

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30</i>				1. REQUISITION NUMBER		PAGE 1 OF 25							
2. CONTRACT NO. HC1013-14-H-0001		3. AWARD/EFFECTIVE DATE 01-Oct-2013	4. ORDER NUMBER		5. SOLICITATION NUMBER		6. SOLICITATION ISSUE DATE						
7. FOR SOLICITATION INFORMATION CALL:		a. NAME			b. TELEPHONE NUMBER (No Collect Calls)		8. OFFER DUE DATE/LOCAL TIME						
9. ISSUED BY DISA/DITCO-SCOTT 2300 EAST DRIVE BLDG 3600 SCOTT AFB IL 62225-5406  TEL: FAX:		CODE	HC1013	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SB <input type="checkbox"/> HUBZONE SB <input type="checkbox"/> 8(A) <input type="checkbox"/> SVC-DISABLED VET-OWNED SB <input type="checkbox"/> EMERGING SB SIZE STD: NAICS:		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE  <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP		12. DISCOUNT TERMS					
		15. DELIVER TO	CODE						16. ADMINISTERED BY	CODE			
		17a. CONTRACTOR/OFFEROR							CODE	18a. PAYMENT WILL BE MADE BY		CODE	HQ0252
									FACILITY CODE			DFAS CO - FABS HQ0252 PO BOX 183125 COLUMBUS OH 43218-3125	
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM											
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT						
	<b>SEE SCHEDULE</b>												
25. ACCOUNTING AND APPROPRIATION DATA					26. TOTAL AWARD AMOUNT (For Govt. Use Only)								
					<b>\$0.00</b>								
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED													
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED													
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES <input type="checkbox"/> TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: REFERENCE <input type="checkbox"/> OFFER DATED . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:									
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		31c. DATE SIGNED								
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)										
			TEL: EMAIL:										

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL  
ITEMS  
(CONTINUED)**

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
<p><b>SEE SCHEDULE</b></p>					

DRAFT

32a. QUANTITY IN COLUMN 21 HAS BEEN  
 RECEIVED  INSPECTED  ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED:

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY ( <i>Print</i> )		
	41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT ( <i>Location</i> )
		42c. DATE REC'D ( <i>YY/MM/DD</i> )	42d. TOTAL CONTAINERS

Section SF 1449 - CONTINUATION SHEET

This agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by the United States of America (the "Government") represented by \_\_\_\_\_, the Contracting Officer, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ (the "Contractor").

AGREEMENT INFORMATION:

AGREEMENT CEILING AMOUNT	\$0.00
AGREEMENT PERIOD START DATE	01-OCT-2013
AGREEMENT PERIOD END DATE	01-OCT-2023

BA INFORMATION

THIS BASIC AGREEMENT (BA) CONTAINS GENERAL TERMS AND CONDITIONS INTENDED FOR INCLUSION IN CERTAIN CONTRACTS EXECUTED BY THE DEFENSE INFORMATION TECHNOLOGY CONTRACTING ORGANIZATION (DITCO) FOR ACQUISITION OF TELECOMMUNICATIONS SERVICES AND ANCILLARY EQUIPMENT. THE BASIC AGREEMENT IS DESIGNED TO BE USED IN CONJUNCTION WITH DITCO'S INQUIRY/QUOTE/ORDER (IQO) ACQUISITION GUIDE, FROM WHICH ADDITIONAL GENERAL AND SPECIALIZED TERMS AND CONDITIONS ARE SELECTED AND UTILIZED IN SUPPORT OF SPECIFIC REQUIREMENTS BEING SOLICITED.

DITCO'S ACQUISITION POLICY IS TO ACQUIRE TELECOMMUNICATION SERVICES FROM CONTRACTORS ON A COMPETITIVE BASIS. WE RECOGNIZE THE REGULATIONS, PRACTICES AND DECISIONS ON RATES, COST PRINCIPLES AND ACCOUNTING PRACTICES OF THE FEDERAL COMMUNICATIONS COMMISSION (FCC) AND OTHER GOVERNMENTAL REGULATORY BODIES. HOWEVER IF THERE IS NO GOVERNMENTAL REGULATORY BODY OR THE GOVERNMENTAL REGULATORY BODY HAS NOT EXPRESSED ITSELF OR DECLINED JURISDICTION, THE TERMS AND CONDITIONS OF THE BASIC AGREEMENT WILL PREVAIL. THE CLAUSES THAT ARE NOT APPLICABLE ARE SELF-DELETING. THE BASIC AGREEMENT FOLLOWS THE FAR PART 12 AND PART 39.

LEGAL BUSINESS NAME BY WHICH YOU ARE REGISTERED IN YOUR STATE TO CONDUCT BUSINESS, FILE TARIFFS AND PAY TAXES IS REQUIRED. ALL AGREEMENTS, TARIFFS, CONTRACTS/ORDERS SHALL USE THE LEGAL BUSINESS NAME. "DOING BUSINESS AS"(DBA) NAME MEANS ANOTHER NAME, SUCH AS A FRANCHISE, TRADE, ASSUMED NAME, BRAND NAME, FICTICIOUS NAME OR LICENSEE NAME. USE OF DBA'S IS PERMITTED PROVIDED THE LEGAL BUSINESS NAME IS ALSO USED. THE USE OF CERTAIN TERMS IN A DBA NAME ARE PROHIBITED SUCH AS "LLC" OR "INC.", WHICH ARE REQUIRED IN THE LEGAL BUSINESS NAME. SINCE ALL AGREEMENTS/TARRIFS/CONTRACTS/ORDERS SHALL USE THE LEGAL BUSINESS NAME, OMITTING THE LEGAL BUSINESS NAME WILL MAKE OFFERS, TARIFF FILINGS, INVOICES, AND CLAIMS INVALID.

BEFORE SUBMISSION OF THE BA, ENSURE THE INFORMATION PROVIDED ON THE BUSINESS PARTNER NETWORK WEBSITE (<https://www.sam.gov>) FOR

SAM REGISTRATION AND ON-LINE REPRESENTATIONS AND CERTIFICATIONS IS CURRENT AND COMPLETE. NAME, ADDRESS AND DUNS DATA ON THE BA NEEDS TO MIRROR WEBSITE INFORMATION. CURRENCY OF DATA IS NECESSARY TO RECEIVE ORDERS AND OBTAIN PAYMENTS FROM INVOICES. ALL WEBSITE INFORMATION SHOULD BE UPDATED ON AN ANNUAL BASIS.

#### CLAUSES INCORPORATED BY REFERENCE

52.203-13	Contractor Code of Business Ethics and Conduct	APR 2010
52.204-9	Personal Identity Verification of Contractor Personnel	JAN 2011
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards	JUL 2013
52.204-12	Data Universal Numbering System Number Maintenance	DEC 2012
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	AUG 2013
52.209-7	Information Regarding Responsibility Matters	JUL 2013
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters	JUL 2013
52.212-4	Contract Terms and Conditions--Commercial Items	SEP 2013
52.219-3	Notice of HUB Zone Set-Aside or Sole Source Award	NOV 2011
52.219-4	Notice of Price Evaluation Preference for HUB Zone Small Business Concerns	JAN 2011
52.219-18	Notification Of Competition Limited To Eligible 8 (A) Concerns	JUN 2003
52.219-27	Notice of Service-Disabled Veteran-Owned Small Business Set-Aside	NOV 2011
52.222-50	Combating Trafficking in Persons	FEB 2009
52.223-16	IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products	DEC 2007
52.228-5	Insurance - Work On A Government Installation	JAN 1997
52.229-1	State and Local Taxes	APR 1984
52.229-3	Federal, State And Local Taxes	FEB 2013
52.229-4	Federal, State, And Local Taxes (State and Local Adjustments)	FEB 2013
52.229-6	Taxes--Foreign Fixed-Price Contracts	FEB 2013
52.229-7	Taxes--Fixed Price Contracts With Foreign Governments	FEB 2013
52.232-6	Payment Under Communication Service Contracts with Common Carriers	APR 1984

52.232-23	Assignment Of Claims	JAN 1986
52.232-35	Designation of Office for Government Receipt of Electronic Funds Transfer Information	JUL 2013
52.233-3	Protest After Award	AUG 1996
52.237-3	Continuity Of Services	JAN 1991
52.243-7	Notification Of Changes	APR 1984
52.252-2	Clauses Incorporated By Reference	FEB 1998
52.252-5	Authorized Deviations In Provisions	APR 1984
52.252-6	Authorized Deviations In Clauses	APR 1984
252.201-7000	Contracting Officer's Representative	DEC 1991
252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013
252.211-7003	Item Identification and Valuation	JUN 2013
252.219-7009	Section 8(a) Direct Award	SEP 2007
252.237-7023	Continuation of Essential Contractor Services	OCT 2010
252.239-7000	Protection Against Compromising Emanations	JUN 2004
252.239-7001	Information Assurance Contractor Training and Certification	JAN 2008
252.239-7002	Access	DEC 1991
252.239-7004	Orders For Facilities And Services	NOV 2005
252.239-7005	Rates, Charges, And Services	NOV 2005
252.239-7006	Tariff Information	JUL 1997
252.239-7007	Cancellation Or Termination Of Orders	NOV 2005
252.239-7008	Reuse Arrangements	DEC 1991
252.239-7011	Special Construction And Equipment Charges	DEC 1991
252.239-7012	Title To Telecommunication Facilities And Equipment	DEC 1991
252.239-7013	Obligation Of The Government	JUL 2006
252.239-7014	Term Of Agreement	DEC 1991
252.239-7016	Telecommunications Security Equipment, Devices, Techniques, And Services	DEC 1991
252.243-7001	Pricing Of Contract Modifications	DEC 1991

#### CLAUSES INCORPORATED BY FULL TEXT

#### **52.204-9000 Points of Contact**

As prescribed in 4.103(S-90), insert the following clause:

#### **POINTS OF CONTACT (AUG 2005)**

#### **Contracting Officer (KO)**

Name: REGINALD SANDERS

Organization/Office Symbol: DISA/DITCO-Scott (PL8221)

Phone No.: (618) 229-9236, DSN 779-9236

E-Mail Address: [Reginald.Sanders2.CIV@mail.mil](mailto:Reginald.Sanders2.CIV@mail.mil)

**Contract Specialist**

Name: CHARLES W. MULVANEY

Organization/Office Symbol: DISA/DITCO-Scott (PL8221)

Phone No.: (618) 229-9489, DSN 779-9489

E-Mail Address: [Charles.w.Mulvaney.CIV@mail.mil](mailto:Charles.w.Mulvaney.CIV@mail.mil)

**Basic Agreement Organizational Mailbox**

E-Mail Address: [Disa.scott.ditco.mbx.basic-agreements@mail.mil](mailto:Disa.scott.ditco.mbx.basic-agreements@mail.mil)

**Contractor Point of Contact**

Contractor Legal Business Name:

DUNS:

CAGE CODE:

Contractor POC:

E-Mail Address:

Phone Number:

Fax Number:

(End of clause)

52.204-9001 Contract/Order Closeout—Fixed-Price, Time-and-Materials, or Labor-Hours (Jan 2007)

Timely contract closeout is a priority under this contract/order. The Contractor shall submit a final invoice within ninety (90) calendar days after the expiration of this contract/order, unless the Contractor requests and is granted an extension by the Contracting Officer, in writing. In addition, and concurrent with the submission of the final invoice, the Contractor shall notify the Contracting Officer of the amount of excess funds that can be deobligated from this contract/order so the closeout process can begin as soon as possible upon expiration of this contract/order. A bilateral contract/order closeout modification will be forwarded to the Contractor by the Contracting Officer and must be signed by the Contractor and returned to the Contracting Officer within thirty (30) calendar days of issuance of the modification. A Contractor's failure to respond and/or sign the bilateral closeout modification within thirty (30) calendar days of receipt will constitute approval of the terms of the modification and the modification will subsequently be processed unilaterally by the Contracting Officer to deobligate excess funds and close this contract/order.

If this contract/order contains option periods, the Contractor is required to submit an invoice within ninety (90) calendar days after expiration of the base period of performance and the expiration of each exercised option period of performance to allow for deobligation of excess funds that were obligated in those respective periods of performance.

(End of clause)

52.209-9000 ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST (OCCI)  
(DEC 2005)

(a) An offeror shall identify in its proposal, quote, bid or any resulting contract, any potential or actual Organizational and Consultant Conflicts of Interest (OCCI) as described in FAR Subpart 9.5. This includes actual or potential conflicts of interests of proposed subcontractors. If an offeror identifies in its proposal, quote, bid or any resulting contract, a potential or actual conflict of interests the offeror shall submit an Organizational and Consultant Conflicts of Interest Plan (OCCIP) to the contracting officer. The OCCIP shall describe how the offeror addresses potential or actual conflicts of interest and identify how they will avoid, neutralize, or mitigate present or future conflicts of interest.

(b) Offerors must consider whether their involvement and participation raises any OCCI issues, especially in the following areas when:

- (1) Providing systems engineering and technical direction.
- (2) Preparing specifications or work statements and/or objectives.
- (3) Providing evaluation services.
- (4) Obtaining access to proprietary information.

(c) If a prime contractor or subcontractor breaches any of the OCCI restrictions, or does not disclose or misrepresents any relevant facts concerning its conflict of interest, the government may take appropriate action, including terminating the contract, in addition to any remedies that may be otherwise permitted by the contract or operation of law.

(End of clause)

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT  
STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (SEP 2013)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

- (1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

\_\_\_ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

\_\_\_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

\_\_\_ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

\_\_\_ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (July 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

\_\_\_ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

\_\_\_ (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Aug, 2013) (31 U.S.C. 6101 note).

\_\_\_ (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (July 2013) (41 U.S.C. 2313).

\_\_\_ (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

\_\_\_ (9) 52.219-3, Notice of HUB Zone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).

\_\_\_ (10) 52.219-4, Notice of Price Evaluation Preference for HUB Zone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

\_\_\_\_ (11) [Reserved]

\_\_\_\_ (12) (i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).

\_\_\_\_ (ii) Alternate I (NOV 2011).

\_\_\_\_ (iii) Alternate II (NOV 2011).

\_\_\_\_ (13)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

\_\_\_\_ (ii) Alternate I (Oct 1995) of 52.219-7.

\_\_\_\_ (iii) Alternate II (Mar 2004) of 52.219-7.

\_\_\_\_ (14) 52.219-8, Utilization of Small Business Concerns (July 2013) (15 U.S.C. 637(d)(2) and (3)).

\_\_\_\_ (15)(i) 52.219-9, Small Business Subcontracting Plan (July 2013) (15 U.S.C. 637(d)(4)).

\_\_\_\_ (ii) Alternate I (Oct 2001) of 52.219-9.

\_\_\_\_ (iii) Alternate II (Oct 2001) of 52.219-9.

\_\_\_\_ (iv) Alternate III (Jul 2010) of 52.219-9.

\_\_\_\_ (16) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).

\_\_\_\_ (17) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).

\_\_\_\_ (18) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

\_\_\_\_ (19)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

\_\_\_\_ (ii) Alternate I (June 2003) of 52.219-23.

\_\_\_\_ (20) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (July 2013) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

- \_\_\_\_ (21) 52.219-26, Small Disadvantaged Business Participation Program— Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- \_\_\_\_ (22) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- \_\_\_\_ (23) 52.219-28, Post Award Small Business Program Rerepresentation (July 2013) (15 U.S.C. 632(a)(2)).
- \_\_\_\_ (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (July 2013) (15 U.S.C. 637(m)).
- \_\_\_\_ (25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (July 2013) (15 U.S.C. 637(m)).
- \_\_\_\_ (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- X (27) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (MAR 2012) (E.O. 3126).
- X (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- X (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- X (30) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).
- X (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- \_\_\_\_ (32) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).
- \_\_\_\_ (33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- \_\_\_\_ (34) 52.222-54, Employment Eligibility Verification (Jul 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- \_\_\_\_ (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA– Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_\_ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_\_ (36) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

\_\_\_\_ (37)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

\_\_\_\_ (ii) Alternate I (Dec 2007) of 52.223-16.

X (38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

\_\_\_\_ (39) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

\_\_\_\_ (40)(i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

(ii) Alternate I (MAR 2012) of 52.225-3.

(iii) Alternate II (MAR 2012) of 52.225-3.

(iv) Alternate III (NOV 2012) of 52.225-3.

\_\_\_\_ (41) 52.225-5, Trade Agreements (Sep 2013) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

\_\_\_\_ (42) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_\_\_ (43) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

\_\_\_\_ (44) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150)

\_\_\_\_ (45) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

\_\_\_\_ (46) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

\_\_\_\_ (47) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

\_\_\_\_ (48) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (July 2013) (31 U.S.C. 3332).

\_\_\_\_ (49) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (July 2013) (31 U.S.C. 3332).

\_\_\_\_ (50) 52.232-36, Payment by Third Party (July 2013) (31 U.S.C. 3332).

\_\_\_\_ (51) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

\_\_\_\_ (52)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

\_\_\_\_ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)

\_\_\_\_ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

\_\_\_\_ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_\_ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_\_ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_\_ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

\_\_\_\_ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) (41 U.S.C. 351, et seq.).

\_\_\_\_\_ (7) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O.13495).

\_\_\_\_\_ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

\_\_\_\_\_ (9) 52.237-11, Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note).

(ii) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Nondisplacement of Qualified Workers (JAN 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 1998) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employment Eligibility Verification (JUL 2012).

(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor May include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

252.239-7000 PROTECTION AGAINST COMPROMISING EMANATIONS (JUN 2004)

(a) The Contractor shall provide or use only information technology, as specified by the Government, that has been accredited to meet the appropriate information assurance requirements of--

(1) The National Security Agency National TEMPEST Standards (NACSEM No. 5100 or NACSEM No. 5100A, Compromising Emanations Laboratory Test Standard, Electromagnetics (U)); or

(2) Other standards specified by this contract, including the date through which the required accreditation is current or valid for the contract.

(b) Upon request of the Contracting Officer, the Contractor shall provide documentation supporting the accreditation.

(c) The Government may, as part of its inspection and acceptance, conduct additional tests to ensure that information technology delivered under this contract satisfies the information assurance standards specified. The Government may conduct additional tests--

(1) At the installation site or contractor's facility; and

(2) Notwithstanding the existence of valid accreditations of information technology prior to the award of this contract.

(d) Unless otherwise provided in this contract under the Warranty of Supplies or Warranty of Systems and Equipment clause, the Contractor shall correct or replace accepted information technology found to be deficient within 1 year after proper installations.

(1) The correction or replacement shall be at no cost to the Government.

(2) Should a modification to the delivered information technology be made by the Contractor, the 1-year period applies to the modification upon its proper installation.

(3) This paragraph (d) applies regardless of f.o.b. point or the point of acceptance of the deficient information technology.

(End of clause)

252.239-7001 INFORMATION ASSURANCE CONTRACTOR TRAINING AND CERTIFICATION (JAN 2008)

(a) The Contractor shall ensure that personnel accessing information systems have the proper and current information assurance certification to perform information assurance functions in accordance with DoD 8570.01-M, Information Assurance Workforce Improvement Program. The Contractor shall meet the applicable information assurance certification requirements, including--

(1) DoD-approved information assurance workforce certifications appropriate for each category and level as listed in the current version of DoD 8570.01-M; and

(2) Appropriate operating system certification for information assurance technical positions as required by DoD 8570.01-M.

(b) Upon request by the Government, the Contractor shall provide documentation supporting the information assurance certification status of personnel performing information assurance functions.

(c) Contractor personnel who do not have proper and current certifications shall be denied access to DoD information systems for the purpose of performing information assurance functions.

(End of clause)

#### 252.239-7002 ACCESS (DEC 1991)

(a) Subject to military security regulations, the Government shall permit the Contractor access at all reasonable times to Contractor furnished facilities. However, if the Government is unable to permit access, the Government at its own risk and expense shall maintain these facilities and the Contractor shall not be responsible for the service involving any of these facilities during the period of nonaccess, unless the service failure results from the Contractor's fault or negligence.

(b) During periods when the Government does not permit Contractor access, the Government will reimburse the Contractor at mutually acceptable rates for the loss of or damage to the equipment due to the fault or negligence of the Government. Failure to agree shall be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract.

#### 252.239-7008 REUSE ARRANGEMENTS (DEC 1991)

(a) When feasible, the Contractor shall reuse canceled or terminated facilities or equipment to minimize the charges to the Government.

(b) If at any time the Government requires that telecommunications facilities or equipment be relocated within the Contractor's service area, the Government shall have the option of paying the costs of relocating the facilities or equipment in lieu of paying any termination or cancellation charge under the Cancellation or Termination of Orders-Common Carriers clause of this agreement/contract. The Basic Termination Liability applicable to the facilities or equipment in their former location shall continue to apply to the facilities and equipment in their new location.

Monthly rental charges shall continue to be paid during the period.

(c) When there is another requirement or foreseeable reuse in place of canceled or terminated facilities or equipment, no charge shall apply and the Basic Cancellation or Termination Liability shall be appropriately reduced. When feasible, the Contractor shall promptly reuse discontinued channels or facilities, including equipment for which the Government is obligated to pay a minimum service charge.

(End of clause)

#### 252.239-7011 SPECIAL CONSTRUCTION AND EQUIPMENT CHARGES (DEC 1991)

(a) The Government will not directly reimburse the Contractor for the cost of constructing any facilities or providing any equipment, unless the Contracting Officer authorizes direct reimbursement.

(b) If the Contractor stops using facilities or equipment which the Government has, in whole or part, directly reimbursed, the Contractor shall allow the Government credit for the value of the facilities or equipment attributable to the Government's contribution. Determine the value of the facilities and equipment on the basis of their foreseeable reuse by the Contractor at the time their use is discontinued or on the basis of the net salvage value, whichever is greater. The Contractor shall promptly pay the Government the amount of any credit.

(c) The amount of the direct special construction charge shall not exceed -

(1) The actual costs to the Contractor; and

(2) An amount properly allocable to the services to be provided to the Government.

(d) The amount of the direct special construction charge shall not include costs incurred by the Contractor which are covered by -

(1) A cancellation or termination liability; or

(2) The Contractor's recurring or other nonrecurring charges.

(e) The Contractor represents that -

(1) Recurring charges for the services, facilities, and equipment do not include in the rate base any costs that have been reimbursed by the Government to the Contractor; and

(2) Depreciation charges are based only on the cost of facilities and equipment paid by the Contractor and not reimbursed by the Government.

(f) If it becomes necessary for the Contractor to incur costs to replace any facilities or equipment, the Government shall assume those costs or reimburse the Contractor for replacement costs at mutually acceptable rates under the following circumstances -

(1) The Government paid direct special construction charges; or

(2) The Government reimbursed the Contractor for those facilities or equipment as a part of the recurring charges; and

(3) The need for replacement was due to circumstances beyond the control and without the fault of the Contractor.

(g) Before incurring any costs under paragraph (f) of this clause, the Government shall have the right to terminate the service under the Cancellation or Termination of Orders clause of this contract.

(End of clause)

252.239-7015 CONTINUATION OF COMMUNICATION SERVICE AUTHORIZATIONS (JUL 2006)

(a) All communication service authorizations issued by \_\_\_\_\_ incorporating Basic Agreement Number \_\_\_\_\_, dated \_\_\_\_\_, are modified to incorporate this basic agreement.

(b) Communication service authorizations currently in effect which were issued by the activity in paragraph (a) of this clause incorporating other agreements with the Contractor may also be modified to incorporate this agreement.

(c) This basic agreement is not a contract.

(End of clause)

52.239-9000 Outage Credits (February 2006)

(a) Credits for outage (interruption) of service will be provided to the Government by the contractor in accordance with its tariff provisions. In the event such tariff provisions do not exist, the following schedule shall be used to determine the credit (one day equals 1/30th of the Monthly Recurring Charge (MRC)) due the Government during each monthly billing period:

INTERRUPTIONS OF 24 HOURS OR LESS

Less than 30 Minutes	None
30 Minutes but less than 3 Hours	1/8 Day

3 Hours but less than 6 Hours	1/4 Day
6 Hours but less than 9 Hours	1/3 Day
9 Hours but less than 12 Hours	1/2 Day
12 Hours but less than 24 Hours	One Day

**INTERRUPTIONS OVER 24 HOURS**

Credit of 1/30th of the MRC (or the foreign dollar equivalent) for each day of outage until service is restored.

(b) Outage credits do not apply for:

- 1) Interruptions caused by the negligence of the Government or others authorized by the Government to use the Government's service.
- 2) Interruptions due to the failure of power, equipment, systems or connections not provided by Contractor or subcontractors.
- 3) Interruptions during any period when the Government or User has released a private line service for maintenance or rearrangement purposes, or for the implementation of a Government order.
- 4) Interruptions that continue because of the Government's failure to authorize replacement of any element of special construction. The period for which credit is not allowed begins on the seventh day after the Government receives the contractor's written notification of the need for such replacement. It ends on the day after receipt of the Government's written authorization for such replacement.
- 5) Interruptions during periods when the Government elects not to release the private line service for testing and/or repair.
- 6) An interruption, or group of interruptions, resulting from a common cause, for amounts less than \$1.00 (or the foreign dollar equivalent).

(c) Outage credits will be due no later than the next Billing Cycle/Month following the outage. Each credit will identify the Communication Service Authorization (CSA) and Commercial Circuit Number (CCN) as well as the time, date and duration of the outage/outages.

**52.239-9001 DATA INFORMATION ASSURANCE PROTECTION (JULY 2006)**

(a) The contractor shall protect and safeguard sensitive Government Provided Information (GFI) and data from inadvertent disclosure, misuse, display, theft, and unauthorized actions that would destroy or render the information unavailable for specific government use. Should the contractor, or one of his/her employees, make any inadvertent or any unauthorized disclosure(s) or willfully participate in activities that result in detrimental harm to the protection and safeguarding of sensitive (GFI) and data, such actions may be considered to be a breach of this contract and the terms of the Default clause may be invoked. The contractor shall afford safeguarding consistent with the protection requirements identified by the government until such

time the government deems the information/data is no longer sensitive and provides corresponding written notification to the contractor.

(b) All contractor and support contractor personnel with access to DISA and DOD Information Systems shall complete initial information assurance awareness and annual refresher training in accordance with DOD Directive, 8570.1, IA Training, Certification, and Workforce Management.

(c) To support IA professionals, the DoD IA Portal (IA Support Environment (IASE)) provides DOD IA policy-training requirements and DoD sponsored training. The IA Portal is located at <http://iase.disa.mil>. This site also provides access to DOD Directive 8500.1, Information Assurance (IA), and DOD 8570.1-M, Information Assurance Workforce Improvement Program.

(End of clause)

#### BILLING INFORMATION

Vendor invoices should be submitted to the following address for processing:

**DFAS Columbus (HQ0252)  
P.O. Box 183125  
Columbus, Oh 43218-3125**

To ensure timely payment, the vendor must submit a proper invoice to the location specified on the Order or Circuit. Invoices shall only be paid for service in arrears. The invoice date must be at least one day *after* the monthly billing period has passed. A proper invoice contains the following information.

1. Vendor's name and address.
2. Invoice date and invoice number.
3. Billing period (from date/to date)
4. DITCO's Communications Service Authorization (CSA) Number.
5. Vendor's Basic Agreement Number.
6. Description of services.
7. Charges (including taxes, surcharges, message units, usage, USF, etc.), unit of measure, quantity, unit price broken into MRC and NRC, and total amount of invoice for tariff services. For Orders quoted Firm-Fixed Price, invoice should not breakout the charges separately.  
page.)
8. Prompt payment discount (if applicable).

**Postal Mail Address  
for Electronic Pay Invoices Only**

DFAS Columbus

3990 East Broad Street  
Bldg 21  
ATTN: DFAS System Code JASLA  
Columbus, OH 43213

For contractors who submit paper invoices directly to DFAS, the following addresses shall be used:

**Express Mail Address**  
**for Paper Invoices Only**  
**(RegPay)**

Defense Finance and Accounting Service  
Columbus Center  
3990 East Broad Street  
Bldg 21  
ATTN: DITCO/FABS Vendor Pay (HQ0252)  
Columbus, OH 43213

**Postal Mail Address**  
**for Paper Invoices Only (RegPay)**

DFAS Columbus (HQ0252)  
P O Box 183125  
Columbus, OH 43218-3125  
(END)

(END)

4.1102 -- POLICY.

(c)

(1)

(i) If a contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in [Subpart 42.12](#), the contractor shall provide the responsible contracting officer a minimum of one business day’s written notification of its intention to change the name in the SAM database; comply with the requirements of [Subpart 42.12](#); and agree in writing to the timeline and procedures specified by the responsible contracting officer. The contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the contractor fails to comply with the requirements of paragraph (c)(1)(i) of the clause at [52.204-13](#), System for Award Management Maintenance, or fails to perform the agreement at [52.204-13](#), paragraph (c)(1)(i)(C), and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the contractor to be other than the contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of the contract.

(2) The contractor shall not change the name of address for electronic funds transfer payments (EFT) or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see [Subpart 32.8](#), Assignment of Claims).

(3) Assignees shall be separately registered in the SAM database. Information provided to the contractor’s SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that contractor will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of the contract.

(end clause)

### ***Subpart 42.12 -- Novation and Change-of-Name Agreements***

#### **42.1200 -- Scope of Subpart.**

This subpart prescribes policies and procedures for --

- (a) Recognition of a successor in interest to Government contracts when contractor assets are transferred;
- (b) Recognition of a change in a contractor’s name; and
- (c) Execution of novation agreements and change-of-name agreements by the responsible contracting officer.

#### **42.1201 – [Reserved].**

#### **42.1202 -- Responsibility for Executing Agreements.**

The contracting officer responsible for processing and executing novation and change-of-name agreements shall be determined as follows:

- (a) If any of the affected contracts held by the transferor have been assigned to an administrative contracting officer (ACO) (see [2.1](#) and [42.202](#)), the responsible contracting officer shall be --
  - (1) This ACO; or
  - (2) The ACO responsible for the corporate office, if affected contracts are in more than one plant or division of the transferor.
- (b) If none of the affected contracts held by the transferor have been assigned to an ACO, the contracting officer responsible for the largest unsettled (unbilled plus billed but unpaid) dollar balance of contracts shall be the responsible contracting officer.
- (c) If several transferors are involved, the responsible contracting officer shall be --
  - (1) The ACO administering the largest unsettled dollar balance; or

(2) The contracting officer (or ACO) designated by the agency having the largest unsettled dollar balance, if none of the affected contracts have been assigned to an ACO.

#### **42.1203 -- Processing Agreements.**

- (a) If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer (see [42.1202](#)). If the contractor received its contract under [Subpart 8.7](#) under the Javits-Wagner-O'Day Act, use the procedures at [8.716](#) instead.
- (b) The responsible contracting officer shall --
- (1) Identify and request that the contractor submit the information necessary to evaluate the proposed agreement for recognizing a successor in interest or a name change. This information should include the items identified in [42.1204](#) (e) and (f) or [42.1205](#)(a), as applicable;
  - (2) Notify each contract administration office and contracting office affected by a proposed agreement for recognizing a successor in interest, and provide those offices with a list of all affected contracts; and
  - (3) Request submission of any comments or objections to the proposed transfer within 30 days after notification. Any submission should be accompanied by supporting documentation.
- (c) Upon receipt of the necessary information, the responsible contracting officer shall determine whether or not it is in the Governments interest to recognize the proposed successor in interest on the basis of --
- (1) The comments received from the affected contract administration offices and contracting offices;
  - (2) The proposed successor's responsibility under [Subpart 9.1](#), Responsible Prospective Contractors; and
  - (3) Any factor relating to the proposed successor's performance of contracts with the Government that the Government determines would impair the proposed successor's ability to perform the contract satisfactorily.
- (d) The execution of a novation agreement does not preclude the use of any other method available to the contracting officer to resolve any other issues related to a transfer of contractor assets, including the treatment of costs.
- (e) Any separate agreement between the transferor and transferee regarding the assumption of liabilities (*e.g.*, long-term incentive compensation plans, cost accounting standards noncompliance's, environmental cleanup costs, and final overhead costs) should be referenced specifically in the novation agreement.
- (f) Before novation and change-of-name agreements are executed, the responsible contracting officer shall ensure that Government counsel has reviewed them for legal sufficiency.
- (g) The responsible contracting officer shall --
- (1) Forward a signed copy of the executed novation or change-of-name agreement to the transferor and to the transferee; and
  - (2) Retain a signed copy in the case file.
- (h) Following distribution of the agreement, the responsible contracting officer shall --

- (1) Prepare a Standard Form 30, Amendment of Solicitation/Modification of Contract, incorporating a summary of the agreement and attaching a complete list of contracts affected;
- (2) Retain the original Standard Form 30 with the attached list in the case file;
- (3) Send a signed copy of the Standard Form 30, with attached list to the transferor and to the transferee; and
- (4) Send a copy of this Standard Form 30 with attached list to each contract administration office or contracting office involved, which shall be responsible for further appropriate distribution.

#### **42.1204 -- Applicability of Novation Agreements.**

- (a) 41 U.S.C. 15 prohibits transfer of Government contracts from the contractor to a third party. The Government may, when in its interest, recognize a third party as the successor in interest to a Government contract when the third party's interest in the contract arises out of the transfer of --
- (1) All the contractor's assets; or
  - (2) The entire portion of the assets involved in performing the contract. (See [14.404-2\(1\)](#) for the effect of novation agreements after bid opening but before award.) Examples of such transactions include, but are not limited to --
    - (i) Sale of these assets with a provision for assuming liabilities;
    - (ii) Transfer of these assets incident to a merger or corporate consolidation; and
    - (iii) Incorporation of a proprietorship or partnership, or formation of a partnership.
- (b) A novation agreement is unnecessary when there is a change in the ownership of a contractor as a result of a stock purchase, with no legal change in the contracting party, and when that contracting party remains in control of the assets and is the party performing the contract. However, whether there is a purchase of assets or a stock purchase, there may be issues related to the change in ownership that appropriately should be addressed in a formal agreement between the contractor and the Government (see [42.1203\(e\)](#)).
- (c) When it is in the Government's interest not to concur in the transfer of a contract from one company to another company, the original contractor remains under contractual obligation to the Government, and the contract may be terminated for reasons of default, should the original contractor not perform.
- (d) When considering whether to recognize a third party as a successor in interest to Government contracts, the responsible contracting officer shall identify and evaluate any significant organizational conflicts of interest in accordance with [Subpart 9.5](#). If the responsible contracting officer determines that a conflict of interest cannot be resolved, but that it is in the best interest of the Government to approve the novation request, a request for a waiver may be submitted in accordance with the procedures at [9.503](#).
- (e) When a contractor asks the Government to recognize a successor in interest, the contractor shall submit to the responsible contracting officer three signed copies of the proposed novation agreement and one copy each, as applicable, of the following:
- (1) The document describing the proposed transaction, *e.g.*, purchase/sale agreement or memorandum of understanding.
  - (2) A list of all affected contracts between the transferor and the Government, as of the date of sale or transfer of assets, showing for each, as of that date, the --

- (i) Contract number and type;
  - (ii) Name and address of the contracting office;
  - (iii) Total dollar value, as amended; and
  - (iv) Approximate remaining unpaid balance.
- (3) Evidence of the transferee's capability to perform.
- (4) Any other relevant information requested by the responsible contracting officer.
- (f) Except as provided in paragraph (g) of this section, the contractor shall submit to the responsible contracting officer one copy of each of the following documents, as applicable, as the documents become available:
- (1) An authenticated copy of the instrument affecting the transfer of assets; *e.g.*, bill of sale, certificate of merger, contract, deed, agreement, or court decree.
  - (2) A certified copy of each resolution of the corporate parties' boards of directors authorizing the transfer of assets.
  - (3) A certified copy of the minutes of each corporate party's stockholder meeting necessary to approve the transfer of assets.
  - (4) An authenticated copy of the transferee's certificate and articles of incorporation, if a corporation was formed for the purpose of receiving the assets involved in performing the Government contracts.
  - (5) The opinion of legal counsel for the transferor and transferee stating that the transfer was properly affected under applicable law and the effective date of transfer.
  - (6) Balance sheets of the transferor and transferee as of the dates immediately before and after the transfer of assets, audited by independent accountants.
  - (7) Evidence that any security clearance requirements have been met.
  - (8) The consent of sureties on all contracts listed under paragraph (e)(2) of this section if bonds are required, or a statement from the transferor that none are required.
- (g) If the Government has acquired the documents during its participation in the pre-merger or pre-acquisition review process, or the Government's interests are adequately protected with an alternative formulation of the information, the responsible contracting officer may modify the list of documents to be submitted by the contractor.
- (h) When recognizing a successor in interest to a Government contract is consistent with the Government's interest, the responsible contracting officer shall execute a novation agreement with the transferor and the transferee. It shall ordinarily provide in part that --
- (1) The transferee assumes all the transferor's obligations under the contract;
  - (2) The transferor waives all rights under the contract against the Government;
  - (3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted instead of the guarantee); and
  - (4) Nothing in the agreement shall relieve the transferor or transferee from compliance with any Federal law.
- (i) The responsible contracting officer shall use the following format for agreements when the transferor and transferee are corporations and all the transferor's assets are transferred. This format may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for other situations.

**Novation Agreement**

The ABC Corporation (Transferor), a corporation duly organized and existing under the laws of \_\_\_\_\_ [insert State] with its principal office in \_\_\_\_\_ [insert city]; the XYZ Corporation (Transferee), [if appropriate add “formerly known as the EFG Corporation”] a corporation duly organized and existing under the laws of \_\_\_\_\_ [insert State] with its principal office in \_\_\_\_\_ [insert city]; and the United States of America (Government) enter into this Agreement as of \_\_\_\_\_ [insert the date transfer of assets became effective under applicable State law].

(a) The parties agree to the following facts:

(1) The Government, represented by various Contracting Officers of the \_\_\_\_\_ [insert name(s) of agency(ies)], has entered into certain contracts with the Transferor, namely: \_\_\_\_\_ [insert contract or purchase order identifications]; [or delete “namely” and insert “as shown in the attached list marked ‘Exhibit A’ and incorporated in this Agreement by reference.”]. The term “the contracts,” as used in this Agreement, means the above contracts and purchase orders and all other contracts and purchase orders, including all modifications, made between the Government and the Transferor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Government or the Transferor has any remaining rights, duties, or obligations under these contracts and purchase orders). Included in the term “the contracts” are also all modifications made under the terms and conditions of these contracts and purchase orders between the Government and the Transferee, on or after the effective date of this Agreement.

(2) As of \_\_\_\_\_, 20\_\_, the Transferor has transferred to the Transferee all the assets of the Transferor by virtue of a \_\_\_\_\_ [insert term descriptive of the legal transaction involved] between the Transferor and the Transferee.

(3) The Transferee has acquired all the assets of the Transferor by virtue of the above transfer.

(4) The Transferee has assumed all obligations and liabilities of the Transferor under the contracts by virtue of the above transfer.

(5) The Transferee is in a position to fully perform all obligations that may exist under the contracts.

(6) It is consistent with the Government’s interest to recognize the Transferee as the successor party to the contracts.

(7) Evidence of the above transfer has been filed with the Government.

*[When a change of name is also involved; e.g., a prior or concurrent change of the Transferee’s name, an appropriate statement shall be inserted (see example in paragraph (8) below)].*

(8) A certificate dated \_\_\_\_\_, 20\_\_, signed by the Secretary of State of \_\_\_\_\_ [insert State], to the effect that the corporate name of EFG Corporation was changed to XYZ Corporation on \_\_\_\_\_, 20\_\_, has been filed with the Government.

(b) In consideration of these facts, the parties agree that by this Agreement --

(1) The Transferor confirms the transfer to the Transferee, and waives any claims and rights against the Government that it now has or may have in the future in connection with the contracts.

(2) The Transferee agrees to be bound by and to perform each contract in accordance with the conditions contained in the contracts. The Transferee also assumes all obligations and liabilities of, and all claims against, the Transferor under the contracts as if the Transferee were the original party to the contracts.

(3) The Transferee ratifies all previous actions taken by the Transferor with respect to the contracts, with the same force and effect as if the action had been taken by the Transferee.

(4) The Government recognizes the Transferee as the Transferor’s successor in interest in and to the contracts. The Transferee by this Agreement becomes entitled to all rights, titles, and interests of the Transferor in and to the contracts as if the Transferee were the original party to the contracts. Following the effective date of this Agreement, the term “Contractor,” as used in the contracts, shall refer to the Transferee.

(5) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the Government against the Transferor.

(6) All payments and reimbursements previously made by the Government to the Transferor, and all other previous actions taken by the Government under the contracts, shall be considered to have discharged those parts of the Government’s obligations under the contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to the Transferee, and shall constitute a complete discharge of the Government’s obligations under the contracts, to the extent of the amounts paid or reimbursed.

(7) The Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.

(8) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee --

- (i) Assumes under this Agreement; or
- (ii) May undertake in the future should these contracts be modified under their terms and conditions. The Transferor waives notice of, and consents to, any such future modifications.

(9) The contracts shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

**United States of America,**

**By** \_\_\_\_\_

**Title** \_\_\_\_\_

**ABC Corporation,**

**By** \_\_\_\_\_

**Title** \_\_\_\_\_

*[Corporate Seal]*

**XYZ Corporation,**

By \_\_\_\_\_  
Title \_\_\_\_\_

[Corporate Seal]

Certificate

I, \_\_\_\_\_, certify that I am the Secretary of ABC Corporation; that \_\_\_\_\_, who signed this Agreement for this corporation, was then \_\_\_\_\_ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers. Witness my hand and the seal of this corporation this day of \_\_\_\_\_ 20 \_\_\_\_\_

By \_\_\_\_\_

[Corporate Seal]

CERTIFICATE

I, \_\_\_\_\_, certify that I am the Secretary of XYZ Corporation; that \_\_\_\_\_, who signed this Agreement for this corporation, was then \_\_\_\_\_ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers. Witness my hand and the seal of this corporation this day of \_\_\_\_\_ 20 \_\_\_\_\_

By \_\_\_\_\_

[Corporate Seal]

**42.1205 -- Agreement to Recognize Contractors Change of Name.**

(a) If only a change of the contractor’s name is involved and the Government’s and contractor’s rights and obligations remain unaffected, the parties shall execute an agreement to reflect the name change. The contractor shall forward to the responsible contracting officer three signed copies of the Change-of-Name Agreement, and one copy each of the following:

- (1) The document effecting the name change, authenticated by a proper official of the State having jurisdiction.
- (2) The opinion of the contractor’s legal counsel stating that the change of name was properly effected under applicable law and showing the effective date.
- (3) A list of all affected contracts and purchase orders remaining unsettled between the contractor and the Government, showing for each the contract number and type, and name and address of the contracting office. The contracting officer may request the total dollar value as amended and the remaining unpaid balance for each contract.

(b) The following suggested format for an agreement may be adapted for specific cases:

**Change-of-Name Agreement**

The ABC Corporation (Contractor), a corporation duly organized and existing under the laws of \_\_\_\_\_ [*insert State*], and the United States of America (Government), enter into this Agreement as of \_\_\_\_\_ [*insert date when the change of name became effective under applicable State law*].

(a) The parties agree to the following facts:

- (1) The Government, represented by various Contracting Officers of the \_\_\_\_\_ [*insert name(s) of agency(ies)*], has entered into certain contracts and purchase orders with the XYZ Corporation, namely: \_\_\_\_\_ [*insert contract or purchase order identifications*]; [*or delete “namely” and insert “as shown in the*

attached list marked "Exhibit A" and incorporated in this Agreement by reference."]. The term "the contracts," as used in this Agreement, means the above contracts and purchase orders and all other contracts and purchase orders, including all modifications, made by the Government and the Contractor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the Government or the Contractor has any remaining rights, duties, or obligations under these contracts and purchase orders).

(2) The XYZ Corporation, by an amendment to its certificate of incorporation, dated \_\_\_\_\_ 20\_, has changed its corporate name to ABC Corporation.

(3) This amendment accomplishes a change of corporate name only and all rights and obligations of the Government and of the Contractor under the contracts are unaffected by this change.

(4) Documentary evidence of this change of corporate name has been filed with the Government.

(b) In consideration of these facts, the parties agree that --

(1) The contracts covered by this Agreement are amended by substituting the name "ABC Corporation" for the name "XYZ Corporation" wherever it appears in the contracts; and

(2) Each party has executed this Agreement as of the day and year first above written.

**United States of America,**

**By** \_\_\_\_\_

**Title** \_\_\_\_\_

**ABC Corporation,**

**By** \_\_\_\_\_

**Title** \_\_\_\_\_

*[Corporate Seal]*

**Certificate**

I, \_\_\_\_\_, certify that I am the Secretary of ABC Corporation; that \_\_\_\_\_, who signed this Agreement for this corporation, was then \_\_\_\_\_ of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers. Witness my hand and the seal of this corporation this \_\_\_\_\_ day of \_\_\_\_\_ 20\_.

By \_\_\_\_\_

*[Corporate Seal]*