

SCHEDULE H-4: Schedule H-4 presents the offeror's estimated energy and cost savings by ECM, technology category, and entire delivery order. The contractor shall submit Schedule H-4 with all delivery order proposals. Schedule H-4 shall support the estimated and proposed guaranteed annual cost savings in the initial offer (Schedule H-1, columns (a) and (b)), and the revised H-4 shall support the offered guaranteed annual cost savings in the revised proposal (Schedule H-5, column (a)).

The baseline energy prices (columns (a1) through (d1)) are based on the energy tariffs provided in the solicitation and the estimated ECM energy and demand reductions, and therefore may vary by ECM. If necessary the contractor shall provide an attachment that identifies the baseline energy price used for each ECM, and supports the values used with explanatory text and calculations.

The estimated ECM energy savings by fuel type shall be entered into Schedule H-4 columns (a) through (d). For ECMs with multiple energy type impacts, the contractor shall show all impacts and use parentheses (or a negative sign) to indicate increases in use. The estimated ECM energy cost savings of column (e) shall equal the sum of the products of the baseline energy prices and savings by fuel type.

Annually recurring cost savings, other than energy cost savings, which directly result from the contractor's efforts to save energy costs, are defined as recurring ancillary cost savings. Estimated recurring ancillary cost savings shall be entered into column (f). Examples of recurring ancillary cost savings include, but are not limited to, operation, maintenance, and repair directly related to the systems being modified. Ancillary savings to the Government must be real savings; i.e., the Government must either be spending the money currently or planning to spend the money in the future. If not, the money will not be available in the Government's operating budget for payments. In many cases, the contractor may need to maintain a system at a higher cost than the Government is currently expending, due to budgetary limitations. In such cases, the maintenance ancillary savings shall be based on the actual Government expenditure, not what the Government would be spending if the Government were properly maintaining the system. Operations, maintenance, and repair costs for tasks currently being performed by the Government or by a contractor hired by the Government are ancillary savings if the contractor assumes the task, reduces the task, or eliminates the task. The Government will determine whether a contractor-proposed task assumption, reduction, or elimination will be considered a recurring ancillary cost savings. The dollar value of the recurring ancillary cost savings shall be provided by the Government and shall be entered into Schedule H-4 column (f) in the row for the ECM that it is related to.

The Government may also consider one-time ancillary cost savings. For example, one-time costs that are to be incurred by the Government to make repairs or meet environmental regulations are ancillary savings if the contractor assumes the task, reduces the task, or eliminates the task and if the money is available to the Government to pay the contractor. For example, if the Government has scheduled and funded the removal and replacement of a leaking oil tank with a new tank system ("repair by replacement") and if the contractor installs a natural gas line to serve new gas-fired equipment thereby negating the need for replacing the tank, the cost of the new tank system would be both a one-time ancillary repair cost savings and an ancillary environmental cost savings if the federal agency site has this money in its budget for payment to the contractor. An example of a strictly environmental one-time ancillary savings would be the cost of a refrigerant conversion on a water chiller containing a refrigerant with an ozone depletion potential (ODP) greater than 0.05, if the federal agency site has planned for the conversion, and has money in its budget to fund the conversion. If the money is available for a project or task related to the energy systems being modified by the contractor, and that project or task will not have to be accomplished by the Government if the contractor performs the proposed delivery order, then that savings can be considered as one-time ancillary savings. One-time ancillary cost savings shall be listed in Schedule H-4 column (f) with an asterisk and as the only entry in that row ((a) through (e) and (g) and (h) all zero), and shall not be included in column or row totals with annually recurring energy and ancillary cost savings. One-time ancillary cost savings will be paid to the contractor upon completion of construction and acceptance by the Government, and shall deduct from the amount financed and thereby lower total debt service paid by the Government (Schedule H-3 row (a)).

Estimated total recurring cost savings, which is the sum of columns (e) and (f), shall be entered into

column (g). The column (g) total for the entire delivery order shall support the estimated annual cost savings (H-1 column (a) of the initial offer) and the guaranteed annual cost savings (H-1 column (b) of the initial offer, H-5 column (a) of the revised final offer).

ECM simple payback, which shall be entered into Schedule H-4 column (h), is defined as total implementation expense (Schedule H-2, column (c)) divided by estimated total annual energy cost savings (Schedule H-4, column (e)).

SCHEDULE H-4 -- Delivery Order Energy And Cost Savings By ECM,
Technology Category, and Delivery Order

Note: Use a separate page for ECMs in the same technology category. Provide the delivery order total on the last page.

Project Site	Delivery Order Number	Contractor Name

		(a1) Electricity (\$/kWh)	(b1) Natural Gas (\$/therm)	(c1) Other _____ (\$/_____)	(d1) Other _____ (\$/_____)				
Baseline Energy Prices(provide supporting attachment)									
Tech No .	ECM No.	(a) Elec- tricity Savings (kWh/yr)	(b) Natural Gas Savings (therms per yr)	(c) Other__ Savings (_____)	(d) Other__ Savings (_____)	(e) Estimated Total Energy Cost Savings (\$/yr) a x a1 + b x b1 + etc.	(f) *Estimated Recurring Ancillary Cost Savings (\$/yr)	(g) Estimated Total Recurring Cost Savings (\$/yr) e + f	(h) Simple Pay- back (yr) H-2, col. c ÷ e
Technology Category Subtotal									
Delivery Order Total (last page only)									

* One-time ancillary cost savings are listed in column (f) with an asterisk, and are not included in column or row totals with annually recurring energy and ancillary cost savings. All other entries in the one-time

ancillary cost row are zero.

The selected offeror shall prepare and submit Schedule H-5 and revised Schedules H-2, H-3 and H-4; as part of preaward requirements:

Schedule H-5: Schedule H-5 is submitted to present the selected offeror's revised final guaranteed annual energy savings, revised final and fixed contractor payments, and the cancellation ceiling for each year of the performance period based on the contractor's detailed energy survey results . The selected contractor shall submit a copy of the detailed energy survey and revised feasibility study report including findings, data, and calculations used to support Schedule H-5 and revisions to Schedules H-2, H-3 and H-4 .

The contractor's guaranteed annual cost savings shall appear in Schedule H-5 column (a). This represents the cost savings level the contractor is willing to guarantee and should be supported by information submitted in revised Schedule H-4.

The contractor shall receive monthly payments equal to 1/12th of the annual fixed payment schedule, as established in Schedule H-5 column (b). This represents the delivery order price and should be supported by information submitted in revised Schedules H-2 and H-3.

The contractor shall indicate in Schedule H-5 column (c) the maximum termination liability of the Government in the event of contract cancellation or termination for convenience at the end of the year. FAR 52.217-2 or 52.249-2 shall apply.

The contractor shall truncate Schedule H-5 to reflect the actual number of years included in the contractor's proposed delivery order performance period.

SCHEDULE H-5 -- Delivery Order Guaranteed Savings, Price, and Cancellation Ceiling

The Contractor shall complete the installation of all proposed ECMs not later than _____ months after delivery order award.

Project Site		Delivery Order Number		Contractor Name	
Performance Period Year	(a) Detailed Energy Survey Guaranteed Annual Cost Savings \$	(b) Total Annual Contractor Payments \$	(c) Cancellation Ceiling \$		
ONE					
TWO					
THREE					
FOUR					
FIVE					
SIX					
SEVEN					
EIGHT					
NINE					
TEN					
ELEVEN					
TWELVE					
THIRTEEN					
FOURTEEN					
FIFTEEN					
SIXTEEN					
SEVENTEEN					
EIGHTEEN					
NINETEEN					
TWENTY					
TWENTY-ONE					
TWENTY-TWO					
TWENTY-THREE					
TWENTY-FOUR					
TWENTY-FIVE					
TOTALS					

(a) The "DES Guaranteed Annual Cost Savings" is based on achieving annual cost savings per site-specific M&V Plan agreed to in delivery order.

(b) This contractor payment represents the delivery order price and should be supported by information submitted in Schedules H-

2 and H-3.

- (c) State cancellation ceilings for the end of each year (e.g., "ONE" means end of one year after Government acceptance).

H.15 PROPOSAL EVALUATION FOR GOVERNMENT-IDENTIFIED DELIVERY ORDERS (May 1998)

Proposals will be evaluated using the criteria specified herein unless otherwise specified in the delivery order request for proposals. Proposals will be evaluated using factors in two (2) categories: Technical and Price. Technical Evaluation Factors are more important than Price Evaluation Factors. The Government is more concerned about obtaining superior technical features (e.g., comprehensive projects centered on GHP systems that generate energy and maintenance cost savings and infrastructure capital renewal) than making an award at the lowest cost to the Government. However, the Government will not make an award at a price premium it considers disproportionate to the benefits associated with the proposed superiority of the technical proposal. The Government will select the contractor whose proposal is the best value to the Government to perform the delivery order. Award is conditioned upon the selected contractor meeting the preaward requirements as specified in the Section H "Preaward Requirements" clause. The Government's decision shall not be subject to protest by the contractors.

It is the intention of the Government to utilize streamlined procurement processes such as the Oral Presentations method for evaluation of competitive proposals for delivery order projects to the maximum extent possible. The following information relative to evaluation, as well as the information and submission indicated as required in Section H.14 above may be modified in specific delivery order solicitations to accommodate streamlined procurement processes.

1. Technical Evaluation Factors

- Factor 1 - ECM Descriptions & Projected Energy Savings
- Factor 2 - Energy Baseline & ECM Performance Measurement
- Factor 3 - Management Approach

Unless specified otherwise in the delivery order solicitation, Factors 1 and 2 are most important and Factor 3 is least important.

a. Factor 1 - ECM Descriptions and Projected Energy Savings

- (1) Technical feasibility, reasonableness, acceptability of proposed ECMs.
- (2) Level and reasonableness of proposed energy savings and energy cost savings, verification that the energy savings analysis is based on sound assumptions and engineering principles, verification that the energy cost savings analysis is based on sound assumptions and economic principles.
- (3) Impacts on Government facilities and operations are acceptable and reasonable; suitability and service life of selected equipment for proposed ECM; potential environmental impacts are adequately addressed; proposed project implementation schedules are realistic and reasonable.

b. Factor 2 - Energy Baseline and ECM Performance Measurement

- (1) Baseline and M&V plan demonstrates a clear understanding of, and compliance with, the intent of DOE/FEMP M&V Guidelines for Federal Energy Projects as applied to the family of GHP systems and ECMs in associated technology categories.
- (2) Equations proposed, assumptions made, parameters to be estimated, parameters to be monitored, sampling plan (if required), data collection plans, and analysis methods to determine savings are acceptable and reasonable and that they adequately capture the cost saving impacts of the proposed delivery order.

- (3) Methods to establish pre and post-installation conditions, maintain the baseline (e.g., adjustment strategies for possible circumstances), and determine cost savings are adequate and reasonable.
- (4) Methods and schedules for development of annual verification reports, Government review and acceptance, and dispute resolution are adequate and reasonable and in compliance with the contract.
- (5) M&V throughout the performance period is adequate and reasonable to provide assurance of continued effective monitoring of the annual cost savings achieved by the delivery order.

c. Factor 3 - Management Approach

- (1) Each offeror will be evaluated on the following elements of site management capabilities: the proposed management plan and organization to manage and accomplish the proposed ECMs is well suited and addresses all key elements to ensure successful project implementation and maintenance of ECM performance; offeror's organization structure is adequate to provide required operation and maintenance of installed ECMs, whether operation and maintenance is done by the contractor or by the Government; offeror's training plan is appropriate and suitable for the proposed level of Government O&M responsibility.

2. Price Proposal Evaluation Factors

a. Price proposals will be evaluated to assess:

- (1) The completeness of the proposed price (i.e. sum of annual contractor payments) with regard to the contractor's understanding of the work.
- (2) The reasonableness of the proposed price.
- (3) The realism of the proposed price.
- (4) Verification that guaranteed annual energy cost savings exceed price.
- (5) Verification that the proposed margin(s) and finance charges are the same as or lower than those contained in the IDIQ contract.

b. The price proposal will not be point scored.

H.16 REQUIREMENTS FOR INITIAL PROPOSAL CONTENTS FOR CONTRACTOR- IDENTIFIED DELIVERY ORDERS (May 1998)

A **contractor-identified delivery order project** is one that is identified by a contractor rather than by a Federal agency. Any contractor awarded an IDIQ contract under this solicitation may identify a delivery

order project; however, any delivery order project proposed must be within the scope of the IDIQ contract.

The contractor shall contact the DOE Contracting Officer Representative and receive approval in writing before proceeding with preparation of an initial proposal for a contractor-identified delivery order. This section sets forth the requirements for initial proposal contents for contractor-identified delivery order projects. The Government intends that contractors be able to develop initial proposals at modest expense.

Contractor costs associated with surveys, feasibility studies, and preparation of initial proposals for contractor-identified delivery order projects are only recoverable in implementation margins of delivery orders that are awarded to the contractor in the future, if any. The Government's only obligation to an IDIQ contractor is to award delivery order(s) that meet the minimum.

An initial proposal is required to have the following contents:

I. Format For Initial Technical Proposal

1. Identification of Delivery Order Project: This section shall identify the location of the delivery order project (e.g., the Federal Agency, the facility manager's name and telephone number, the building and site address, etc.), and provide a narrative summary of the proposed delivery order project to include, as a minimum, (a) proposed system or component upgrades, deficiency corrections, repairs or replacements, and (b) proposed system operational changes and estimated energy usage before and after implementation of the proposed ECMs.
2. ECM Interface with Government Equipment: This section shall describe the interface between the proposed ECMs and remaining Government equipment or facilities, and describe ECM impacts on Government remaining equipment or facilities (i.e., increased/decreased load, reduced run time, etc.).
3. Energy Savings Proposed: This section shall include Schedule H-4 (leaving columns (f), (g) and (h) blank---see H.14 under "II. Format for Price Proposal"), which provides a summary of the estimated energy and energy cost savings by ECM, technology category, and delivery order. While a detailed energy analysis may not be feasible to submit at this time, the Contractor should submit its (a) assumptions on current facility or energy system operating conditions, (b) assumptions on proposed facility or energy system operating conditions, (c) energy savings calculations using formulas and procedures based on accepted engineering principles, including synergistic effects of other ECMs, and (d) references used for data, assumptions or empirical formulas. This section should contain sufficient information for the Government to determine whether it is a feasible project.
4. Physical Changes: This section should identify any major physical changes to equipment, facilities or surrounding vegetation required to install proposed ECMs and address any impacts on building occupants, working environment, or critical equipment (i.e., computer systems and associated environmental control).
5. Anticipated Utility Interruptions or Support Required: This section should address any utility interruptions that might be required for installation of the ECMs by type (e.g., gas, electricity, water, etc.), the extent (e.g., rooms, entire building, etc.), and the duration. Any anticipated Government support required during installation should also be identified.
6. Environmental Protection Impacts: This section should identify any anticipated or potential environmental impacts that would have an adverse effect upon the quality of the human environment. The contractor should consider the resource use, waste production, mitigation measures, and environmental regulations in preparing this section.

II. Format For Initial Price Proposal

The contractor should submit completed Schedules H-1 through H-4 for the contractor-identified delivery order project.

H.17 EVALUATION OF INITIAL PROPOSALS FOR CONTRACTOR-IDENTIFIED DELIVERY ORDERS (May 1998)

The Government will review the initial proposal submitted and make a determination as to whether the contractor-identified delivery order project merits further consideration. If further consideration is warranted, the Government shall also determine whether this contractor-identified delivery order project will be awarded single source to the originating contractor, in accordance with Section H.13.a or whether the Government will develop its own description of the project and compete the award. The Government's determination is final and not subject to protest. The Government will attempt to complete its review and make its determination within sixty (60) days from receipt of the initial proposal by the appropriate contracting officer.

If the Government determines to pursue the contractor-identified project, either as a competitive delivery order or as a single source delivery order, a delivery order request for proposal will be developed and issued by the agency. For a competitive award, the selected contractors shall then develop proposals in accordance with H.14 "Requirements for Proposal Contents for Government-Identified Delivery Orders", unless otherwise specified in the delivery order request for proposal. The resulting proposals will be evaluated in accordance with H.15 "Proposal Evaluation For Government-Identified Delivery Orders", unless otherwise specified in the delivery order request for proposal. For a single source award to the contractor originating the initial proposal, the agency will issue the request for proposal and a notice of intent to award. The selected contractor shall then perform a detailed energy survey and revise the initial proposal. The required revised proposal to be submitted in response shall be in accordance with Section H.14 "Requirements for Proposal Contents for Government-Identified Delivery Orders", unless otherwise specified in the delivery order request for proposal. This revised proposal shall serve as the basis for negotiating the delivery order award.

After a contractor is selected for a delivery order and receives a written notification of intent to award a delivery order from the contracting officer; contractor costs to revise the proposal in accordance with H.14 (e.g., detailed energy survey, feasibility study revisions, etc.) are recoverable in the delivery order implementation price. The Government owns all contractor work products developed after the contractor receives written notification of intent to award.

H.18 PREAWARD REQUIREMENTS (May 1998)

1. Detailed Energy Survey and Finalization of Feasibilities and Performance Guarantees:
 - a. The selected contractor shall, within [the time specified in the delivery order] days of receipt of Government's notice of intent to award, conduct a detailed energy survey of facilities and energy systems at the project site to confirm Government or contractor assumed data, satisfy remaining data needs, and thereby confirm the contractor's ability to achieve the proposed guaranteed annual cost savings [Schedule H-1, column (b)] submitted in its original price proposal.
 - b. The selected contractor shall, based on the detailed energy survey, revise the description

of relevant existing conditions of applicable Government facilities, including but not limited to:

- Building physical conditions
- Hours of use or occupancy
- Area of conditioned space
- Inventory of energy-consuming equipment or systems
- Energy-consuming equipment operating conditions and loads
- Baseline weather (e.g., hourly, bin, cooling and heating degree days)
- Implementation price estimates
- Energy and energy cost savings estimates
- Site specific M&V Plan
- Proposed construction and M&V schedules.

The selected contractor shall also revise ECM feasibility analyses based on discovered information, obtain Government agreement on final ECMs, develop design concepts for agreed upon ECMs, obtain Government agreement on equipment and subcontractor selections, baseline & M&V plan, and other project details, and document all in the feasibility report and revised delivery order technical proposal.-

- c. The selected contractor shall develop a revised delivery order price proposal including H-5 and revised H-2 through H-4
- d. The selected contractor shall submit the feasibility report and revised technical and price proposal, and negotiate in good faith toward a final accepted technical and price proposal and feasibility report.
- e. Unless otherwise specified in the delivery order's solicitation, if the guaranteed annual cost savings on Schedule H-5 are less than 90% of the proposed guaranteed annual cost savings contained in the contractor's original proposal (Schedule H-1), then the Government may select the next ranked contractor's proposal for award, where award is subject to meeting the preaward requirements. If the Government selects the next ranked contractor's proposal, the Government shall not be responsible for any costs incurred by the previously selected contractor as a result of this delivery order requirement and procedure. The previously selected contractor's only path for recovering these costs is through margins on future delivery order awards, if any.
- f. Even if the guaranteed annual cost savings are within the specified percentage of proposed guaranteed annual cost savings and negotiations are necessary, the Government may select the next ranked contractor's proposal if agreement cannot be reached. The Government shall not be responsible for any costs incurred, such as proposal preparation cost or the cost incurred in conducting the detailed survey and feasibility studies.

2. Pre-Award Requirements - Project Financing by Contractor for Delivery Orders:

- a. If the selected contractor is to provide its own financing for project execution, the selected contractor shall have up to [time specified in delivery order], from Government's acceptance of the revised technical and price proposal and feasibility report to provide evidence of surety's commitment for bonding of proposed delivery order's building(s) and site per paragraph H.37.1.

- b. Should the selected contractor fail, within the specified timeframe, to provide acceptable evidence of bonding capability, the Government may determine the offeror not acceptable.
3. Pre-Award Requirements - Project Financing by Third Party:
- a. If the selected contractor utilizes third party financing for project execution, the selected contractor shall have up to [time specified in delivery order], from Government's acceptance of the revised technical and price proposal and feasibility report, to provide for the delivery order project proposed: (1) proof of financing commitment; and (2) evidence of surety's commitment for bonding per H.37.2.
 - b. Proof of financing shall be provided by written statement(s) from the financier(s), signed by authorized corporate officer(s) indicating a firm commitment of funds for project financing.
 - c. The Government recognizes the unique aspects of third party financing of energy savings performance contracts. The Government is willing to discuss and consider third party financier needs for any notification(s) during the delivery order term.
 - d. Should the selected contractor fail, within the specified timeframe, to provide proof of financing commitment and acceptable evidence of bonding capability, the Government may determine the contractor not acceptable.

H.19 OFFICIALS AUTHORIZED TO ISSUE DELIVERY ORDERS (May 1998)

Delivery Orders issued under this contract shall be authorized only by a DOE Contracting Officer or approved procurement officials of the Federal Agency sites for the individual delivery orders.

H.20 AVAILABILITY OF UTILITIES (May 1998)

The Government will allow access to existing water and electric kVA available for operating the contractors construction equipment as may be required for the installation work to be performed under the delivery order at no cost to the contractor. The contractor at its expense and in a workmanlike manner satisfactory to the contracting officer shall install and maintain all necessary temporary connections and distribution lines for each utility. Information concerning the location of existing connection points may be obtained from the contracting officer or the contracting officer's designated representative. The contractor shall remove all the temporary connections, distribution lines, and associated equipment upon completion of the installation work.

H.21 CONTRACTOR-FURNISHED MATERIAL (May 1998)

The contractor shall provide all materials and supplies necessary to perform the work as specified in the delivery order. Materials and supplies provided shall be of acceptable industrial grade and quality and in compliance with any applicable industry standards (i.e., Underwriters Laboratories, etc.). All such materials and supplies must be compatible and operate safely with existing systems and equipment.

H.22 GOVERNMENT PROPERTY REGULATIONS (May 1998)

The contractor and its employees shall be knowledgeable of and observe all Government regulations, posted or otherwise. A copy of the applicable regulations for the project site can be obtained from the Federal Agency contract administration official or the contracting officer's designated representative.

H.23 FIRE PREVENTION (May 1998)

The contractor shall ensure that its employees shall know how to activate a fire alarm. The contractor shall observe all requirements for handling and storing combustible supplies, materials, waste, and trash. Contractor employees operating critical equipment shall be trained to properly respond during a fire alarm or fire in accordance with the applicable agencies fire prevention procedures, rules or regulations as identified in the delivery order. The contractor shall obtain all required welding permits prior to any welding. The contractor shall comply with NFPA requirements. A fire watch shall be utilized when hot work is being performed.

H.24 ENVIRONMENTAL PROTECTION (May 1998)

- H.24.1 The contractor shall comply with applicable Federal, state, and local laws and with the applicable regulations and standards regarding environmental pollution. All environmental protection matters shall be coordinated with the contracting officer or the contracting officer's designated representative. Authorized Government officials may inspect any of the contractor's work areas on a no-notice basis during normal working hours. In the event that a regulatory agency assesses a monetary fine against the Government for violations caused by contractor negligence, the contractor shall reimburse the Government for the amount of the fine and other costs. The contractor shall also clean-up any oil spills, hazardous wastes, and hazardous materials resulting from the contractor's operations. The contractor shall comply with the instructions of the cognizant Federal agencies' safety and health personnel to avoid conditions that create a nuisance or which may be hazardous to the health of Government or civilian personnel.
- H.24.2 The contractor shall prepare at its expense all documentation necessary to acquire permits to comply with all applicable Federal, state, and local requirements prior to implementing affected ECMs in the performance of a delivery order. The contractor shall not receive a notice to proceed with installation until all environmental protection requirements contained in the indefinite quantity contract and the delivery order have been satisfied.
- H.24.3 The contractor shall comply with 40 CFR Section 311, and with the requirements of the latest edition of the applicable Federal agency's Spill Prevention Control and Countermeasures Plan as required by the delivery order.

H.25 SALVAGE (May 1998)

All material and equipment removed or disconnected during the installation phase shall remain the property of the Government and shall be moved by the contractor at its expense to a Government-designated space for storage. A list of such equipment shall be included in the proposal for each ECM.

The Government will identify the equipment it wants stored. Any material and equipment not to be stored and all debris resulting from work under a delivery order shall be removed from the site by the Contractor at its expense.

H.26 ASBESTOS (May 1998)

Should the contractor propose an ECM that involves the removal of previously identified asbestos-containing material, then it is the contractor's responsibility to remove the asbestos as part of the ECM project at its cost and expense. However, should the contractor propose an ECM and asbestos containing material is identified after award, the contractor shall immediately stop work, take measures to reduce contractor or building personnel contamination, and immediately notify the contracting officer and the building manager prior to starting work of the asbestos condition and location. The contractor shall then have the option of (a) removing and disposing of the material at its sole cost and expense or (b) of giving the Government the option of removing and disposing of the material at the Government's cost and expense. If the Government declines to exercise its option to remove and dispose of this material, the contractor shall be required to restore the site affected by that ECM to its original condition with compensation provided by the Government. However, the contractor's obligation for its contracted Guaranteed Annual Cost Savings (per Schedule H-5) shall be equitably reduced as a result of this ECM not being installed.

H.27 DISPOSAL (May 1998)

Debris, rubbish, and nonusable material resulting from the work shall be removed from Government property by the contractor at its expense.

H.27.1 Hazardous Material Handling and Disposal

Hazardous wastes resulting from contractor-owned material and equipment must be disposed of in accordance with Resource Conservation and Recovery Act and all applicable Federal, state, and local regulations. All shipping manifests for hazardous waste must be signed by the authorized Federal personnel for the project site, as well as by the contractor prior to transfer off-site. The Federal agency's generator number will be entered on the manifest. The delivery order will provide additional site specific requirements.

H.27.2 PCB Handling and Disposal

If PCB ballasts exist at site covered by a delivery order, then the delivery order shall contain the necessary clause addressing PCB recycling and/or disposal requirements to comply with applicable state and local regulations. The delivery order will provide additional site specific PCB handling and disposal requirements (if applicable).

H.28 SAFETY REQUIREMENTS (May 1998)

H.28.1 All work shall be conducted in a safe manner and shall comply with the requirements in the documents listed in Paragraph c.5.2, and the Accident Prevention clause in Section I (FAR 52.236-13). The Government will not provide safety equipment to the contractor. Additional safety requirements may be included in the delivery order based on individual Federal agencies implementing regulations.

H.28.2 Prior to commencing work, the contractor shall meet with the contracting officer or the

contracting officer's designated representative to agree upon administration of the safety program.

- H.28.3 The contractor's workplace may be inspected periodically for OSHA violations. Abatement of violations will be the responsibility of the contractor and/or the Government as determined by the contracting officer or the contracting officer's designated representative. The contractor will provide assistance to the Government representative and the Federal or State OSHA inspector if a complaint is filed. Any fines levied on the contractor by Federal or State OSHA offices due to safety/health violations will be paid promptly by the contractor.
- H.28.4 In accordance with the Accident Prevention Clause under Section I, the contractor shall report to the contracting officer or the contracting officer's designated representative all accidents within 24 hours of their occurrence.
- H.28.5 In accordance with the Accident Prevention Clause in Section I, the contractor shall submit to the contracting officer or the contracting officer's designated representative a full report of damage to Government property and equipment by contractor's employees or contractor's subcontractors, at any tier. All damage reports shall be submitted to the contracting officer or the contracting officer's designated representative within 24 hours of the occurrence.
- H.28.6 The safety and health plan and hazard analysis shall be prepared prior to the start of work on a construction site.

H.29 SECURITY REQUIREMENTS (May 1998)

As noted in the solicitation for a specific delivery order, certain areas may require an escort, and place a limit on the days and times that the contractor can work in these areas.

H.30 PASSES AND BADGES (May 1998)

All contractor employees shall obtain the required employee and vehicle passes for the specific delivery order project. The contractor will, prior to the start of on-site work, submit to the contracting officer or the contracting officer's designated representative an estimate of the number of employees expected to be utilized at any one time on the delivery order. The Government will issue badges without charge. When an employee leaves the contractor's service, the employee's pass and badge shall be returned within 10 days. Passes and badges issued to contractor employees shall not negate the requirement for employee identification required in the "Identification of Contractor Employees," Section H.31.

H.31 IDENTIFICATION OF CONTRACTOR EMPLOYEES (May 1998)

Unless otherwise specified in the delivery order, all contractor employees shall be identified by a badge with their picture on it as detailed below:

- H.31.1 Appropriate laminated picture badges complying with federal agency site rules shall be required. Personnel with these badges must be registered with Security located at the

project site.

- H.31.2 Subcontractor employees must register with Security located at the project site. Any subcontractor employees not issued a permanent badge will be issued a temporary Government badge and must be escorted by a contractor employee with a permanent badge at all times.

H.32 IDENTIFICATION OF CONTRACTOR VEHICLES (May 1998)

Each contractor vehicle shall show the contractor's name so that it is clearly visible. Contractor vehicles shall, at all times, display a valid state license plate.

H.33 ACCESS TO BUILDINGS (May 1998)

- H.33.1 It shall be the contractor's responsibility, through the contracting officer or the contracting officer's designated representative, to obtain access to the buildings and arrange for the buildings to be opened and closed for the following:
1. For minor work of two hours or less duration, the contractor shall contact the building manager and security organization.
 2. For major work, defined as work in excess of two hours duration, and/or work that will create dust or noise, the contractor shall contact the contracting officer or the contracting officer's designated representative at least one week in advance of the start of the work. The contractor must provide a description of the work, the number of workers required, and duration of the work.
- H.33.2 Keys may be issued to the contractor; however, it shall be the contractor's responsibility to make adequate arrangements for security of the building at the end of each work day.
- H.33.3 The contractor shall be responsible for the cost of replacing any keys that are furnished to and lost by its employees. If the contracting officer or the contracting officer's designated representative decides that a lock must be replaced because of the loss of a key by the contractor's employee(s), the contractor shall pay the cost of that replacement. Similarly, the contractor shall pay the cost of changing a combination if the contracting officer or the contracting officer's designated representative has reasonable cause to assume that the combination has been compromised.
- H.33.4 Access to tenant command spaces must be scheduled with the contracting officer or the contracting officer's designated representative at least ten (10) days in advance. Notice must include names of employees to be admitted, expected arrival time, and visit duration. Buildings that require an escort will be identified in the solicitation for a specific project. All access will be during normal working hours, Monday through Friday, as specified in the delivery order.

H.34 CONTRACTOR EMPLOYEES (May 1998)

- H.34.1 Upon receipt of notice of award of the indefinite quantity contract and upon receipt of notice of award for each delivery order, the contractor shall provide the contracting officer or the contracting officer's designated representative with the name(s) of the responsible supervisory person(s) authorized to act for the contractor.

- H.34.2 The contractor shall furnish sufficient personnel to perform all work specified within the delivery order.
- H.34.3 Contractor employees shall conduct themselves in a proper, efficient, courteous, and businesslike manner.
- H.34.4 The contractor shall remove from the site any individual whose continued employment is deemed by the contracting officer or the contracting officer's designated representative to be contrary to the public interest or inconsistent with the best interests of Government business or national security.
- H.34.5 No employee or representative of the Contractor will be admitted to the work site unless that employee furnishes satisfactory proof that he/she is a citizen of the United States.

H.35 REQUIRED INSURANCE (May 1998)

- H.35.1 The contractor shall procure at its expense and maintain during the entire period of performance under this indefinite delivery contract and the delivery orders awarded to the contractor under the indefinite delivery contract the following minimum insurance coverage. Specific delivery orders may require additional insurance coverage, which would be specified in the delivery order. If additional insurance coverage is specified in a delivery order, the Contractor shall maintain at its own expense for the delivery order term, the additional insurance coverage.
1. Comprehensive general liability: \$500,000 per occurrence.
 2. Automobile liability: \$200,000 per person, \$500,000 per occurrence, \$20,000 per occurrence for property damage.
 3. Workman's compensation: As required by Federal and state workers' compensation and occupational disease statutes.
 4. Employer's liability coverage: \$100,000 except in states where workers' compensation may not be written by private carriers.
 5. Other insurance as required by State law.
- H.35.2 Prior to commencement of work, the contractor shall furnish to the contracting officer a certificate or written statement of the required insurance coverage. The policies evidencing required insurance coverage shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which the delivery order is to be performed and in no event less than thirty (30) days after written notice thereof to the contracting officer.
- H.35.3 The contractor agrees to insert the substance of this clause, including paragraph H.35.2, in all subcontracts hereunder.
- H.35.4 Nothing herein shall relieve or limit the contractor of liability for losses and damages to person or property as a result of its operation. The contractor shall indemnify and hold harmless the Government from any and all liability associated with its operation.

H.36 TITLE TO CONTRACTOR-INSTALLED EQUIPMENT (May 1998)

- H.36.1 All equipment installed by the contractor at installation is and remains the property of the contractor during the delivery order's term unless otherwise specified and mutually agreed to in a delivery order.
- H.36.2 At the expiration of the delivery order term, all rights, title, and interest in and to all improvements and equipment constructed or installed on the premises and additions, shall vest in the Government, at no additional cost, free and clear of all and any mechanics liens and encumbrances created or caused by the contractor. The contractor shall surrender possession of said premises and the improvements and equipment to the Government in good repair and condition, reasonable wear and tear accepted.
- H.36.3 If the indefinite quantity contract or a specific delivery order is terminated for convenience, all rights, title, and interest in and to all improvements, additions, or equipment of all ECMs installed by the contractor to which the Government determines to take possession shall vest in the Government. For those ECMs for which the Government takes possession and thereby obtains title, the contractor shall be compensated in accordance with FAR clause Termination for Convenience (52.249-2).

H.37 NOTICE OF PAYMENT AND PERFORMANCE BOND REQUIREMENTS (May 1998)

Copies of bond forms SF-25 and SF-25A may be obtained from the technical data library, please see Section L.13 for ordering instructions.

- H.37.1 Project Financing by Contractor
 - 1. The Government will notify the selected contractor of its intent to award the delivery order. Pursuant to Section H, Preaward Requirements, the selected contractor shall furnish acceptable evidence of a surety's commitment to provide performance and payment bonds to the Government.
 - 2. Within 30 days after award of delivery order or acceptance of ECM installation plans, whichever is later, the selected contractor shall provide a performance bond (Standard Form 25) and a payment bond (Standard Form 25A) in duplicate. The performance bond shall be in a penal sum equal to 100 percent of the total implementation price for all ECMs cited in Schedule H-2. The payment bond shall be in a penal sum as follows:

Total Estimated Installation Cost (From Schedule H-2)	Payment Bond Penal Sum
\$0 - \$999,999	50% of H-2
\$1 - \$5 million	40% of H-2
>\$5 million	\$2.5 million

The performance and payment bonds shall remain in effect during the total installation period for all ECMs. After acceptance the performance bond shall be reduced to a penal sum adequate to protect the government's interest in performance of post-acceptance

services during the 1-year warranty period. The payment bond shall be released upon receipt of satisfactory evidence that all subcontractors, laborers, and material men have been paid in full. The ECM installation period shall include all time required for installation, testing, measuring initial performance, and Government acceptance of all installed ECMs.

3. Because ECMs are installed on or affixed to Government property, mechanics liens are prohibited. Therefore, the payment bond shall secure the contractor's obligations for payment of laborers, suppliers, and subcontractors.
4. Each subcontract, under this IDIQ contract or under a specific delivery order shall include a provision that prohibits placing mechanics liens against any ECMs installed on or affixed to Government property under this IDIQ contract or under a specific delivery order.

H.37.2 Project Financing by Third Party

1. The Government will notify the selected contractor of its intent to award the delivery order. Pursuant to Section H, Preaward Requirements, the selected contractor shall provide, to the Government, proof of project financing and acceptable evidence of a surety's commitment to provide performance and payment bonds.
2. Within 30 days of award of the delivery order or acceptance of installation plans, whichever is later, the selected contractor shall furnish a certified copy and duplicate of a performance bond, with project financier as co-beneficiary along with the Government. The performance bond shall be in a penal sum equal to 100 percent of the total implementation price for all ECMs cited in Schedule H-2. The selected contractor shall furnish a payment bond (Standard Form 25A) in duplicate. The payment bond shall be in a penal sum equal as follows:

Total Estimated Installation Cost (From Schedule 2)	Payment Bond Penal Sum
\$0 - \$999,999	50% of H-2
\$1 - \$5 million	40% of H-2
>\$5 million	\$2.5 million

The performance and payment bonds shall remain in effect during the total installation period for all ECMs. After acceptance the performance bond shall be reduced to a penal sum adequate to protect the Government's interest in performance of post-acceptance services during the one 1-year warranty period. The payment bond shall be released upon receipt of satisfactory evidence that all subcontractors, laborers, and material men have been paid in full. The ECM installation period shall include all time required for installation, testing, measuring initial performance, and Government acceptance of all installed ECMs.

3. Because ECMs are installed on or affixed to Government property, mechanics liens are prohibited. Therefore, the payment bond shall secure the contractor's obligations for payment of laborers, suppliers, and subcontractors.
4. Each subcontract, under this IDIQ contract or under a specific delivery order shall include a provision that prohibits placing mechanics liens against any ECMs installed on or affixed to Government property under this IDIQ contract or under a specific delivery order.

H.38 RESPONSIBILITY FOR LOSS OR DAMAGE TO CONTRACTOR PROPERTY (May 1998)

The Government shall be responsible for loss or damage to the property of the Contractor only to the extent authorized by the Federal Tort Claims Act.

H.39 PERMITS (May 1998)

In accordance with the "Permits and Responsibilities" clause in Section I, the contractor shall, without additional expense to the Government, obtain all appointments, licenses, and permits required to conduct the work. The contractor shall comply with all applicable Federal, state, and local laws. Evidence of such permits and licenses shall be provided to the contracting officer or the contracting officer's designated representative before work commences.

H.40 PROTECTION OF FINANCIER'S INTEREST (May 1998)

H.40.1 The Government recognizes that project financing associated with contractor performance on the delivery orders may be accomplished using third-party financing, and as such, will permit the financing source to perfect a security interest in the installed energy conservation measures, subject to and subordinate to the rights of the Government. To provide protection of any financier's interest, the contractor may be required to assign to its lenders, some or all of its rights under a delivery order.

H.40.2 The Government will consider:

1. Requests for assignments of monies due or to become due under a delivery order, provided the assignment complies with the Assignment of Claims Act.
2. Requests for the Government to provide lenders or financiers copies of any cure or show-cause notice issued to contractor.
3. Requests by lenders or lienholders for extension of response time to cure or show-cause notices.
4. A proposed takeover of delivery order performance in the event the contractor defaults in performance. Requests for takeover of the delivery order on substantially the same terms and conditions will be approved, if the proposed substitute party is acceptable to the Government and such takeover is in the Government's best interests.

H.40.3 The Government review and approval of the above requests will not be unreasonably withheld.

H.41 RESPONSIBILITY FOR SYSTEMS AND EQUIPMENT THROUGHOUT THE DELIVERY ORDER TERM (May 1998)

The contractor shall at all times during the term of the delivery order, unless otherwise specified in the delivery order, have full ownership responsibilities of the contractor-furnished systems and equipment. The contractor may modify, replace, or change the systems and equipment during the delivery order from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with and approval of the contracting officer. Any such modification,

replacement, or change of systems or equipment shall be performed by the contractor at no cost to the Government and shall not interfere with Government operations and mission.

H.42 FINAL YEAR SHORTFALLS - REIMBURSEMENT SCHEDULE (May 1998)

If an energy cost savings shortfall occurs during the last year's performance, the Contractor shall reimburse the Government for the shortfall within thirty (30) days from Government review and approval of the final annual energy audit for the shortfall in guaranteed annual energy cost savings.

H.43 WORK SCHEDULE REQUIREMENTS (May 1998)

The contractor shall arrange its on-site work so that it will not interfere with normal Government business. The contractor shall develop a monthly work schedule for all on-site work performed from delivery order award through installation period for all ECMs. In no event shall the contractor change approved work schedules without the prior consent of the contracting officer or the contracting officer's designated representative.

If the contractor desires to work on Saturday, Sunday, holidays, or outside the project site's normal working hours, which normal working hours will be specified in the delivery order, it may submit a request for approval to the contracting Officer's designated representative at least seven (7) working days prior to the proposed start of such work.

H.44 DEFINITIONS OF TERMS APPLICABLE TO THIS CONTRACT (May 1998)

The following special terms are pertinent to this solicitation.

- 1) Acceptance of Installation Phase. The term acceptance means an authorized representative of the Government has inspected and accepted the contractor-installed energy conservation measures, and that these installed energy conservation measures are operational and comply with the delivery order's performance requirements and specifications. Government acceptance shall not relieve the Contractor from responsibility for continued compliance with delivery order requirements during the delivery order's term.
- 2) Annual Energy Audit. The term annual energy audit means a procedure including, but not limited to, verification of the achievement of contractor-guaranteed energy cost savings resulting from implementation of energy conservation measures and determination of whether an adjustment to the energy baseline is justified by conditions beyond the contractor's control. The annual energy audit is sometimes referred to as the annual verification report.
- 3) Construction Expenses. Construction expenses (Schedule H-2 column (b)) are direct expenses (without contractor markups) incurred by the contractor to construct the delivery order project as defined by the designs, equipment schedules, and project-specific baselines and M&V plans mutually agreed to by the contractor and the Government; to commission the delivery order project; and to arrange for Government inspection and acceptance of the delivery order project. Construction expenses shall include the contractor's direct cost for purchase, shipping, handling, and storage of equipment to be installed; miscellaneous construction materials and construction direct labor (including subcontractor markups); construction management, quality assurance, control and inspection; and start-up, test, balance, commissioning, as-built drawings, O&M manuals, training, and any other delivery order requirements for acceptance by the Government. Direct labor shall include

any labor directly attributable to a task. This cost shall include workman's compensation and liability, State and Federal unemployment compensation, social security, and fringe benefits. Fringe benefits shall include any health and welfare insurance, pension funds, vacation time, and training costs. Construction expenses shall not include survey, feasibility & design expenses; costs recovered in financing procurement price (such as construction financing expenses); performance period expenses; costs recovered in implementation or performance period margins; or costs recovered in the finance charge. Firms which are wholly or partly owned by the contractor or the contractor's parent company shall not be considered subcontractors as the term relates to construction expense. Construction expenses are developed on an ECM-by-ECM basis and, with the inclusion of survey, feasibility and design expenses, equal the implementation expense.

4) Construction Financing Expenses. Construction financing expenses (interest, fees, etc.) are the contractor's costs of financing the construction associated with the delivery order. For example, if a separate construction loan is taken and then retired with proceeds of the permanent project financing after Government acceptance of construction, construction financing expenses include costs to secure, service, and retire this debt. Construction financing expenses are included in the financing procurement price, which is entered into Schedule H-3. A contractor may not require construction financing for a specific delivery order. If a contractor does not require construction financing for a specific delivery order, then this cost element would be zero.

5) Detailed Energy Survey. The term detailed energy survey, sometimes referred to as investment grade audit, means a procedure which may include, but is not limited to, surveys of buildings and energy consuming systems to be modified, verification of existing conditions, interviews of site personnel, research in site technical records and plan vaults, research in site maintenance records, spot short-term monitoring, detailed analysis of historical energy consumption records, and determination of baselines and practical approaches for measurement and verification (M&V) of savings. The detailed energy survey is done by the contractor after receiving written notification of intent to award a delivery order from the contracting officer. The detailed energy survey often supports the revision of ECM feasibility studies and technical and price proposals that were based on preliminary data that may have been assembled by the Government or contractor.

6) Energy Baseline. The term energy baseline means the amount of energy that would have been consumed annually without implementation of the ECMs included in the delivery order. Baselines may be developed in a number of ways which include, but are not limited to, the use of historical utility billing records or metered data, engineering calculations, spot short-term measurements on buildings or energy consuming systems, building energy analysis models, statistical regression analysis, or some combination of these methods.

7) Energy Conservation Measure. An energy conservation measure (ECM) is a specific action taken to lower energy consumption, modify energy consumption patterns, or otherwise lower the cost of meeting energy service needs at federal facilities. ECMs fall within the technology categories of Schedule B-1. Examples of ECMs in each category are provided in section C.2.1 .

8) Estimated Energy Savings. Estimated energy savings are the contractor-estimated energy savings in appropriate energy units for each ECM. ECMs with multiple energy type impacts may use less of one type and more of another. Estimated energy savings by energy type are entered into Schedule H-4 columns (a) through (d).

9) Estimated Energy Cost Savings. Estimated energy cost savings are the contractor-estimated energy cost savings in dollars per year for each ECM, and equals the estimated energy savings multiplied by the baseline energy prices in appropriate units. For ECMs with multiple energy type impacts, energy cost savings equals the sum of the products of the energy savings by energy type and baseline energy prices. The baseline energy prices are based on the energy

tariffs or rate schedules provided in the solicitation and the estimated ECM energy and demand reductions, and therefore may vary by ECM. Since energy cost savings occur each year after ECMs are implemented, they are a recurring cost savings. Estimated energy cost savings by ECM are entered into Schedule H-4 column (e).

10) Estimated Recurring Ancillary Cost Savings. Annually recurring cost savings, other than energy cost savings, which directly result from the contractor's efforts to save energy costs, are defined as recurring ancillary cost savings. Examples of recurring ancillary cost savings include, but are not limited to, operation, maintenance, and repair directly related to the systems being modified. Ancillary savings to the Government must be real savings; i.e., the Government must either be spending the money currently or planning to spend the money in the future. If not, the money will not be available in the Government's operating budget for payments. In many cases, the contractor may need to maintain a system at a higher cost than the Government is currently expending, due to budgetary limitations. In such cases, the maintenance ancillary savings need to be based on the actual Government expenditure, not what the Government would be spending if the Government were properly maintaining the system. Operations, maintenance, and repair costs for tasks currently being performed by the Government or by a contractor hired by the Government are ancillary savings if the contractor assumes the task, reduces the task, or eliminates the task. The Government will determine whether a contractor-proposed task assumption, reduction, or elimination will be considered a recurring ancillary cost savings. The estimated dollar value of the recurring ancillary cost savings is provided by the Government and is entered into Schedule H-4 column (f).

11) Financing Procurement Price. The financing procurement price is the price offered by the contractor for the service of arranging the project financing, obtaining the payment and performance bonds, and providing construction phase financing.

12) Finance Charge. The entity providing the capital to finance the project, which may be the contractor or a third party, can recover expenses and profit in the "finance charge". In most cases contractors use project financing capital from third party funders, and the finance charge is a pass through expense from the third party funder. The total annual interest rate charged for project financing can not exceed the like-term T-Bill/T-Note index plus the maximum finance charge of Schedule B-3. The amount financed with project financing equals the delivery order implementation price from Schedule H-2 column (c) plus the contractor financing procurement price (Schedule H-3).

13) Guaranteed Annual Cost Savings. The guaranteed annual cost savings are the level of annual cost savings the contractor is willing to guarantee. The proposed value appears in Schedule H-1 column (b). After the detailed energy survey, the contractor revises the proposal and offers the final value in Schedule H-5 column (a). The guaranteed annual cost savings must exceed the annual contractor payments (Schedule H-5(b)) in every year of the delivery order performance period. For the first interval (generally 12 months) after Government acceptance of construction the contractor is paid as if the savings guarantee is being met. The regular interval audit establishes actual savings. If actual savings fall short of the guarantee, the contractor will pay back the shortfall over the next interval by accepting lower payments.

14) Implementation Period. The official implementation period is from date of delivery order award to the date all ECMs included in the delivery order are operational and accepted by the Government. If additional ECMs are added to the delivery order by modification, the implementation period for the modification shall be from date of delivery order modification incorporating the additional ECMs to the date all additional ECMs are operational and accepted by the Government. In most cases the actual implementation period starts when the contractor receives written notification of intent to award from the contracting officer. This notice is issued based on the contractor's proposal, solicited or unsolicited, which includes proposed guaranteed annual cost savings. After the notification the

contractor generally performs a detailed energy survey, revisits ECM feasibilities, and revises the proposal. If the revised guaranteed annual savings do not exceed a specified minimum percentage (e.g., 90 %) of the original for equivalent scope and payments, the Government can award the delivery order to another contractor. However in most cases revised proposals exceed the minimum or the difference is traceable to previous incomplete information, award is made, and the implementation period effectively began with the notification of intent to award.

15) Implementation Price. Implementation margin (M in %), ECM implementation expense (E in \$), and ECM implementation price (P in \$) are related by the expression $P = E \times (1 + M/100)$. Delivery order implementation prices are entered in Schedule H-2 by ECM, and aggregated by technology category and for the entire project.

16) Implementation Margins. Implementation margins are the means by which contractors recover implementation period profit and indirect expenses, as well as at-risk expenses incurred prior to receiving the written notification of intent to award from the contracting officer. Implementation margins are entered into Schedule H-2 column (d) for each ECM. The margin for a specific ECM cannot exceed the maximum for the ECM's technology category (Schedule B-1).

17) Implementation Expenses. Implementation expenses shall be the direct costs (without contractor markups) that will be incurred by the contractor to implement the delivery order project, established at the time of delivery order award. The contractor incurs implementation expenses after receiving written notification of intent to award a delivery order from the contracting officer, and prior to Government acceptance of the construction. On an ECM-by-ECM basis, implementation expense (Schedule H-2 column (c)) equals the sum of survey, feasibility and design expense and construction expense. Implementation expenses shall not include costs recovered in financing procurement price (such as construction financing expenses); performance period expenses; costs recovered in implementation or performance period margins; or costs recovered in the finance charge.

Implementation expenses shall not include expenses which are included in the margins, finance charges for performance period project financing, the performance period expenses, indirect labor, and indirect costs.

18) One-Time Ancillary Cost Savings. In addition to recurring ancillary cost savings the Government may also consider one-time ancillary cost savings. For example, one-time costs that are to be incurred by the Government to make repairs or meet environmental regulations are ancillary savings if the contractor assumes the task, reduces the task, or eliminates the task and if the money is available to the Government to pay the contractor. For example, if the Government has scheduled and funded the removal and replacement of a leaking oil tank with a new tank system ("repair by replacement") and if the contractor installs a natural gas line to serve new gas-fired equipment thereby negating the need for replacing the tank, the cost of the new tank system would be both a one-time ancillary repair cost savings and an ancillary environmental cost savings if the federal agency site has this money in its budget for payment to the contractor. An example of a strictly environmental one-time ancillary savings would be the cost of a refrigerant conversion on a water chiller containing a refrigerant with an ozone depletion potential (ODP) greater than 0.05, if the federal agency site has planned for the conversion, and has money in its budget to fund the conversion. If the money is available for a project or task related to the energy systems being modified by the contractor, and that project or task will not have to be accomplished by the Government if the contractor performs the proposed delivery order, then that savings can be considered as one-time ancillary savings. One-time ancillary cost savings are listed in Schedule H-4 column (f) with an asterisk, so as not to be confused with annually recurring ancillary cost savings.

19) Performance Period. The term performance period means the period (typically in years) from the date a delivery order project is operational and accepted by the Government, to the end of the delivery order's contract term.

20) Performance Period Expenses. Performance period expenses are expenses incurred by the contractor each year during the performance period to assure that the guaranteed savings occur and the anticipated size of Government payments to the contractor continue. Performance period expenses include only direct costs for project management and administration, operation, maintenance, repair and replacement, measurement and verification, permits and licenses, insurance, property taxes and other direct costs of operating the project. Performance period expenses shall not include expenses which are included in the implementation price, performance period margin, finance charges for performance period project financing, indirect labor, and indirect costs. Performance period expenses are entered into Schedule H-3.

21) Performance Period Prices. Performance period margin (M in %), performance period expenses (E), and performance period prices (P in \$) are related by the expression $P = E \times (1 + M/100)$. Delivery order performance period prices are entered in Schedule H-3 for each year of the performance period.

22) Performance Period Margin. Performance period margin is the means by which contractors recover performance period profit and indirect expenses. Performance period margin is entered into Schedule H-3 row (c). The margin for a specific delivery order cannot exceed the maximum. (Schedule B-2).

23) Preliminary Energy Survey. The term preliminary energy survey means a procedure which may include, but is not limited to, an evaluation of energy cost savings and energy unit savings potential, building conditions, energy consuming equipment, and hours of use or occupancy, for the purpose of developing technical and price proposals prior to selection.

24) Survey, Feasibility & Design Expenses. Survey, feasibility and design expenses (Schedule H-2 column (a)) are direct expenses (without contractor markups) incurred by the contractor to identify, verify the feasibility of, and design ECMs and establish project-specific baselines and measurement and verification plans; starting when the contractor receives written notification of intent to award a delivery order from the contracting officer; and ending when the Government and contractor agree that the designs, equipment schedules, baselines, M&V plans, revised Schedules H-2 through H-4, and Schedules H-5 and H-6 are final. Survey, feasibility and design expenses shall include the contractor's direct cost for engineering labor and measurement tools and materials (including subcontractor markups). Direct labor shall include any labor directly attributable to a task. This cost shall include workman's compensation and liability, State and Federal unemployment compensation, social security, and fringe benefits. Fringe benefits shall include any health and welfare insurance, pension funds, vacation time, and training costs. Survey, feasibility and design expenses shall not include construction expenses; costs recovered in financing procurement price (such as construction financing expenses); performance period expenses; costs recovered in implementation or performance period margins; or costs recovered in the finance charge. Firms which are wholly or partly owned by the contractor or the contractor's parent company shall not be considered subcontractors as the term relates to survey, feasibility and design expense. Survey, feasibility and design expenses are developed on an ECM-by-ECM basis and, with the inclusion of construction expenses, equal the implementation expense.

25) Technology Category. ECMs shall be categorized based on the type of system and equipment involved in the project. The technology categories are indicated in Schedule B-1. The miscellaneous category shall be used for applications where the ECMs are not identified by the other categories.

H.45 WAGE DETERMINATION (May 1998)

In the performance of the first delivery order under this contract, the Contractor shall comply with the requirements of U.S. Department of Labor Wage Determination Numbers VA 980080 and VA 980017 as applicable which can be found in the technical data package along with the Service Contract Act Determination. Department of Labor Wage Determination for the Service Contract Act and the Davis-Bacon Act will be included in each delivery order.

H.46 ADDITIONAL CLAUSES FOR SPECIFIC DELIVERY ORDERS (May 1998)

As previously stated, this IDIQ contract may be used by all Federal agencies and their contractors. Therefore, the solicitation for a specific delivery order may contain additional clauses that are a requirement of the Federal agencies implementing regulations to the Federal Acquisition Regulations. The Contractor shall be responsible for reviewing the solicitation for a specific delivery order to determine the applicable clauses for that delivery order.

H.47 LIQUIDATED DAMAGES (May 1998)

Since this IDIQ contract is for use by all authorized Federal agencies in a specific region and the specific ECM projects are not known at this time, the Government cannot make a determination as to whether Liquidated Damages would apply to any delivery order. Therefore, the Contractor shall review each delivery order solicitation and the actual delivery order for the inclusion of an appropriate Liquidated Damages clause per Federal agency requirements.

H.48 ADDITIONAL DELIVERY ORDER CLAUSES FOR WORK ON DOE FACILITIES HAVING CLASSIFIED INFORMATION (May 1998)

a) If the ECM project covered by a delivery order involves work to be performed at a Department of Energy facility that has classified information (section 41 of the Atomic Energy Act of 1954, as amended), DEAR 952.204-2 Security (Apr 1984) and DEAR 952.204-70 Classification (Apr 1984) may apply to that delivery order. The specific delivery order for such site shall incorporate these clauses, if applicable.

b) If the ECM project covered by a delivery order involves work to be performed at a Department of Energy facility that has classified information (section 41 of the Atomic Energy Act of 1954, as amended), the contractor may be required to submit its representation concerning foreign ownership, control, or influence over contractor, DEAR 952.204-73 (see Section L); and the clause DEAR 952.204-74 Foreign Ownership, Control, or Influence over Contractor (Apr 1984) may apply to that delivery order. The solicitation for such site would request the representation, and the specific delivery order for such site would incorporate the clause, if applicable.

H.49 USE OF NON-GOVERNMENT PERSONNEL IN EVALUATIONS (May 1998)

The government requires non-government personnel from a Federally-Funded Research and Development Center (Oak Ridge National Laboratory) as advisors in proposal evaluation because aspects of the technical proposal evaluation require specialized training, experience and skills available

from the FFRDCs that are not available in the Department of Energy.

PART II - CONTRACT CLAUSES**SECTION I****CONTRACT CLAUSES****I.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov>

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

NUMBER	DATE	TITLE
52.203-3	APR 1984	GRATUITIES
52.203-5	APR 1984	COVENANT AGAINST CONTINGENT FEES
52.203-6	JUL 1995	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT
52.203-7	JUL 1995	ANTI-KICKBACK PROCEDURES
52.203-8	JAN 1997	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR OR IMPROPER ACTIVITY
52.203-10	JAN 1996	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
52.203-12	JUN 1997	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS
52.204-4	JUN 1996	PRINTING/COPYING DOUBLED-SIDED ON RECYCLED PAPER
52.209-6	JUL 1995	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
52.215-2	AUG 1996	AUDIT AND RECORDS--NEGOTIATION
52.215-8	OCT 1997	ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT
52.217-2	OCT 1997	CANCELLATION UNDER MULTIYEAR CONTRACTS
52.219-7	JUL 1996	NOTICE OF PARTIAL SMALL BUSINESS SET-ASIDE
52.219-8	JUN 1997	UTILIZATION OF SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS CONCERNS
52.219-9	AUG 1996	SMALL, SMALL DISADVANTAGED AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN
52.219-16	OCT 1995	LIQUIDATED DAMAGES-- SUBCONTRACTING PLAN
52.222-3	AUG 1996	CONVICT LABOR
JUL 1995		CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION
APR 1984		EQUAL OPPORTUNITY

APR 1998 AFFIRMATIVE ACTION FOR DISABLED VETERANS VETERANS OF THE VIETNAM ERA
 APR 1984 AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS
 APR 1998 EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE
 VIETNAM ERA
 APR 1984 CLEAN AIR AND WATER
 JAN 1997 DRUG-FREE WORKPLACE
 OCT 1996 TOXIC CHEMICAL RELEASE REPORTING
 OCT 1996 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES
 JUL 1995 AUTHORIZATION AND CONSENT
 AUG 1996 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT
 JUN 1987 RIGHTS IN DATA - SPECIAL WORKS
 JAN 1997 INSURANCE - WORK ON A GOVERNMENT INSTALLATION
 (FEB 1992) PLEDGES OF ASSETS
 OCT 1997 IRREVOCABLE LETTER OF CREDIT
 JAN 1991 FEDERAL, STATE, AND LOCAL TAXES
 APR 1984 TAXES - CONTRACTS PERFORMED IN U.S. POSSESSIONS OR PUERTO RICO
 APR 1984 EXTRAS
 JUN 1996 INTEREST
 JAN 1986 ASSIGNMENT OF CLAIMS
 OCT 1995 DISPUTES
 AUG 1996 PROTEST AFTER AWARD
 NOV 1991 ACCIDENT PREVENTION
 APR 1984 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION
 JUL 1995 BANKRUPTCY
 APR 1998 SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS
 DEC 1989 WARRANTY OF SYSTEMS AND EQUIPMENT UNDER PERFORMANCE
 SPECIFICATIONS OR DESIGN CRITERIA
 FEB 1997 LIMITATION OF LIABILITY
 SEP 1996 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE)
 JAN 1991 COMPUTER GENERATED FORMS

ES ARE APPLICABLE TO THE CONSTRUCTION PHASE(S) OF THE CONTRACT AND DELIVERY ORDERS

FEB 1995 DAVIS-BACON ACT (DEVIATION)
 FEB 1988 WITHHOLDING OF FUNDS
 FEB 1988 PAYROLLS AND BASIC RECORDS
 FEB 1988 APPRENTICES AND TRAINEES
 FEB 1988 COMPLIANCE WITH COPELAND ACT REQUIREMENTS

FEB 1988 SUBCONTRACTS (LABOR STANDARDS)
 FEB 1988 CONTRACT TERMINATION - DEBARMENT
 FEB 1988 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS
 FEB 1988 DISPUTES CONCERNING LABOR STANDARDS
 FEB 1988 CERTIFICATION OF ELIGIBILITY
 APR 1984 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION
 JUN 1997 BUY AMERICAN ACT - CONSTRUCTION MATERIALS
 APR 1984 PATENT INDEMNITY - CONSTRUCTION CONTRACTS
 OCT 1997 ADDITIONAL BOND SECURITY
 APR 1984 DIFFERING SITE CONDITIONS
 APR 1984 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK
 APR 1984 MATERIAL AND WORKMANSHIP
 APR 1984 SUPERINTENDENCE BY THE CONTRACTOR
 NOV 1991 PERMITS AND RESPONSIBILITIES
 APR 1984 OTHER CONTRACTS
 APR 1984 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES,
 AND IMPROVEMENTS
 APR 1984 OPERATIONS AND STORAGE AREAS
 APR 1984 USE AND POSSESSION PRIOR TO COMPLETION
 APR 1984 CLEANING UP
 APR 1984 AVAILABILITY AND USE OF UTILITY SERVICES
 APR 1984 SCHEDULES FOR CONSTRUCTION CONTRACTS
 AUG 1987 CHANGES
 APR 1984 WARRANTY OF CONSTRUCTION
 APR 1984 DEFAULT (FIXED-PRICE CONSTRUCTION)

**THE FOLLOWING CLAUSES ARE APPLICABLE TO THE SERVICES
 PHASE(S) OF THE CONTRACT AND DELIVERY ORDERS**

MAY 1989 SERVICE CONTRACT ACT OF 1965, AS AMENDED
 MAY 1989 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT--PRICE ADJUSTMENT
 (MULTIPLE YEAR AND OPTION CONTRACTS)
 APR 1984 PATENT INDEMNITY
 APR 1984 PAYMENTS
 MAY 1997 DISCOUNTS FOR PROMPT PAYMENT
 JUN 1997 PROMPT PAYMENT
 AUG 1987 CHANGES - FIXED-PRICE Alternate I (APR 1984)

FEB 1997 LIMITATION OF LIABILITY - SERVICES
APR 1984 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)

**DEPARTMENT OF ENERGY ACQUISITION REGULATION (48 CFR CHAPTER 9)
SOLICITATION PROVISIONS**

(The following may apply to any delivery order for a Department of Energy facility):

- 952.204-2 (MAY 1998) SECURITY
- 952.204-70 (MAY 1998) CLASSIFICATION
- 952.204-73 (SEP 1997) FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR

CLAUSES IN FULL TEXT

**I.2 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA
(JAN 1997) ALTERNATE I (JUL 1995)**

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert NONE)

Identification No.

(c) The apparently successful offeror, by acceptance of the contract, certifies that the list in paragraph (b) of this clause is complete. This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause or the certification submitted under paragraph (c) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate, and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(i) Except as provided in paragraph (i)(2) the Contractor shall prepare and submit a sufficient number of Material Safety Data Sheets (MSDS's), meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous materials identified in paragraph (b) of this clause.

(1) For items shipped to consignees, the Contractor shall include a copy of the MSDS's with the packing list or other suitable shipping document which accompanies each shipment. Alternatively, the Contractor is permitted to transmit MSDS's to consignees in advance of receipt of shipments by consignees, if authorized in writing by the Contracting Officer.

(2) For items shipped to consignees identified by mailing address as agency depots,

distribution centers or customer supply centers, the Contractor shall provide one copy of the MSDS's in or on each shipping container. If affixed to the outside of each container, the MSDS's must be placed in a weather resistant envelope.

[End of Clause]

I.3 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUN 1987)

Except for data contained on pages _____, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the Rights in Data--General" clause contained in this contract) in and to the technical data contained in the proposal dated _____, upon which this contract is based.

[End of Clause]

I.4 52.244-1 SUBCONTRACTS (FIXED-PRICE CONTRACTS) (FEB 1995)

(a) This clause does not apply to firm-fixed-price contracts and fixed-price contracts with economic price adjustment. However, it does apply to subcontracts resulting from unpriced modifications to such contracts.

(b) "Subcontract," as used in this clause, includes but is not limited to purchase orders, and changes and modifications to purchase orders. The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor does not have an approved purchasing system and if the subcontract--

(1) Is proposed to exceed \$100,000; or

(2) Is one of a number of subcontracts with a single subcontractor, under this contract, for the same or related supplies or services, that in the aggregate are expected to exceed \$100,000.

c. The advance notification required by paragraph (b) above shall include--

(1) A description of the supplies or services to be subcontracted;

(2) Identification of the type of subcontract to be used;

(3) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;

(4) The proposed subcontract price and the Contractor's cost or price analysis;

(5) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions;

(6) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract; and

(7) A negotiation memorandum reflecting--

(i) The principal elements of the subcontract price negotiations;

(ii) The most significant considerations controlling establishment of initial or revised prices;

(iii) The reason cost or pricing data were or were not required;

(iv) The extent, if any, to which the Contractor did not rely on the subcontractor's cost

or pricing data in determining the price objective and in negotiating the final price;

(v) The extent, if any, to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and subcontractor; and the effect of any such defective data on the total price negotiated;

(vi) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(vii) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(d) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (b) above. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts identified below:

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination (1) of the acceptability of any subcontract terms or conditions, (2) of the acceptability of any subcontract price or of any amount paid under any subcontract, or (3) to relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement subcontracts shall not exceed the fee limitations in subsection 15.903(d) of the Federal Acquisition Regulation (FAR).

(h) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

[End of Clause]

I.5 952.202-1 DEFINITIONS (OCT 1995)

(a) "Head of Agency" means the Secretary, Deputy Secretary or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission.

(b) "Commercial component" means any component that is a commercial item.

(c) "Commercial item" means--

(1) Any item other than real property, that is of a type customarily used for nongovernmental purposes and that--

(i) Has been sold, leased, or licensed to the general public; or

(ii) Has been offered for sale, lease, or license to the general public;

(2) Any item that evolved from an item described in paragraph (c)(1) of this clause through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(3) Any item that would satisfy a criterion expressed in paragraphs (c)(1) or (c)(2) of this clause, but for--

(i) Modifications of a type customarily available in the commercial marketplace; or

(ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. "Minor" modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(4) Any combination of items meeting the requirements of paragraphs (c)(1), (2), (3), or (5) of this clause that are a type customarily combined and sold in combination to the general public;

(5) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (c)(1), (2), (3), or (4) of this clause, and if the source of such services--

(i) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

(ii) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

(6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed under standard commercial terms and conditions. This does not include services that are sold based on hourly rates without an established catalog or market price for a specific service performed;

(7) Any item, combination of items, or service referred to in subparagraph (c)(1) through (c)(6), notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a Contractor; or

(8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local Governments.

(d) "Component" means any item supplied to the Federal Government as part of an end item or of another component.

(e) "Nondevelopmental item" means--

(1) Any previously developed item of supply used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(2) Any item described in paragraph (e)(1) of this definition that requires only minor modification or modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency; or

(3) Any item of supply being produced that does not meet the requirements of paragraph (e)(1) or (e)(2) solely because the item is not yet in use.

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

(g) Except as otherwise provided in this contract, the term "subcontracts" includes, but is not limited to, purchase orders and changes and modifications to purchase orders under this contract.

(h) The term "DOE" means the Department of Energy and "FERC" means the Federal Energy Regulatory Commission.

[End of Clause]

I.6 952.208-70 PRINTING (APR 1984)

(a) The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of single unit, or not more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8 1/2 by 11 inches one side only, one color. A requirement is defined as a single publication document.

(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

(2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Officer (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.

(3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.

(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

[End of Clause]

I.7 952.223-72 RADIATION PROTECTION AND NUCLEAR CRITICALITY (APR 1984)

The contractor shall take all reasonable precautions in the performance of work under this contract to protect the safety and health of employees and of members of the public against the hazards of ionizing radiation and radioactive materials and shall comply with all applicable radiation protection and nuclear criticality safety standards and requirements (including reporting requirements) of DOE. The contractor shall submit a management program and implementation plan to the contracting officer for review and approval within 30 days after the effective date of this contract or modification. In the event that the contractor fails to comply with said standards and requirements of DOE, the contracting officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work. Thereafter, a start order for resumption of the work may be issued at the discretion of the contracting officer. The contractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

[End of Clause]

I.8 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under