the following clause:

TAX RELIEF (JUN 1994)

(a) Price contained in the bids are exclusive of all taxes and duties which the U. S. Government is exempted from by virtue of any tax agreements between the U. S. Government and the Contractor's Government. Relief from Italian taxes and duties for the Prime Contractor only is provided in accordance with an Agreement of 5 March 1952 between the Government of the United States of America and Italy. The Contractor's obligation to pay the tax or duty is not removed by the Agreement; however, the Contractor may obtain relief from certain taxes and duty by contacting the Italian Ministry of Industry. With reference to the value added tax (IVA) which became effective in Italy on 1 January 1973, Article 72 of the IVA implementing decree authorizes an exemption from the total accumulated amount of IVA tax on all goods supplied and services rendered to U. S. military commands, provided, however, that the United States of America shall not be liable for the interest on any such sums accruing to the Contractor under such agreement because of delay or failure on the part of the Italian Government to pay such refunds.

(b) Use of AE 302 forms is hereby authorized. The purpose of the AE 302 procedure is to obtain exemption from taxes and custom duties which the U. S. Government and Government of Italy have agreed shall not be applicable to defense purchases by or on behalf of the U. S. Forces in Italy. Signature on the AE 302 form by an authorized U. S. official only represents certification that the goods and materials imported into Italy are solely for the use of the U. S. Forces; this signature does not and is not intended to alter the other terms and conditions of this contract, including the terms concerning transfer of title of the goods and materials. <u>USE OF THE AE 302 PROCEDURES</u> <u>SHALL NOT BE CAUSE TO ASSERT ANY CLAIM, INCLUDING</u>

DELAYS INCIDENT TO OBTAINING U. S. AUTHORIZED OFFICIALS TO CERTIFY THE AE 302 FOR EACH SHIPMENT. (End of clause)

ALTERNATE I (JUN 1994). As prescribed in 29.402-100(b)(2), substitute the following paragraph for the basic clause:

By terms of the Agreement between the Government of Spain and the Government of the United States, the operations and expenditures of Contractors, their material suppliers and certain of their subcontractors made pursuant to a contract with the Government of the United States are relieved of Spanish taxation. These tax exemptions include but are not limited to import duties, transaction taxes, provincial and municipal taxes. In this connection, bidders are advised to consider Royal Decree 669/1986 dated 21 March, which governs the matter of Value Added Tax exemption. An allowance for taxes which are properly assessable by the Government of Spain will be deemed to have been included in any bid submitted and the resulting contract price. See "TAXES - FOREIGN FIXED-PRICE CONTRACT" of the contract clauses for the Contractor's warranty regarding the inclusion of taxes in the contract price. (End of clause)

ALTERNATE II (JUN 1994). As prescribed in 29.402-100(b)(3), substitute the following paragraph for the basic clause.

The U.S. Government is exempt from Greek taxes as described in applicable agreements between the two countries. Article 22 of the January 1987 Greek Tax Law describes tax exempt organizations. Article 27 of the Tax Law details procedures for Contractors to use to obtain reimbursement for taxes paid doing business for tax exempt organizations. Inquiries regarding this tax law should be directed to the appropriate office within the Government of Greece. Value Added Tax is not reimbursable by the U.S. Government under the contract to be issued pursuant to this solicitation. Imported goods may be consigned directly to the U.S. Government if it alleviates requirement to pay custom duties. (End of clause)

5252.232-9300 Contractor Accounting System--Segregation of Costs. As prescribed in 32.111-100(a), insert the following clause:

CONTRACTOR ACCOUNTING SYSTEM--SEGREGATION OF COSTS (JUN 1994)

The Contractor shall employ an accounting system for this contract to identify and record site specific costs on a site specific activity basis. Site specific cost documentation must be readily retrievable and sufficiently identifiable to enable cross-referencing with payment vouchers.
(End of clause)

5252.236-9300 Limitations On Authority Of Architect-Engineer. As prescribed in 36.609-100(a) insert the following clause:

LIMITATIONS ON AUTHORITY OF ARCHITECT-ENGINEER (JUN 1994)

Unless specific exceptions are established by a written instruction issued by the Contracting Officer, the architect-engineer firm:

(a) Shall not authorize any deviation from the construction contract documents or approve any substitute materials or equipment.

(b) Shall not exceed limitations on the Government's authority as set forth in construction contract documents.

(c) Shall not undertake any of the responsibilities of the contractor, subcontractors, construction Contractor's Superintendent or Contractor Quality Control Representative.

(d) Shall not expedite or accelerate the work of construction contractor and subcontractors.

(e) Shall not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences or procedures of construction unless such is specifically called for in construction contract documents.

(f) Shall not authorize or advise users to occupy projects in whole or in part, unless agreed to by the Contracting Officer. (End of clause)

5252.236-9301 Special Working Conditions and Entry to Work Area. As prescribed in 36.5100(a), insert the following clause:

SPECIAL WORKING CONDITIONS AND ENTRY TO WORK AREA (OCT 2004)

The Government under certain circumstances may require denial of entry to the work areas under this contract where the Contractor's work or presence would constitute a safety or security hazard to ordnance storage or handling operations. Restrictions covering entry to and availability of the work areas are as follows:

(a) Entry. Entry to work areas located within the special Security Limited areas, defined as those work areas located within the existing security fence, can be granted subject to special personnel requirements as specified herein and to other normal security and safety requirements. Complete denial of entry to the Limited Area may be required during brief periods of one to two hours (normally) and on rare occasions of two to four hours. For bidding purposes, the Contractor shall assume denial of entry to the work areas in the Limited Area of six 2-hour denials and one 4-hour denial per month.

(b) Vehicle Delay. The Contractor shall also assume for bidding purposes that, in addition to site denial, each vehicle and/or unit of construction equipment will be delayed during each movement through the security gate, both entering and leaving the limited area. Delays will average _____.

(c) Operational Considerations. To reduce delay time while preserving required security, the following points should be considered in operational planning:

(1) Vehicle Search. Security regulations required that all vehicles, when authorized to enter the Limited Area be thoroughly searched by guard force personnel. Such a search will be required for all vehicle/ construction equipment. Accordingly, once a vehicle or unit of construction equipment has been cleared, it may be left in the Limited Area after initial entry has been made. For the period of time authorized the vehicle/equipment left in the Limited Area will be assigned parking areas by the Contracting Officer. The vehicle/equipment must be secured as specified in paragraph entitled "SECURITY REQUIREMENTS." The intent is to reduce the Contractor loss of time at the security gate. No private vehicles will be allowed to enter the Limited Area.

(2) Delivery Vehicles. Guard force personnel will inspect vehicles delivering construction materials while the driver is being processed for entry into the Limited Area. A Security Escort will then escort the driver and vehicle in the Limited Area. To provide this service, delivery schedules should be promulgated in advance and vendors made aware that a reasonable delay can be expected if delivery is other than the time specified. Deliveries after 1600 hours will not be allowed entry into the Limited Area without prior approval of the Physical Security Officer. (End of clause)

5252.236-9302 Architect-Engineer Contracts For Consultation and Advice. As prescribed in 36.609-100(b), insert the following clause:

ARCHITECT-ENGINEER CONTRACTS FOR CONSULTATION AND ADVICE (JUN 1994)

In addition to the services required by any other contract provisions, the Contractor shall provide work-days of general engineering services and consultation at the construction site or at such other locations as the Government may desire, when and as required by the Contracting Officer during the course of construction. (End of clause)

5252.236-9303 Accident Prevention. As prescribed in 36.5100(b), insert the following clause:

ACCIDENT PREVENTION (NOV 1998)

(a) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in the manner and on the forms prescribed by the Contracting Officer, all accidents resulting in death, traumatic injury, occupational disease, and damage to property, materials, supplies and equipment incident to work performed under this contract.

(b) Compliance with the provisions of this article by subcontractors will be the responsibility of the Contractor.

(c) Prior to commencement of the work, the Contractor may be required to:

(1) submit in writing his proposals for effectuating provision for accident prevention;

(2) meet in conference with representatives of the Contracting Officer to discuss and develop mutual understandings relative to administration of the overall safety program. (End of clause)

5252.236-9304 Utilities For Construction and Testing. As prescribed in 36.5100(c), insert the following clause:

UTILITIES FOR CONSTRUCTION AND TESTING (JUN 1994)

The Contractor shall be responsible for obtaining, either from available Government sources or local utility companies, all utilities required for construction and testing. The Contractor shall provide these utilities at his expense, paid for at the current utility rate delivered to the job site. The Contractor shall provide and maintain all temporary utility connections and distribution lines, and all meters required to measure the amount of each utility used. (End of clause)

5252.236-9305 Availability of Utilities. As prescribed in 36.5100(d), insert the following clause:

AVAILABILITY OF UTILITIES (JUN 1994)

When available, the Government will furnish reasonable amounts of the following utilities for the work to be performed under this contract at no cost to the Contractor. Information concerning the location of existing outlets may be secured from the OIC. The Contractor shall provide and maintain, at his expense, the necessary service lines from existing Government outlets to the site of work.

Electric - Water - Compressed Air

Contractor Furnished Utilities. In the event that the Government is unable to provide the required types of utilities, the Contractor shall, at his expense, arrange for the required utilities.

Contractor Energy Conservation. The Contractor shall be directly responsible for instructing employees in utilities conservation practices. The Contractor shall be responsible for operating under conditions which preclude the waste of utilities, which shall include:

a. Lights shall be used only in areas where and at the time when work is actually being performed.

b. Mechanical equipment controls for heating, ventilation and air conditioning systems will not be adjusted by the workers.

c. Water faucets or valves shall be turned off after the required usage has been accomplished.

Telephone Lines. Telephone lines for the sole use of the contractor will not be available. Government telephones shall not be used for personal reasons.

Contractor Availability. The contractor shall maintain a telephone at which he or his representative may be reached 24 hours daily. The telephone shall be listed in the contractor's name. If the contractor does not have a local telephone, he shall maintain a toll free emergency telephone (or accept collect calls from authorized Government personnel) at which he or his representative may be reached at night, weekends and holidays. It is mandatory that the contractor or his representative be available to a toll-free telephone 24 hours per day, seven days per week, including holidays. He shall notify the OIC in writing of the mailing address and telephone number within three days after award of this contract and immediately thereafter in the event of change. (End of clause)

5252.236-9307 Drawings Prepared By an Architect-Engineer. As prescribed in 36.609-100(c), insert the following clause:

DRAWINGS PREPARED BY AN ARCHITECT-ENGINEER (JUN 1994)

The engineer or architect signing the drawings must be registered in the country of record for the architect-engineer firm or the country of the proposed construction -- as a Professional Engineer (P.E.) or Registered Architect (R.A.). In addition, the drawings shall be signed by a responsible person of corporate status in the architect-engineer firm and stamped with his/her registration seal when the seal is authorized by the country where the project is to be constructed. (End of clause)

5252.236-9308 Information Concerning Cost Limitations. As prescribed in 36.5100(e), insert the following provision:

INFORMATION CONCERNING COST LIMITATIONS (JUN 1994)

The Navy has available _____ for the award of this contract. Proposals in excess of this amount will not be considered. Proposers should prepare their proposals so as to permit award at a price within the cost limitation. The Basis of Award is specified in paragraph. The type of construction, materials and physical amenities provided for any type unit, including senior officer and flag officers, shall be generally similar to those proposed for any other unit in the project and that the cost per net square foot to the 5 foot line of all units in the project be approximately the same. (End of provision)

5252.236-9309 Key Personnel. As prescribed in 36.609-100(d), insert the following clause:

KEY PERSONNEL (JUN 1994)

The Architect-Engineer (A-E) shall employ the following professional personnel to perform the services required under this contract. Prior to starting work, the A-E will forward to the Contracting Officer a resume for the individual(s) assigned to each discipline to be utilized. No substitution will be made without the advance written approval of the Contracting Officer, after he has reviewed the proposed replacement's experience and qualifications record submitted by the architect-engineer firm with explanation of the necessity for the change. No increase in salary rates will be allowed when personnel substitution is authorized.

DISCIPLINE NAME JOB TITLE

(End of clause)

5252.236-9310 Record Drawings. As prescribed in 36.5100(f)(1), insert the following clause:

RECORD DRAWINGS (OCT 2004)

The Contractor shall maintain at the job site two sets of full-size prints of the contract drawings, accurately marked in red with adequate dimensions, to show all variations between the construction actually provided and that indicated or specified in the contract documents, including buried or concealed construction. Special attention shall be given to recording the horizontal and vertical location of all buried utilities that differ from the final government-accepted drawings. Existing utility lines and features revealed during the course of construction, shall also be accurately located and dimensioned. Variations in the interior utility systems shall be clearly defined and dimensioned; and coordinated with exterior utility connections at the building five-foot line, where applicable. Existing topographic features which differ from those shown on the contract drawings shall also be accurately located and recorded. Where a choice of materials or methods is permitted herein, or where variations in scope or character of methods is permitted herein, or where variations in scope or character of work from that of the original contract are authorized, the drawings shall be marked to define the construction actually provided. The representations of such changes shall conform to standard drafting practice and shall include such supplementary notes, legends, and details as necessary to clearly portray the as-built construction. These drawings shall be available for review by the Contracting Officer at all times. Upon completion of the work, both sets of the marked up prints shall be certified as correct, signed by the Contractor, and delivered to the Contracting Officer for his approval before acceptance. Requests for partial payments will not be approved if the marked prints are not kept current, and request for final payment will not be approved until the marked prints are delivered to the Contracting Officer. (End of clause)

ALTERNATE I (JUN 1994). As prescribed in 36.5100(f)(2), when as-built drawings are not required, substitute the following paragraph for the basic clause:

Record drawings will not be required.

ALTERNATE II (OCT 2004) as prescribed in 36.5100(f)(3), when a Design-Build contract is used, replace the following:

"Upon completion of the work, both sets of the marked up prints shall be certified as correct, signed by the Contractor, and delivered to the Contracting Officer for his approval before acceptance. Requests for partial payments will not be approved if the marked prints are not kept current, and request for final payment will not be approved until the marked prints are delivered to the Contracting Officer."

with the following:

"The Contractor shall deliver the marked up drawings to the Designer of Record who shall incorporate all as-built modifications into the electronic design drawings. Final payment shall not be made until the as-built electronic design drawings are delivered to the Contracting Officer." (End of clause)

5252.236-9312 Design-Build Contract – Order of Precedence. As prescribed in 36.5100(g), insert the following clause:

DESIGN-BUILD CONTRACT – ORDER OF PRECEDENCE
(AUG 2006)

(A) In the event of conflict or inconsistency between any of the below described portions of the conformed contract, precedence shall be given in the following order:

(1) Any portions of the proposal or final design that exceed the requirements of the solicitation.

(a) Any portion of the proposal that exceeds the final design.
(b) Any portion of the final design that exceeds the proposal.
(c) Where portions within either the proposal or the final design conflict, the portion that most exceeds the requirements of the solicitation has precedence.

(2) The requirements of the solicitation, in descending order or precedence:

(a) Standard Form 1442, Price Schedule, and Davis-Bacon Wage Rates.
(b) Part 1 – Contract Clauses.
(c) Part 2 – General Requirements.
(d) Part 3 – Project program Requirements.
(e) Part 6 – Attachments (excluding Concept Drawings).
(f) Part 5 – Prescriptive Specifications exclusive of performance specifications.
(g) Part 4- Performance Specifications exclusive of prescriptive specifications.
(h) Part 6 – Attachments (Concept Drawings).

(B) Government review or approval of any portion of the proposal or final design shall not relieve the contractor from responsibility for errors or omissions with respect thereto. (End of clause)

5252.236-9313 Design-Build Contract - Incorporation of Designer-of-Record Final Design (Jul 2008). As prescribed in 36.5100(i), insert the following clause:

DESIGN-BUILD CONTRACT – INCORPORATION OF DESIGNER OF RECORD FINAL DESIGN (JUL 2008)

Upon Government receipt and acceptance of the Designer of Record signed and stamped final design submission for all work, a no-cost unilateral modification shall be issued to incorporate the final design into the contract.

If the Contractor is authorized to proceed with portions of the work prior to the completion of a final design for all work, a no-cost unilateral modification shall be issued

for each Government accepted Designer of Record signed and stamped design submission for each portion of the work in order to incorporate that design submittal into the contract. (End of clause)

5252.237-9300 Schedule of Deductions. As prescribed in 37.1003(a), insert the following clause:

SCHEDULE OF DEDUCTIONS (NOV 1998)

(a) Within fifteen (15) days after the contract award, the successful Contractor shall provide an acceptable Schedule of Deductions for the base period and each option year of the contract. No work may commence until such Schedule of Deductions is approved by the Contracting Officer. The total of the Schedule of Deductions must equal the amount entered in Contract Line Item _____ [fill in blank]. If for any reason this contract is modified, including the exercise of an option, and the modification affects the schedule of deductions, the contractor shall submit a revised schedule of deductions within fifteen (15) days of the date of the modification. Prices shown in the Schedule of Deductions will be utilized in conjunction with the "CONSEQUENCES OF THE CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICE" clause in making deductions to the contract price for nonperformed or unsatisfactory work.

(b) Unbalancing in the Schedule of Deductions submitted shall be the cause for withholding approval and requiring resubmittal of a balanced schedule. The Contractor's failure to provide an approved Schedule of Deductions shall be grounds for TERMINATION FOR DEFAULT. The Government reserves the right to unilaterally establish a Schedule of Deductions in the event the successful Contractor fails to present the Schedule of Deductions within fifteen (15) calendar days of the date of contract award or presents a Schedule of Deductions, which is unbalanced or materially deficient. The approved Schedule of Deductions shall be part of the contract. DO NOT SUBMIT the Schedule of Deductions with the offer. (End of clause)

5252.237-9301 Substitutions of Key Personnel. As prescribed in 37.1003(b), insert the following clause:

SUBSTITUTIONS OF KEY PERSONNEL (JUN 1994)

The Contractor shall provide complete resumes for proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 days after receipt of all required information of the consent on substitutes. No change in fixed unit prices may occur as a result of key personnel substitution. (End of clause)

5252.237-9302 Site Visit. As prescribed in 37-1003(c), insert the following provision:

SITE VISIT (JUL 1995)

(a) The site will be available for visitation at (indicate hours and days the site of work will be available to potential bidders/offerors).

OR

(a) Arrangements to visit the site may be made by contacting (insert contact point) during regular working hours at (insert telephone number). Site visits are restricted to regular working hours.

(b) Visitors may be required to present documentation evidencing personal identification and firm affiliation. (End of clause)

5252.242-9300 Government representatives. As prescribed in 42.570-100(a), insert the following clause:

GOVERNMENT REPRESENTATIVES (OCT 1996)

The contract will be administered by an authorized representative of the Contracting Officer. In no event, however, will any understanding or agreement, modification, change order, or other matter deviating from the terms of the contract between the Contractor and any person other than the Contracting Officer be effective or binding upon the Government, unless formalized by proper contractual documents executed by the Contracting Officer prior to completion of this contract. The authorized representative as indicated hereinafter:

_____The Contracting Officer's Representative (COR) will be designated by the Contracting Officer as the authorized representative of the Contracting Officer. The COR is responsible for monitoring performance and the technical management of the effort required hereunder, and should be contacted regarding questions or problems of a technical nature.

_____The designated Contract Specialist will be the Administrative Contracting Officer's representative on all other contract administrative matters. The Contract Specialist should be contacted regarding all matters pertaining to the contract or task/delivery orders.

_____The designated Property Administrator is the Administrative Contracting Officer's representative on property matters. The Property Administrator should be contacted regarding all matters pertaining to property administration. (End of clause)

5252.242-9305 Pre-Performance Conference. As prescribed in 42.570-100(b), insert the following clause:

PRE-PERFORMANCE CONFERENCE (JUL 1995)

Within ____ days of contract award, prior to commencement of the work, the Contractor will meet in conference with representatives of the Contracting Officer, at a time to be determined by the Contracting Officer, to discuss and develop mutual understanding relative to scheduling and administering work. (End of clause)

5252.245-9300 Government-Furnished Property, Materials and Services. As prescribed in 45.106-100(a), insert the following clause:

GOVERNMENT-FURNISHED PROPERTY, MATERIALS AND SERVICES (FEB 2009)

In accordance with FAR clause 52.245-1, Government Property (JUN 2007), Section I, the Government will provide the Contractor the use of Government-owned **!MODIFY AS REQUIRED!** facilities, equipment, materials, and utilities for use only in connection with this contract. All such facilities, equipment, and materials will be provided in "as is" condition and their use is at the option of the Contractor. The use of Government-furnished property and services for other purposes is prohibited.

(a) Government-Furnished Facilities. The Government will furnish or make available to the Contractor the facilities described in Attachment J-C. The Contractor shall be responsible and accountable for such facilities accepted for use and shall take adequate precautions to prevent fire hazards, odors, and vermin. Janitorial and refuse collection services for Government-furnished facilities shall be provided by the Contractor. The Contractor shall obtain written approval from the Contracting Officer prior to making any modifications or alterations to the facilities. Any such modifications or alterations approved by the Government will be made at the expense of the Contractor. At the completion of the contract all facilities shall be returned to the Government in the same condition as received, except for reasonable wear and tear.

(b) Government-Furnished Equipment. The Government will provide the Contractor the use of existing and available Government-owned equipment as listed in Attachment J-C__.

(1) The Contractor shall provide periodic servicing, maintenance, and repair of the equipment accepted for use. Servicing, maintenance, and repair shall be provided in accordance with the manufacturer's recommendations, and records of all work performed shall be maintained and made available to the Contracting Officer upon request.

(2) The total or partial breakdown or failure of the Government-furnished equipment shall not relieve the Contractor of responsibility to fully perform the work of the contract. Upon completion or termination of the contract, all Government-owned equipment shall be returned to the Government in the same condition as received, except for normal wear and tear. Equipment which becomes worn out due to normal wear and tear shall be returned to the Government and its replacement shall be the responsibility of the Contractor at no additional cost to the Government. The Contractor shall be responsible for the cost of any repairs or replacement caused by negligence or abuse.

(3) The Contractor and the Contracting Officer shall conduct a joint inventory before commencing work under this contract to determine the exact number and serviceability of Government-furnished equipment. The Contractor shall then certify the findings of this inventory, assume accounting responsibility, and subsequently report inventory discrepancies to the Contracting Officer. Government-furnished equipment

shall not be removed from the military base/facility unless approved by the Contracting Officer in writing.

(c) Government-Furnished Material. The Government will furnish the material described in Attachment J-C__ to the Contractor on a one-time basis. The Contractor and the Contracting Officer shall conduct a joint inventory before commencing work to determine the exact amount and serviceability of Government-furnished materials. The Contractor shall then certify the findings of this inventory, assume accounting responsibility for all materials accepted for use, and provide documentation supporting issue/use of such material. Upon depletion of material provided to the Contractor by the Government, the Contractor shall furnish all material to perform the work of the contract, except as otherwise specified herein. Upon completion or termination of this contract a second joint inventory shall be conducted, if necessary, of all unused Government-furnished materials. The Contractor shall be held liable for all materials which cannot be accounted for by issue/use documentation.

(d) Availability of Utilities. The Government will furnish (indicate utilities provided such as electricity, steam, natural gas, fresh water, and sewage services) at existing outlets for use in those facilities provided by the Government, and as may be required for the work to be performed
under the contract. Information concerning the location of existing outlets may be obtained from the Contracting Officer. The Contractor shall provide and maintain, at his expense, the necessary service lines from existing Government outlets to the site of work.

(1) Utilities specified above will be furnished at no cost to the Contractor.

OR

(1) The Contractor shall pay for utilities consumed and shall, at its expense, install meters as required by the Contracting Officer to measure consumption of utilities provided by the Government. Rates for reimbursement to the Government of metered utilities will be list the rates of reimbursement per type of service provided.

(2) A restricted telephone line (USOC Class RS4) for on base calls will be provided by the Government at no cost to the Contractor. The Contractor shall install commercial telephone service, and all service and toll charges shall be paid for by the Contractor.

(e) Availability of Services. The Government will/will not provide custodial services and/or refuse collection from existing collection points. Attachment J-C___ contains a listing of the services provided by the government. If the Government does not provide refuse collection, the contractor will be required to dispose of all garbage and other waste materials generated by his work at a licensed off site landfill. (End of clause)

5252.245-9302 Limited Assumption of Risk By Government. As prescribed in 45.106-100(b), insert the following clause:

LIMITED ASSUMPTION OF RISK BY GOVERNMENT (JUN 1994)

(a) Title of all work in place shall be in the Government, and title to all property intended for incorporation in the work shall vest in the Government upon delivery thereof to the site of the work. The term "Government-owned property" as used in this clause refers to such work in place and to such other property as to which title has vested in the Government and includes any property furnished or rented to the Contractor by the Government. Upon completion of the work, any such Government-owned property not a part of the work (except property rented to, or furnished without charge to the Contractor by the Government) shall become the property of the Contractor. The vesting of title in the Government, as provided in this paragraph, shall in no way relieve the Contractor of any obligations otherwise provided in this contract in respect to such Government-owned property except as expressly stated in paragraph (b) of this clause.

(b) The Contractor represents that the contract price does not include the cost of insurance, nor any provision for a reserve, covering the risk assumed by the Government under this paragraph. The Government assumes the risk of loss or damage to such Government-owned property (including expenses incidental to such loss or damage) which results directly or indirectly from the explosion of Government-owned or controlled munitions (including, without limitations, ammunition, bombs, powder, dynamite and other explosives), whether or not caused by negligence, except that the Government does not assume at any time the risk of, and the Contractor shall be responsible for, such loss or damage (1) which is in fact covered by insurance or for which Contractor is otherwise reimbursed, or (2) which results from disregard of proper instructions of the Contracting Officer, on the part of any of the Contractor's directors, officers or any other representatives having supervision or direction of all or substantially all the Contractor's operations under this contract.

(c) In the event of loss or damage to Government-owned property resulting from the risk assumed by the Government hereunder, the Contracting Officer shall determine whether, and to what extent, such property shall be rebuilt, repaired or replaced by the Contractor or otherwise. Should this determination cause an increase or decrease in the cost of doing the work under this contract or time required for its performance, an equitable adjustment shall be made as provided in the changes clause of the contract.

(d) The provisions contained in the statement of work under "Permits and Responsibilities," are to be deemed modified by this clause only to the extent required to give effect to the limited assumption of risk provided in this clause. (End of clause)

5252.246-9303 Consequences of Contractor's Failure To Perform Required Services. As prescribed in 46.407-100(a)(1), insert the following clause:

CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICES (OCT 2004)

The Contractor shall perform all of the contract requirements. The Government will inspect and assess Contractor performance in accordance with FAR 52.246-4, INSPECTION OF SERVICES - FIXED PRICE and the Section E provision entitled GOVERNMENT PERFORMANCE ASSESSMENT. The Government will require re-performance, withhold payment, or seek other suitable consideration for unsatisfactory or non-performed work. When defects can’t be corrected by re-

performance, the Government may reduce the price to reflect the reduced value of services performed.

(a) PROCEDURES. In the case of unsatisfactory or non-performed work, the Government:

(1) may give the Contractor written notice of observed deficiencies prior to withholding payment for unsatisfactory or non-performed work and/or assessing liquidated damages. Such written notice shall not be a prerequisite for withholding payment for non-performed work. The Government may specify, as provided for below, that liquidated damages can be assessed against the Contractor. Such liquidated damages are to compensate the Government for administrative costs and other expenses resulting from the unsatisfactory or non-performed work.

(2) may, at its option, allow the Contractor an opportunity to re-perform the unsatisfactory or non-performed work, at no additional cost to the Government. In the case of daily work, corrective action must be completed within _____ hours of notice to the Contractor. In the case of other work, corrective action must be completed within _____ hours of notice. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the value of all observed defects. The original inspection results of the Contractor's work will not be modified upon re-inspection. However, the Contractor will be paid for satisfactorily re-performed work.

(3) shall withhold from the Contractor's invoice all amounts associated with the unsatisfactory or non-performed work at the prices set out in the Schedule or provided by other provisions of this contract, unless the Contractor is required to re-perform and satisfactorily complete the work. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the value of all observed defects.

(4) may, at its option, perform the work by Government personnel or by other means. The Government will reduce the amount of payment to the Contractor, by the amount paid to any Government personnel (based on wages, retirement and fringe benefits) plus material, or by the actual costs incurred to accomplish the work by other means. If the actual costs cannot be readily determined, the prices set out in the Schedule will be used as the basis for the deduction. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the computed cost.

(b) The Contractor is responsible for maintaining an effective Quality Control Program during the course of the contract. Failure to maintain adequate quality control may result in Termination for Default.

(c) Re-performance by the Contractor does not waive the Government's right to terminate for nonperformance in accordance with FAR clause 52.249-8, DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) of Section I and all other remedies for default as may be provided by law.

(d) When WATCHSTANDING SERVICES apply. If the Contractor fails to provide qualified personnel or allows any post to be unmanned for a total of _____ minutes in any shift, the Government may assign other persons to perform such work or withhold payment as specified below;

(1) When Watchstanding Services are performed by Government employees, withholdings shall be computed based on the current Federal Pay Schedule including wages, retirement and fringe benefits of the Government employees (civilian or military) who actually performed the work. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the computed cost.

(2) When non-performed Watchstanding Services are obtained under another contract, the Government will withhold an amount equal to the cost to the Government under that contract. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the cost.

(3) If no guard replacement is furnished by the Government and the work is not performed, the Government will withhold an amount equal to the cost to the Government of having a Government employee perform the work. In addition, the Government can assess liquidated damages, as referenced above, in the amount of _____ percent of the computed cost.

(4) The Contractor will be held liable for property losses sustained by the Government as a direct, consequential result of a failure to furnish the required personnel.

(5) Computations of the costs for Government employees to perform work not performed by the Contractor shall be in conformance with FAR 52.222-42, STATEMENT OF EQUIVALENT RATE FOR FEDERAL HIRES.

ALTERNATE I (APR 1999). As prescribed in 46.407-100(a)(2) and 11.502(d), for military family housing maintenance, the following paragraph (e) may be added to the basic clause:

(e) **Change of Occupancy Maintenance (COM)**. In the event the contractor fails to complete change of occupancy maintenance within the number of days allowed, the Government may assess the COM liquidated damages shown below in addition to the liquidated damages set forth above. COM liquidated damages are based on the prevailing average daily Basic Allowance for Quarters (BAQ) with dependents, plus the average Variable Housing Allowance (VHA). Current applicable rates are shown below; however, actual charges shall be based on the prevailing rates in effect at the time.

COM Liquidated Damages	
Type of Unit	LDs Per Calendar Day
F&GOQ (Flag and General Officers' Quarters	*
SOQ (Senior Officers' Quarters	*
FGQ (Field Grade Officers' Quarters	*
CGO (Company Grade Officers' Quarters	*
SE (Senior Enlisted Quarters)	*
JE (Junior Enlisted Quarters)	*

* Insert appropriate daily rates for each type of quarters listed.

5252.246-9304 Estimating the Price of Nonperformed or Unsatisfactory Work. As prescribed in 46.407-100(b), insert the following clause:

ESTIMATING THE PRICE OF NONPERFORMED OR UNSATISFACTORY WORK (OCT 2004)

In the event the price of non-performed or unsatisfactory work cannot be determined from the prices set out in the Schedule, or on the basis of the actual cost to the Government, estimating methods may be used to determine an amount, which reflects the reduced value of services performed. The Government may estimate the cost using wage rates and fringe benefits included in the wage determinations included in the contract, Government estimates of the Contractor's overhead and profit rates, and Government estimates of material costs if applicable. Liquidated damages, to compensate the Government for administrative costs and other expenses resulting from the non-performed or unsatisfactory performance, will be calculated in accordance with the CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED WORK clause. (End of clause)

5252.246-9305 [Removed]

5252.248-1 Value Engineering (MAR 1989) (NAVFAC DEVIATION NOV 1998). As prescribed in 48.201, insert the following clause in solicitations and contracts for Base Operating Services (BOS).

VALUE ENGINEERING (MAR 1989) (NAVFAC DEVIATION NOV 1998)

(a) The Contractor is entitled, as prescribed in this clause, to share in cost savings resulting from the implementation of cost reduction projects, which are presented to the Government in the form of Cost Reduction Proposals (CRP) and approved by the Contracting Officer. These cost reduction projects may require changes to the terms, conditions or Section C, Performance Work Statement, of this contract. Any cost reduction projects must not change the essential function of any products to be delivered or the essential purpose of services to be provided under the contract.

(b) Definitions.

(1) Cost savings - as contemplated by this clause, means savings that result from instituting changes to this contract, as identified in an approved Cost Reduction Proposal.

(2) Cost Reduction Proposal (CRP) - For the purpose of this clause, a Cost Reduction Proposal means a proposal that achieves cost savings as described in this clause. These alternatives must result in a net reduction in the contract price to the Government. The proposal will include technical and cost information sufficient to enable the Contracting Officer to evaluate the CRP and approve or disapprove it.

(3) Contractor implementation costs - As used in this clause, contractor implementation costs shall mean those costs which the Contractor incurs on this contract in developing, preparing, submitting, and negotiating a CRP; as well as those

costs the Contractor will incur to make any structural or organizational changes in order to implement an approved CRP.

(4) Government cost - As used in this clause, the term government costs means internal costs of the Government agency, which result directly from development, and implementation of the CRP. These may include, but are not limited to, costs associated with the administration of the contract or with such contractually related functions such as testing, operations, maintenance and logistics support. These costs also include costs associated with other Agency contracts (including changes in contract price or cost and fee) that may be affected as a result of the implementation of a CRP. They do not include the normal administrative costs of reviewing and processing the CRP.

(c) General. The Contractor shall develop, prepare and submit CRPs with supporting information, as detailed in paragraph (e) and (f) of this clause to the Contracting Officer. The CRP will describe the proposed cost reduction activity in sufficient detail to enable the Contracting Officer to evaluate it and to approve or disapprove it. The Contractor shall share in any net cost savings realized from approved and implemented CRPs that reduce the price of this contract. The Contractor's actual percentage share of the cost savings shall be a matter for negotiation with the Contracting Officer, but shall not, in any event, exceed 50% of the total net cost savings recognized by the Contracting Officer. The Contractor may propose changes in other activities that impact performance on its contract, including government and other contractor operations, if such changes will optimize cost savings. A Contractor shall not be entitled to share, however, in any cost savings that are internal to the Government, or which result from changes made to any contracts to which it is not a party even if those changes were proposed as a part of its CRP. Early communication between the Contractor and the Government is encouraged.

(d) Computation of cost savings. The cost savings to be shared between the Government and the Contractor will be computed by the Contracting Officer by comparing a current estimate to complete (ETC) for the covered contract, as structured before implementation of the proposed CRP, to a revised ETC which takes into account the implementation of that CRP. The cost savings to be shared shall be reduced by any cost overrun, whether experienced or projected, that is identified on this contract before implementation of the CRP. Although a CRP may result in cost savings that extend far into the future, the period in which the Contractor may share in those savings, will be limited to the remaining term of the contract. Implementation costs of the Contractor savings initiative must be considered and specifically identified in the revised ETC. The Contracting Officer shall offset Contractor cost savings by any increased costs (whether implementing or recurring) to the Government when computing the total cost savings to be shared. The Contractor shall not be entitled, under this clause, to share in any cost reductions to the contract that are the result of changes stemming from any action other than an approved CRP.

(e) Processing of Cost Saving Initiatives. There is an initial submittal, which shall include the following information, as applicable, in sufficient detail for the Government to determine the feasibility of further investigation of the initiative.

(1) Initiative title and description, including contract references (paragraph numbers), if appropriate; estimated total price; what the Contractor would provide; what the Government would provide; the duration of the agreement; anticipated total revenues, expenses and net gains for the agreement period; pay back schedule; risk assessment; percentage of distribution of revenues generated; drawings and maps of the affected areas and facilities; potential impacts to the Government; potential benefits; the impact to the BOSC, etc. Initiatives should minimize any adverse impact to operations and mission capability, legal requirements, and public health and safety.

(f) Supporting Information. As a minimum, the Contractor shall provide the following supporting information with each CRP:

(1) Identification of the current contract requirements or established procedures and/or organizational support, which are proposed to be changed.

(2) A description of the difference between the current process or procedure and the proposed change. This description shall address how proposed changes will meet the Government's requirements and discuss the advantages and disadvantages of the existing practice and the proposed changes.

(3) A list of contract requirements, which must be revised, if any, if the CRP is approved, along with proposed revisions. Any changes to the Government contract management process should also be addressed.

(4) Detailed cost estimates, which reflect the implementation costs of the CRP.

(5) An updated ETC for the covered contract, unchanged and a revised ETC for the covered contract, which reflects changes resulting from implementing the CRP. If the CRP proposes changes to only a limited number of elements of the contract, the ETCs need only address those portions of the contract that have been impacted. Each ETC shall depict the level of costs incurred or to be incurred by year, or to the level of detail required by the Contracting Officer. If other CRPs have been proposed or approved on a contract, the impact of these CRPs must be addressed in the computation of the cost savings to ensure that the cost savings identified are attributable only to the CRP under consideration in the instant case.

(6) Identification of any other previous submissions of the CRP, including the dates submitted, the agencies and contracts involved, and the disposition of those submittals.

(g) Administration.

(1) Within 60 days of receipt, the Contracting Officer shall complete an initial evaluation of any proposed cost reduction plan to determine its feasibility. Failure of the Contracting Officer to provide a response within 60 days shall not be construed as approval of the CRP. The Government shall promptly notify the Contractor of the results of its initial evaluation and indicate what, if any, further action will be taken. If the Government determines that the proposed CRP has merit, it will open discussions with the Contractor to establish the cost savings to be recognized, the Contractor's share of the cost savings, and a payment schedule. The Contractor shall continue to perform in

accordance with the terms and conditions of the existing contract until a contract modification is executed by the Contracting Officer. The modification shall constitute approval of the CRP, adjust the contract cost and/or price, establish the Contractor's share of cost savings, and incorporate the agreed to payment schedule.

(2) The Contractor will receive payment by submitting invoices to the Contracting Officer for approval. The amount and timing of individual payments will be made in accordance with the schedule to be established with the Contracting Officer. Notwithstanding the overall savings recognized by the Contracting Officer as a result of an approved CRP, payment of any portion of the Contractor's share of the savings shall not be made until the Government begins to realize a net cost savings on the contract (i.e., implementation, startup and other increased costs resulting from the change have been offset by cumulative cost savings). Savings associated with unexercised options will not be paid unless and until the contract options are exercised. It shall be the responsibility of the Contractor to provide such justification as the Contracting Officer deems necessary to substantiate that cost savings are being achieved.

(3) Any future activity, including a merger or acquisition undertaken by the Contractor (or to which the Contractor becomes an involved party), which had the effect of reducing or reversing the cost savings realized from an approved CRP for which the Contractor has received payment may be cause for recomputing the net cost savings associated with any approved CRP. The Government reserves the right to make an adjustment to the Government's share of cost savings and to receive a refund of moneys paid if necessary. Such adjustment shall not be made without notifying the Contractor in advance of the intended action and affording the Contractor an opportunity for discussion.

(h) Limitations. Contract requirements that are imposed by statute shall not be targeted for cost reduction exercises. The Contractor is precluded from receiving reimbursements under both this clause and other incentive clauses of the contract, if any, for the same cost reductions.

(i) Disapproval of, or failure to approve any proposed cost reduction proposal shall not be considered a dispute subject to remedies under the Disputes clause.

(j) Cost savings paid to the Contractor in accordance with the provisions of this clause do not constitute profit or fee within the limitations imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b).

(k) The Government reserves the right to use the cost saving initiatives developed in this contract wherever and whenever they would be determined advantageous to the Government.

PART 53
FORMS

SUBPART 53.2—PRESCRIPTION OF FORMS

53.200 Scope of subpart.

The FAR/DFARS/NMCARS and NFAS prescribe forms for use in acquisition. Copies of Standard, Optional and DoD forms may be obtained from the following websites:

U. S. Government Electronic Library of GSA, Standard and Optional Forms
http://www.gsa.gov/forms/

DoD Electronic Forms
http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm

SUBPART 53.3—ILLUSTRATION OF FORMS

53.300 Scope of subpart.

This subpart provides an illustration of NAVFACENGCOM forms that may be used in the acquisition process:

Form Number	Form Name
4330/7	Contractor's Release
4330/14	Assignee's Release
4330/16	Utility Sales Contract
4330/36	Construction Contract Non-Compliance Notice
4330/46	Expanded Performance Requirements Summary
4350/1	Labor Standards Enforcement Report
4350/2	Employee Claim for Restitution of Wages
7300/30	Contractor's Invoice
7300/31	Contract Performance Statement
7300/32	Prompt Payment Certification and Deduction

APPENDIX A—NAVFAC REPORTING REQUIREMENTS

The matrix shown below is a summary of required reports, followed by special reporting formats. Unless otherwise noted, all reports shall be submitted to the Echelon II designated representative.

REPORT MATRIX		
REPORT TITLE	**REFERENCE**	**DUE DATE**
PMAP Annual Report	NMCARS 5201.691-1	Submit to NAVFAC PMAP Team by 15 November of each year.
CLEAN/RAC Interim CTO Closeout Report	P-1160	30 October of each year via Echelon III.
DCAA Audit Status Report	DoD Dir 7640.2	1 April and 1 October of each year.
Weighted Guidelines Report (DD 1547)	DFARS 215.404-76, NFAS 15.404-76	To FISC Norfolk within 30 days after contract award of negotiated actions in excess of $700,000.
Labor Enforcement Report	FAR 22.406-13, NFAS 22.406-13	10 April, 10 October of each year.
Protests Report	NFAS 33.102	Quarterly to Echelon III.
Claims Report	NFAS 33.211	15 November of each year to Echelon III.
Terminations/DRB/ADR Report	NFAS 33.214, 33.214-100, 33.2100, 49.402-3	15 November of each year to Echelon III.
Utility Contract Action Report	NFAS 41.4100	30 November of each year.

SPECIAL REPORTING FORMATS

LABOR ENFORCEMENT REPORT.

A semiannual enforcement report on compliance with and enforcement of the Davis Bacon shall be prepared on NAVFAC Form 4350/1 (REV 09-09) and shall contain information regarding NAVFAC enforcement actions during the periods 1 October to 31 March and 1 April to 30 September.

UTILITY REPORT.

A single yearly summary report shall be prepared by the following categories: electricity, gas, water, sewage and miscellaneous for all actions in the Continental United States and for all other actions. If billings not received by report date, an estimate will be made for that period.

PROTESTS REPORT.

Echelon IV shall furnish a quarterly report to Echelon III that includes the following information for each protest received:

PROTESTS

(1) GAO or Agency protest?
(2) Pre-award or Post-award?
(3) Office name (Core/IPT, FEAD/ROICC, etc.)
(4) Cognizant PCO
(5) Date of protest
(6) Solicitation/Contract number
(7) Title/Location
(8) Total dollar value
(9) Protestor name
(10) Brief description of protest grounds
(11) Protest resolution

CLAIMS REPORT.

Echelon IV shall furnish an annual report to Echelon III that includes the following information for each claim received:

CLAIMS

(1) Contractor's name and address
(2) Contract number, title and location
(3) Contract award amount and date of award
(4) Current contract price (including change orders)
(5) Date of claim letter
(6) Date claim certified
(7) Date and place of Government's receipt of claim
(8) Amount of claim (dollars and time)
(9) Basis of claim
(10) Activity claim number and the date that number was assigned
(11) Current status:
Where is it?
Received by?
Forwarded to NAVFACENGCOM?
Has it been appealed?

Litigation workload for the fiscal year:

(1) Total number of active appeals _____
Total dollar amount claimed $_____
(2) Number of new appeals docketed during the past six months (ASBCA/Court of Federal Claims) _____
Dollar amount of new appeals $_____
(3) Number of decisions issued (decisions attached) during the past six months _____
(a) Number denying appeal _____
(b) Number sustaining appeal _____
(c) Number of split decisions _____

(d) Number reporting agreement to settle _____
(e) Number dismissing appeal _____
(f) Other decisions (attach explanations) _____
(g) Dollar amount of claims while on appeal $_____
(h) Amount to be paid as directed by decisions $_____
(i) Other amounts (attach explanations) $_____
(j) Estimated litigation costs (attach breakdown) $_____

(4) Total amount paid during quarter $_____
(a) Amount of interest paid $_____
(b) Amount of attorney fees paid $_____
(5) Number of ongoing settlement negotiation appeals sustained or split decisions (attach listing) $_____

Final Decision workload for the fiscal year:

(1) Total number of claims received/dollar value: ___/$_____
(a) Number/dollar returned to field office for negotiations: ___/$_____
(b) Number/dollar forwarded to NAVFACENGCOM: ___/$_____
(c) Number/dollar withdrawn by contractor: ___/$_____
(d) Number/dollar within activity's final decision authority: ___/$_____
(e) Other (explain): ___/$_____
(2) Total number of Contracting Officer Final Decisions: _____
(a) Number of Default Final Decisions: _____
(b) Number of Excess Reprocurement Cost/LDs Final Decisions: _____
Dollar Value of Demands made: $_____
(c) Number of Final Decisions on Claims: _____
Dollar Value of Claims: $_____
(d) Other (explain): _____

TERMINATIONS/DISPUTES RESOLUTION BOARD/ALTERNATIVE DISPUTES RESOLUTION REPORT.

Echelon III shall maintain an annual report that includes the following information:

TERMINATIONS

Furnish the following information regarding defaulted contracts that are not closed out: (ACTIVITY'S NAME) TERMINATION STATUS REPORT FOR FY ___

(1) Defaulted contract number and date of award.
(2) Contract completion date of defaulted contract.
(3) Final Decision Number (Default) and date.
(4) Method of completion (e.g., Takeover Agreement, competitive negotiations, sealed bids, station forces).
(5) Date defaulted work was completed.
(6) Date of field office completion report.
(7) Final Decision Number (Demand) and date
(8) Dollar value of excess reprocurement costs/LDs.

(9) Date demand file forwarded to NAVCOMPT for collection action.

DISPUTES RESOLUTION BOARD (DRB)

(ACTIVITY'S NAME) ANNUAL DISPUTES RESOLUTION BOARD REPORT FOR FY __

(1)	Total number of claims addressed by the Disputes Resolution Board (DRB)	_____
(2)	Total dollar value	$_____
(3)	(a) Number negotiated by the DRB	_____
	(b) Negotiated amount	_____
(4)	(a) Number resolved by final decisions	_____
	(b) Dollar value awarded by final decisions	$_____
	(c) Dollar value of claims denied	$_____
	(d) Number of claims appealed	_____
	(e) Dollar value of appeals	$_____
(5)	(a) Number remanded to field for negotiations	_____
	(b) Number negotiated	_____
	(c) Dollar value of negotiations	$_____
	(d) Number withdrawn by contractor	_____
(6)	(a) Number not resolved	_____
	(b) Dollar value of not resolved	$_____

ALTERNATIVE DISPUTES RESOLUTION (ADR)

(ACTIVITY'S NAME) ALTERNATIVE DISPUTES RESOLUTION REPORT FOR FY ___

(1)	Number of appeals docketed during fiscal year:	_____
(2)	Number ADR offered	_____
(3)	Number ADR accepted	_____
(4)	Number of ADR actions completed	_____
(5)	Number of ADR actions continued to following Qtr	_____
(6)	Total value of appeals	$_____
(7)	Value of entitlement determined by ADR actions	$_____
(8)	Other information regarding past or current ADR actions:	_____

SUMMARY OF SIGNIFICANT CHANGES
NAVFAC ACQUISITION SUPPLEMENT (NFAS)
Changes between 2006 Edition, Change 17 and 2012 Editions

The following changes are documented between the NFAS 2006 Edition, Change 17 and NFAS November 2012 Edition:

(1) **1.170 (NMCARS) Peer Reviews Paragraph (f)** is revised to change the peer review thresholds to require peer reviews for Construction and A/E contracts to match peer reviews for services per NMCARS.

Deleted:

Type of Action	***Threshold (Base plus all Options)***	***Review Level***	***Peer Review Authority***
Services	$50M to <$250M	Ech III Ech IV	Ech III CCO Ech IV CCO
	$250M to <$500M for *Sole Source $250M to <$1B for Competitive	DoN	DASN(AP)
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
Supplies	$50M to <$500M for *Sole Source $50M to <$1B for Competitive	Ech III Ech IV	Ech III CCO Ech IV CCO
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
Construction & A-E	$50M to <$500M for *Sole Source $50M to <$1B for Competitive	Ech III Ech IV	Ech III CCO Ech IV CCO
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
DoN Special Interest	Identified by the Peer Review Authority as “Special Interest” or referred from the Contracting Activity	DoN	DASN(AP)

DoD Special Interest	Identified by OSD as “Special Interest”	OSD	DPAP

Substituted:

Type of Action	***Threshold (Base plus all Options)***	***Review Level***	***Peer Review Authority***
Services, Construction, & A-E	$50M to <$250M	Ech III Ech IV	Ech III CCO Ech IV CCO
	$250M to <$500M for *Sole Source $250M to <$1B for Competitive	DoN	DASN(AP)
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
Supplies	$50M to <$500M for *Sole Source $50M to <$1B for Competitive	Ech III Ech IV	Ech III CCO Ech IV CCO
	$500M or more for *Sole Source $1B or more for Competitive	OSD	DPAP
DoN Special Interest	Identified by the Peer Review Authority as “Special Interest” or referred from the Contracting Activity	DoN	DASN(AP)
DoD Special Interest	Identified by OSD as “Special Interest”	OSD	DPAP

(2) **1.601 (d)** is deleted. NAVFAC Engineering and Expeditionary Warfare Center (EXWC) will have same authority as other Echelon III Commands

(3) **1.602-2 Authorized representatives of the contracting officer**, paragraph (d)(3)(b) for COAR authority is revised to read “$25,000 - $150,000”, raising COAR authority to match SAT.

(4) **1.602-2(d)(5)(b)** is revised to clarify the requirement for establishment of a prenegotiation objective prior to negotiations as follows:

"(b) Negotiate agreements (including the establishment of pre-negotiation positions per FAR 15.406-1)"

(5) **1.602-3 Ratification of unauthorized commitments**. Administrative change to remove defunct email address.

(6) **1.603-2 Selection.** The following sentence is added to paragraph (a) to clarify warrant authority intent.

"If employee or member of armed service is fully qualified for a warrant at a lower threshold than required by the position, the individual may hold a warrant at the lower level until such time as the higher level qualifications are met."

(7) **1.603-3 Appointment** is revised to correct disconnect between NFAS language and MOA agreement for FLC cardholders as follows:

"Only the Assistant Commander for Acquisition has the authority to delegate NAVFAC contracting authority to any individual or activity outside of NAVFAC, with the exception of the GPC warrants issued to Fleet Logistics Center cardholders supporting NAVFAC. Those warrants are issued in accordance with NAVFAC/NAVSUP MOA dated 21 July 2005."

(8) **1.690 (NMCARS) Requirements to be met before entering into contracts.** Paragraph (c) is revised to allow a combined Pre/Post Negotiation Memorandum for actions under the SAT threshold, even if negotiations are held. This language corrects the disconnect between PNM requirements and COAR authority. Paragraph is revised as follows:

Deleted:
Task/delivery orders and associated modifications at any dollar value do not require a Business Clearance Memorandum in the format at NMCARS Annex 2, but do require a Pre-Negotiation and Post-Negotiation Memorandum when discussions/negotiations are held. A combined Pre-/Post-Negotiation Memorandum may be prepared only if no discussions/negotiations are held (award is made on original proposal). Approval level shall be based on the dollar value of the task/delivery order or associated modification

Substituted:
"(c) Task/delivery orders and associated modifications at any dollar value do not require a Business Clearance Memorandum in the format at NMCARS Annex 2, but do require a Pre-Negotiation and Post-Negotiation Memorandum when discussions/negotiations are held. A combined Pre-/Post-Negotiation Memorandum may be prepared only if no discussions/negotiations are held (award is made on original proposal) or for actions below the SAT. However, for actions below SAT, if negotiations are held, a pre-negotiation position is required to be established prior to negotiations per FAR 15.406-1. Approval level shall be based on the dollar value of the task/delivery order or associated modification."

(9) **1.690 (NMCARS) Requirements to be met before entering into contracts.** Paragraph (g) is added to implement requirements of Acquisition Memo 12-01, Contracting Tripwires.

(g) One Bid/Proposal. (Tripwires)

(iii) One bid/proposal received under a competitive solicitation, including task orders, will be reported by the PCO to the Chief of Contracting Office (CCO) via email or meeting. In addition, the PCO shall obtain cost and pricing like data from the single offeror, analyze the data, and document the result in the business decision documentation.

(iv) Business decision documentation for all one bid/proposal procurements, including task orders, greater than $1M, will be elevated to the cognizant Echelon III/Echelon IV CCO for approval. The CCO will review business documentation to assure that cost or pricing data was received and analyzed to determine price reasonableness, and will document approval in the Business Clearance Memorandum/Price Negotiation Memorandum. In situations in which the CCO is the SSA for the procurement action, results of the review will also be included in the Source Selection Decision Document (SSDD).

(10) **2.101 Definitions.** The subject matter expert listing is updated.

(11) **6.304-101 Bridge Contract Action Approval (Tripwires)** is added, to implement requirements of Acquisition Memo 12-01, Contracting Tripwires.

Added:

"6.304-101 Bridge Contract Action Approvals (Tripwires)
(a) Bridge contract actions are defined as sole source actions entered into with the incumbent contractor in order to maintain continued support when a competitive procurement cannot be processed in time to meet the required award date. Contract modifications executed in accordance with FAR 52.217-8 - Option to Extend Services, are considered bridge contract actions if the option period was not evaluated as part of the initial contract competition.

(b) To reduce reliance on bridge contracts and promote real competition, in addition to the justification and approval (J&A) for a sole source requirement, the program manager/requirement owner shall prepare a separate request for authorization to award a bridge contract. This determination shall address the rationale for use of a bridge contract, certify to the urgency of the requirement and be signed by both the program manager/requirement owner and the Contracting Officer. The template entitled "Request for Authorization of Bridge Contract" included as an attachment to DASN AP Memorandum, 3 Oct 12, shall be used. For purposes of this guidance, the term "Business Line" is inclusive of Support Line and Functional Area requirement owners.

(c) Approval of the authorization shall be as follows:

(1) For contract actions under $650,000, the authorization shall be approved by the Business Line Coordinator (for Echelon IV) or Business Line Manager (for Echelon III), and by the Echelon III/IV CCO.

(2) For contract actions between $650,000 - $5,000,000 and/or a period of performance greater than 6 months, the authorization shall be approved by the requirements Business Line Leader and the Assistant Commander for Acquisition.

(3) For contract actions greater than $5,000,000 and/or period of performance is for subsequent period (2nd, 3rd, etc bridge) the authorization shall be approved by the Business Line Leader and the Head of the Contracting Activity (HCA).Any authorization for a subsequent bridge contract shall include an explanation of why the competitive timeline on the previous bridge request was not achieved.

(d) J&As for bridge contracts shall not be submitted for review and/or approval before the bridge contract authorization is approved for inclusion in the J&A package. After the bridge contract authorization is obtained, the J&A will be routed to the appropriate approval level for review and approval per NFAS 6.304. Bridge J&As will also include a schedule for award of follow-on competition within Section 8 "Actions to Remove Barriers to Competition".

(12) **7.103 Agency-head responsibilities subparagraph (a)(2).** Deletes “and A-E” from paragraph to eliminate conflict between this section and section 37.504. Because a MOPAS is required for A-E services per DASN, acquisition plan is not required per 37.504(d).

(13) **12.403 Termination for Cause** is updated to remove a defunct email address.

(14) **13.303 Blanket Purchase Agreements (BPAs)** paragraph (a) is revised to clarify BPA use for repetitive work as follows:

“(a) Blanket Purchase Agreements will be established in accordance with chapter 7 of NAVSUPINST4200.85D, and shall be used for non-complex, repetitive procurements that do not require a Performance Work Statement.”

(15) **15.304 Evaluation factors and significant subfactors**. Paragraph (e) is added:

“(e) For Stand-alone design-build procurements, see Capital Improvements Business Line Standard Non-Cost/Price Evaluation Factors.”

(16) **15.308-100 Best Value Source Selection Premiums** is added, to implement the requirements of Acquisition Memorandum 12-01, Contracting Tripwires.

Added:

15.308-100 Best Value Source Selection Premiums

(a) Any Best Value source selection or task order selection using trade-offs where the cost/price dollar premium is greater than 10% over the lowest acceptable offeror's Total Evaluated Cost/Price will be reviewed as follows:

(v) For Echelon IV Commands, the reviewer is one level above senior technical team participant on the Source Selection Team. For the actions over $30M but less than $100M, the action is reviewed by the Business, Functional or Support Line Coordinator.

(vi) For Echelon III Commands, the reviewer is one level above senior technical team participant on the Source Selection Team. For the actions over $30M but less than $100M, the action is reviewed by the Business, Functional, or Support Line Manager.

(vii) Actions over $100M must be reviewed by the Business, Functional, or Support Line Lead.

(viii) All source selection premiums that meet tripwire requirements will be reported to the cognizant CCO upon award.

(b) Source Selection premium reviews will be conducted concurrent with BCM/PNM review, by inserting additional signature lines on the BCM signature page."

(17) **16.505 Ordering.** Paragraph (b)(1) removes the first sentence to correct the misinterpretation that contracting officers were not allowed to make price more important than technical. Also adds the last sentence of the paragraph which refers design-build task orders to required instruction. Paragraph is revised as follows:

"(1) Prior to determining Non-Cost/Price factors, when combined, are more important than Cost/Price for a task order, the proposed evaluation plan or a detailed memorandum shall be approved by the Assistant Commander for Acquisition via the appropriate ACQ Division Director. For design-build task orders, refer to "Capital Improvements Business Line Standard Non-Cost/Price Evaluation Factors."

(18) **16.505 Ordering.** Paragraph (b)(2) (4) is revised to implement the requirement for a CCO waiver for task orders that are solicited for less than 30 days, per 16 December 10 Acquisition Memorandum , as follows:

"Competitive task orders over the SAT shall be solicited for a minimum of 30 days, except for architect-engineer MAC task orders which shall have a minimum solicitation period of 14 days. The minimum solicitation period may be waived by the cognizant Echelon III/IV CCO. A copy of the waiver shall be submitted to the Echelon II Division Director."

(19) **16.505 Ordering.** Paragraph (b)(2) (7) and (8) are added to implement the requirements of Acquisition Memorandum 12-01, Contracting Tripwires as follows:

Added:

“ (7) See 1.690(g) for additional tripwire requirements when only one bid or proposal is received under a MAC task order solicitation.

(8) See 15.308-100 for additional tripwire requirements when a task order selection includes a best value source selection premium.”

(20) **17.503 (NMCARS) Determinations and findings requirements** is renumbered to 17.502-2 to conform with NMCARS, and paragraphs (a) and (c) are revised to remove references to SCAN authority. New language is as follows:

Threshold	Approval Authority
> Micro-purchase Threshold to SAT (Economy Act only)	Requiring Office Commanding Officer

(c) Reporting. D&Fs shall be reported to the cognizant Echelon III CCO, who in turn will submit a quarterly report to HQ ACQ no later than 10 days after the end of each quarter.”

(21) **SUBPART 32.70- ELECTRONIC SUBMISSION AND PROCESSING OF PAYMENT REQUESTS AND RECEIVING REPORTS** is deleted in its entirety. DFARS clause 252.232.-7006, Wide Area Workflow Payment Instructions replaces referenced NAVFAC clause.

(22) **36.602-2 Evaluation boards** is revised to add a reference as follows**:**

(b) NAVFAC engineers and architects appointed as members of a board performing A/E evaluations must comply with the requirements outlined in NAVFACINST 3540.1C, dated 29 February 2012.

(23) **37.170-2** the following sentence is added to clarify that A-E services do not require non-performance based approval per NMCARS 37.170-2.**: “**Note: This section does not apply to A&E services.”

(24) **37.170-100 Labor Rates and Performance. Cost Reimbursement, Time and Material or Labor Hour contracts for knowledge based services (Tripwires)** is added, to implement the requirements of Acquisition Memorandum 12-01, “Contracting Tripwires.”

37.170-100 Labor Rates and Performance. Cost Reimbursement, Time and Material or Labor Hour contracts for knowledge based services (Tripwires) For cost-reimbursable, time and material, (T&M) or labor hour (LH) contracts for knowledge based services, the following actions are required:

(a) Prior to Award: Knowledge based services with fully burdened hourly rates in excess of $111/hour* per individual (in any labor category) should be fully discussed in the business decision documentation. The documentation for all contracts/task orders shall outline the reasoning by the acquisition team (technical and acquisition) for moving forward with these salaries. For pre-award actions, both the BCM and SSA Best Value Determination memorandum shall specifically cite salaries in excess of the threshold and the rationale for why these rates are considered fair and reasonable. The CCO shall be notified prior to award and will maintain a log for reporting purposes.

(b) Post Award: The Contracting Officer's Representative (COR) will monitor monthly invoices and contractor reports and will notify, via email, the PCO and cognizant Business Line or Support Line or Functional Area representative (i.e. Business Line Coordinator for Echelon IV, Business Line Manager for Echelon III, Business Line Lead for Echelon II) of all fully burdened labor charges in any labor category in excess of $111/hour* which were not originally specified at award. The COR will also document this information in the applicable monthly report.

*Current hourly rate for aggregate limit on pay, per 2012 Pay Schedules, per Office of Personnel Management Transmittal CPM 2011-21. Please refer to current year OPM transmittal for aggregate pay limits, available at http://www.chcoc.gov/transmittals/index.aspx"

(25) **37.504(b) Contracting Officer's Responsibilities.** Approval Matrix is revised to include non-performance based A-E services.

(26) **39.101 Policy. Paragraph (c). "**Specialty Center Acquisition NAVFAC (SCAN)" is replaced with "Naval Facilities Engineering and Expeditionary Warfare Center (EXWC)."

(27) **41.201 Policy. Paragraph a(1) and (2)** are revised as follows: "Specialty Center Acquisition NAVFAC (SCAN)" is replaced with "Naval Facilities Engineering and Expeditionary Warfare Center (EXWC)."

(28) **43.201-100 Policy. Paragraph (b)(6)(ii)** is revised to correct the contradiction between this section and section 17.74 as follows:

Deleted:

"(ii) Approval of undefinitized change orders shall be in accordance with the below:

- Up to and including $1M, approval authority is delegated to the Echelon III/IV Commanders/Commanding Officers and the CCO. This authority may be redelegated to Levels I, II, or III contracting officers up to a maximum dollar value of $100k per undefinitized change order.
- Over $1M, approval authority is the appropriate Echelon II Division Director."

Substituted:

"(ii) See 17.7404-1 for approval levels for UCA actions."

(29) **49.470 Reporting of termination for default** is deleted.

(30) **52.52.232-9301 Invoicing Procedures- Electronic** is deleted in its entirety.

(31) **Appendix A, NAVFAC Reporting Requirements,** is revised as by changing the following language: The Report Matrix under Terminations/DRB/ADR Report, Due Date now reads "November 15 to Echelon III." Under Special Reporting Formats, TERMINATIONS/DISPUTES RESOLUTION BOARD/ALTERNATIVE DISPUTES RESOLUTION REPORT, the language is revised as follows.

Deleted:

"Echelon III/IV shall furnish an annual report that includes the following information:"

Added:
"Echelon III shall maintain an annual report that includes the following information:"