

1. CONTRACT (Proc. Inst. Ident.) NO. <b>NRC-04-81-167</b>	2. EFFECTIVE DATE <b>5/11/81</b>	3. REQUISITION/PURCHASE REQUEST/PROJECT NO. <b>RFPA RS-RES-80-198 dtd. 6/30/80</b>	4. CERTIFIED FOR NATIONAL DEFENSE UNDER ROSA REG. 2 AND/OR DMS REG. 1. <b>NO</b>
5. ISSUED BY <b>U.S. Nuclear Regulatory Commission Division of Contracts Washington, DC 20555</b>		6. ADMINISTERED BY <i>(If other than block 5)</i>	
7. DELIVERY FOR DESTINATION <input checked="" type="checkbox"/> <b>NATION</b> <input type="checkbox"/> <b>OTHER (See below)</b>			

8. CONTRACTOR NAME AND ADDRESS <i>(Street, city, country, State, and ZIP code)</i> <b>Ertec Western, Inc. 3777 Long Beach Boulevard P.O. Box 7765 Long Beach, CA 90807</b>	FACILITY CODE	9. DISCOUNT FOR PROMPT PAYMENT <b>NET</b>
10. SUBMIT INVOICES (4 copies unless otherwise specified) TO ADDRESS SHOWN IN BLOCK		

11. SHIP TO/MARK FOR <b>U.S. Nuclear Regulatory Commission Office of Nuclear Regulatory Research ATTN: Andrew Mur Washington, DC 2</b>	12. PAYMENT WILL BE MADE BY <b>U.S. Nuclear Regulatory Commission Office of the Controller Washington, DC 20555</b>
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13. THIS PROCUREMENT WAS  ADVERTISED,  NEGOTIATED, PURSUANT TO:  10 U.S.C. 2304 (a)(1)  41 U.S.C. 252 (c)(1)

14. ACCOUNTING AND APPROPRIATION DATA  
**B&R NO. 60190210                      FIN NO. B7226                      AMOUNT: \$100,000.00\***

15. ITEM NO.	16. SUPPLIES/SERVICES	17. QUANTITY	18. UNIT	19. UNIT PRICE	20. AMOUNT				
	<p>THE FUGRO, INC./ERTEC WESTERN, INC. OFFER TO PERFORM THE WORK ENTITLED, "EARTHQUAKE RECURRENCE INTERVALS AT NUCLEAR POWER PLANTS," IS HEREBY ACCEPTED IN ACCORDANCE WITH THE FUGRO, INC./ERTEC WESTERN, INC. TECHNICAL PROPOSAL DATED NOVEMBER 21, 1980, AS AMENDED MARCH 5, 1981 AND MARCH 13, 1981. THIS AWARD OF A COST-PLUS-FIXED-FEE CONTRACT IS A RESULT OF COMPETITIVE PROCUREMENT RFP RS-RES-80-198.</p> <p>PERIOD OF PERFORMANCE: TWO YEARS FROM EFFECTIVE DATE OF THIS CONTRACT.</p> <p>*INCREMENTAL FUNDING OF \$100,000.00 IS PROVIDED BY THIS ACTION. THE REMAINING \$236,982.00 WILL BE PROVIDED SUBJECT TO THE AVAILABILITY OF FUNDS AND OBTAINMENT OF THE REQUIRED NRC CONCURRENCE FOR USE OF STANFORD RESEARCH INSTITUTE AS A SUBCONTRACTOR FOR POLLING OF EXPERTS IN TASKS 5 AND 5.</p> <p>(FY 1982 - \$118,491.00; FY 1983 - \$118,491.00; TOTAL - \$236,982.00)</p>								

21. ESTIMATED TOTAL AMOUNT OF CONTRACT **\$336,982.00**  
 CONTRACTING OFFICER WILL COMPLETE BLOCK 22 OR 26 AS APPLICABLE

22. <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 4 copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)	26. <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.
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23. NAME OF CONTRACTOR BY <b>John P. Keller</b> <i>(Signature of person authorized to sign)</i>	27. UNITED STATES OF AMERICA BY <b>Kellogg V. Morton</b> <i>(Signature of Contracting Officer)</i>		
24. NAME AND TITLE OF SIGNER (Type or print) <b>JOHN P. KELLER MGR OF CONTRACTS</b>	25. DATE SIGNED <b>5/11/81</b>	28. NAME OF CONTRACTING OFFICER (Type or print) <b>Kellogg V. Morton</b>	29. DATE SIGNED <b>6-1-81</b>

ARTICLE I - STATEMENT OF WORK, is revised as follows:

- 1) Delete Task 5 in its entirety and insert in lieu thereof the following new Task 5:

"Task 5 - If none of the analyzed methods are recommended as acceptable for use by the NRC, upon NRC concurrence\* the contractor shall develop a modified or alternative method and subject it to the analyses described in Task 3. The contractor shall request NRC concurrence\* prior to any use of Stanford Research Institute (SRI) as a subcontractor, to help in developing or modifying the appropriate methodology for eliciting expert opinion, in Task 5. The complete developed methodology shall be delivered to the NRC in the task report following completion of Task 5."

- 2) Delete Task 6 in its entirety and insert in lieu thereof the following new Task 6:

"Task 6 - The contractor shall request NRC concurrence\* prior to commencement of Task 6 and prior to any use of SRI as a subcontractor in Task 6. The methodology recommended as acceptable in Task 4 or the methodology developed in Task 5 shall be applied to at least four Table 1 test sites, which are considered by the contractor to be representative of all the test sites listed in Table 1. The selection of the methodology to be applied and the representative test sites shall be subject to NRC concurrence.\* The contractor shall apply the methodology to all the source areas within a minimum of a 200-mile radius of the plant site. The contractor shall decide and justify how the methodology will be applied within the region around the plant site, i.e., will the methodology be applied to the whole region or specific subsection of that region as defined by the contractor. The results of the application of the methodology shall be furnished in a final report."

\*NRC replies to contractor requests for NRC concurrence will be provided within 30 days after receipt by the NRC. Contractor requests for required concurrences may be combined, as applicable, at the contractor's discretion.

- 3) Delete Table 1, "NRC Designated Test Site List", in its entirety and insert in lieu thereof the following new Table 1, "NRC Designated Test Site List":

"  
TABLE 1  
NRC Designated Test Site List

<u>PLANT</u>	<u>LOCATION</u>	<u>GEOLOGIC SETTING*</u>
Yankee Rowe	Rowe, MA	Soil; 'The plant is situated on medium to fine sands with some clay silt, cobbles, and boulders.'
Big Rock Point	Big Rock Point, MI	Rock
Rancho Seco	California	Granite metamorphic basement overlain by 1,500 to 2,000 feet of tertiary or older sediments
Haddam Neck	Haddam Neck, CT	Bedrock; granitic gneiss
La Crosse	Genoa, WI	Soil - Pile foundation
Oyster Creek	Fork River, NJ	Soil
GINNA	Ontario, NY	Bedrock
Millstone	Waterford, CT	Bedrock
Palisades	South Haven, WI	Soil

\*NUREG/CR-1429, Seismic Review Table, May 1980 "

ARTICLE II - PERIOD OF PERFORMANCE, is revised to read:

The performance of work described in ARTICLE I hereof as the Basic Phase shall commence as of the effective date of this contract and shall continue to completion thereof, estimated to occur within two years after said contract is effective.

The performance of work described in ARTICLE I hereof as the Option Phase shall commence as of the effective date of the exercise of the option and shall continue to completion thereof, estimated to occur within \*\* months after said option effective.

\*\*To be incorporated into any contract modification exercising the Option Phase.

ARTICLE III - CONSIDERATION AND PAYMENT, Paragraph A, is revised to read:

A. Estimated Cost, Fixed Fee and Obligation

1. It is estimated that the total cost to the Government for full performance of the basic phase of this contract, without the use of Stanford Research Institute (SRI) as a subcontractor, will be \$292,599.00, of which the sum of \$265,999.00 represents the estimated reimbursable costs, and of which \$26,600.00 represents the fixed fee. If NRC concurrence to use SRI as a subcontractor is obtained, the above amounts shall be increased to reflect only SRI subcontractor costs plus associated amounts for contractor additional general and administrative expenses and fee. Currently it is estimated that use of SRI as a subcontractor will result in an estimated total cost to the Government of \$336,982.00 for the basic phase of this contract, of which the sum of \$306,347.00 represents the estimated reimbursable costs, and of which \$30,635.00 represents the fixed fee.
2. Total funds currently available for payment and allotted to this contract are \$100,000.00, of which \$90,909.09 represents the estimated reimbursable costs, and of which \$9,090.91 represents the fixed fee.
3. It is estimated that the amount currently allotted will cover performance of contractually required work to be completed eight months from the effective date of the contract.

B. Payment

The Government shall render payment to the contractor in approximately thirty (30) days after submission of proper and correct invoices or vouchers.

Additional provisions relating to payment are contained in Clause 5.1-3 of the General Provisions hereto.

ARTICLE IV - OVERHEAD/GENERAL AND ADMINISTRATIVE RATES

- A. Pending the establishment of final overhead rates which shall be negotiated based on audit of actual costs, the contractor shall be reimbursed for allowable indirect costs hereunder at the provisional rate of 71 percent of Total Direct Labor.

- B. Pending the establishment of final general and administrative rates which shall be negotiated based on audit of actual costs, the contractor shall be reimbursed for allowable indirect costs hereunder at the provisional rate of 31 percent of Total Direct Cost and Overhead.
- C. Notwithstanding A. and B. of this ARTICLE, said provisional overhead and G&A rates may be adjusted as appropriate during the term of the contract upon the acceptance of such revised rates by the Contracting Officer.

Under ARTICLE VI - KEY PERSONNEL, the following names are added:

Carl Stepp  
Jim Hileman  
Robin McGuire  
Trevor Matuschka  
Leon Knopoff  
Nancy Mann

Under ARTICLE VIII - PROJECT OFFICER, insert the following name:

Andrew Murphy

Under ARTICLE IX - CONFLICT OF INTEREST, Paragraphs (c) and (d) are revised as follows:

"(c) Work for others. Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, not previously disclosed in its proposal dated November 21, 1980 as amended, March 5, 1981 and March 13, 1981, the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees who are employed full time under this contract and employees designated as Key Personnel, if any, under this contract abide by the provision of this ARTICLE. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization, not previously disclosed in its proposal dated November 21, 1980 as amended, March 5, 1981 and March 13, 1981, may involve a potential conflict of interest, the contractor shall obtain the written approval of the Contracting Officer prior to execution of such contractual arrangement."

"(d) Disclosure after award.

- (1) The contractor warrants that to the best of its knowledge and belief it does not have any organization conflicts of interest, as defined in 41 CFR §20-1.5402(a), except for those previously disclosed in its proposal dated November 21, 1980 as amended, March 5, 1981 and March 13, 1981.
- (2) The contractor agrees that if after award it discovers organizational conflicts of interest with respect to this contract, not previously disclosed in its proposal dated November 21, 1980 as amended, March 5, 1981 and March 13, 1981, it shall make an immediate and full disclosure in writing to the Contracting Officer. This statement shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the Government."

ARTICLE X - TRAVEL REIMBURSEMENT

The solicitation ARTICLE is deleted and replaced by the following:

"ARTICLE X - TRAVEL REIMBURSEMENT

The contractor will be reimbursed for the following reasonable domestic travel costs incurred directly and specifically in the performance of this contract and accepted by the Contracting Officer:

1. Per diem shall be reimbursed at a daily rate not to exceed \$50.00. The per diem amount is comprised of lodging expense plus \$23.00 for meals and miscellaneous expense.
2. When travel is to one of the high-rate geographical areas listed below, actual subsistence costs shall be reimbursed at a daily rate not to exceed the rates indicated:
 

District of Columbia, Montgomery County \$75.00
3. The cost of travel by privately owned automobile shall be reimbursed at the rate of 22.5¢ per mile.
4. The cost of travel by rented automobile shall be reimbursed on a reasonable actual expense basis.

5. All common carrier travel reimbursable hereunder shall be via economy class rates when available. If not available, reimbursement vouchers will be annotated that economy class accommodations were not available. First-class air travel is not authorized.
6. Receipts are required for common carrier transportation, lodging and miscellaneous items in excess of \$15.00."

Delete ARTICLE XII - GENERAL PROVISIONS/ALTERATIONS, in its entirety and insert in lieu thereof the following new ARTICLE XII - GENERAL PROVISIONS/ALTERATIONS:

"ARTICLE XII - GENERAL PROVISIONS/ALTERATIONS

This contract is subject to the attached provisions of Appendix A, General Provisions, entitled "Cost Type Research and Development Contracts With Commercial Organizations," dated 11/80.

Provisions Added:

3.12 Labor Surplus Area Subcontracting Program (1-1.805-3(b))

(a) The Contractor agrees to establish and conduct a program which will encourage labor surplus area concerns to compete for subcontracts within their capabilities. In this connection, the Contractor shall--

(1) Designate a liaison officer who will (i) maintain liaison with duly authorized representatives of the Government on labor surplus area matters, (ii) supervise compliance with the Utilization of Concerns in Labor Surplus Areas clause, and (iii) administer the Contractor's "Labor Surplus Area Subcontracting Program;"

(2) Provide adequate and timely consideration of the potentialities of labor surplus area concerns in all "make-or-buy" decisions;

(3) Assure that labor surplus area concerns will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of labor surplus area concerns;

(4) Maintain records showing the procedures which have been adopted to comply with the policies set forth in this clause and report subcontract awards (see 41 CFR 1-16.804-5 regarding use of Optional Form 61). Records maintained pursuant to this clause will be kept available for review by the Government until the expiration of 1 year after the award of this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulations; and

(5) Include the Utilization of Concerns in Labor Surplus Areas clause in subcontracts which offer substantial labor surplus area subcontracting opportunities.

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(b) (1) The term "labor surplus area" means a geographical area identified by the Department of Labor as an area of concentrated unemployment or under-employment or an area of labor surplus.

(2) The term "concern located in a labor surplus area" means a labor surplus area concern.

(3) The term "labor surplus area concern" means a concern that, together with its first-tier subcontractors, will perform substantially in labor surplus areas.

(4) The term "perform substantially in labor surplus areas" means that the costs incurred on account of manufacturing, production, or appropriate services in labor surplus areas exceed 50 percent of the contract price.

(c) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 and which contains the Utilization of Concerns in Labor Surplus Areas clause, provisions which shall conform substantially to the language of this clause, including this paragraph (c), and to notify the Contracting Officer of the names of such subcontractors.

### 3.13 Utilization of Women-Owned Business Concerns (Over \$10,000)

(a) It is the policy of the United States Government that women-owned businesses shall have the maximum practicable opportunity to participate in the performance of contracts awarded by any Federal agency.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in the contract, a "women-owned business" concern means a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management. "Women" mean all women business owners.

### 3.14 Women-Owned Business Concerns Subcontracting Program (Over \$500,000 or \$1,000,000 for Construction of Any Public Facility)

(a) The Contractor agrees to establish and conduct a program which will enable women-owned business concerns to be considered fairly as subcontractors and suppliers under this contract. In this connection, the contractor shall:

- (1) Designate a liaison officer who will administer the Contractor's "Women-Owned Business Concerns Program."
- (2) Provide adequate and timely consideration of the potentialities of known women-owned business concerns in all "make-or-buy" decisions.

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- (3) Develop a list of qualified bidders that are women-owned businesses and assure that known women-owned business concerns have an equitable opportunity to compete for subcontracts, particularly by making information on forthcoming opportunities available, by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of women-owned business concerns.
- (4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of women-owned business concerns; (ii) awards to women-owned businesses on the source list by minority and non-minority women-owned business concerns; and (iii) specific efforts to identify and award contracts to women-owned business concerns.
- (5) Include the "Utilization of Women-Owned Business Concerns" clause in subcontracts which offer substantial subcontracting opportunities.
- (6) Cooperate in any studies and surveys of the Contractor's women-owned business concerns procedures and practices that the Contracting Officer may from time-to-time conduct.
- (7) Submit periodic reports of subcontracting to women-owned business concerns with respect to the records referred to in subparagraph (4) above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000 or \$1,000,000 in the case of contracts for the construction of any public facility and which offers substantial subcontracting possibilities, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

(c) The contractor further agrees to require written certification by its subcontractors that they are bona fide women-owned and controlled business concerns in accordance with the definition of a women-owned business concern as set forth in the Utilization Clause 1(b) above at the time of submission of bids or proposals.

#### 5.8 Price Reduction for Defective Cost or Pricing Data (1-3.814-1(a))

If any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because:

- (a) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

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(b) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data--Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(c) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(d) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (a), (b) or (c) above, which was not accurate as submitted; the price or cost shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor: Provided, The actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his low tier subcontractors.)

#### 5.9 Price Reduction for Defective Cost or Pricing Data - Price Adjustments (1-3.814-1(b))

(a) This clause shall become operative only with respect to any modification of this contract which involves aggregate increases and/or decreases in costs plus applicable profits in excess of \$100,000 unless the modification is priced on the basis of adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The right to price reduction under this clause is limited to defects in data relating to such modification.

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(b) If any price, including profit, or fee, negotiated in connection with any price adjustment under this contract was increased by any significant sums because:

(1) The Contractor furnished cost or pricing data which was not accurate, complete and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(2) A subcontractor, pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data--Price Adjustments" or any subcontract clause therein required, furnished cost or pricing data which was not accurate, complete and current as certified in the subcontractor's Certificate of Current Cost or Pricing Data;

(3) A subcontractor or prospective subcontractor furnished cost or pricing data which was required to be accurate, complete and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which was not accurate, complete and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(4) The Contractor or a subcontractor or prospective subcontractor furnished any data, not within (1), (2) or (3) above, which was not accurate, as submitted; the price shall be reduced accordingly and the contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the contract price due to defective subcontract data of a prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, or actual cost to the Contractor if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor. Provided the actual subcontract price was not affected by defective cost or pricing data.

(Note: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

(c) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

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### 5.10 Subcontractor Cost and Pricing Data (1-3.814-3(a))

(a) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to the award of any subcontract the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief, the cost and pricing data submitted under (a) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each subcontract hereunder which exceeds \$100,000 when entered into except where the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such expected subcontract hereunder in excess of \$100,000, the Contractor shall insert the substance of the following clause:

#### SUBCONTRACTOR COST OR PRICING DATA- PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any modification made pursuant to one or more provisions of this contract which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000. The requirements of this clause shall be limited to such contract modifications.

(b) The Contractor shall require subcontractors hereunder to submit, actually or by specific identification in writing, cost or pricing data under the following circumstances:

(1) Prior to award of any subcontract, the amount of which is expected to exceed \$100,000 when entered into;

(2) Prior to the pricing of any subcontract modification which involves aggregate increases and/or decreases in costs plus applicable profits expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

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5.10 Subcontract Cost and Pricing Data (1-3.814-3(a)) Cont'd

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that to the best of their knowledge and belief the cost and pricing data submitted under (b) above is accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds \$100,000 when entered into.

5.11 Cost Accounting Standards--Nondefense Contract (1-3.1204-2(a))

(a) Unless the Administrator of General Services has prescribed rules or regulations exempting the Contractor or this contract from standards, rules, and regulations promulgated by the Cost Accounting Standards Board, the Contractor, in connection with this contract, shall:

(1) Follow consistently the cost accounting practices established or disclosed as required by regulations of the Cost Accounting Standards Board and administered under the Administration of Cost Accounting Standards clause. If any change in disclosed practices is made for purposes of any contract or subcontract subject to those disclosure requirements, the change must be applied in a consistent manner to this contract.

(2) Comply with all cost accounting standards which the Contractor is required to comply with by reason of concurrent performance of any contract or subcontract subject to the Cost Accounting Standards clause (4 CFR 331) and administered under the Administration of Cost Accounting Standards clause. The Contractor also shall comply with any cost accounting standard which hereafter becomes applicable to such a contract or subcontract. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract. Compliance shall continue until the Contractor completes performance of work under this contract.

(3) Agree to an equitable adjustment (as provided in the Changes clause of this contract, if any) if the contract cost is affected by a change which, pursuant to (2) above, the Contractor is required to make to his established cost accounting practices whether such practices are covered by a Disclosure Statement or not.

(4) Negotiate with the Contracting Officer to determine the terms and conditions under which a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under (a)(3) above or (a)(6) below, may be made. A change to a practice may be proposed by either the Government or the Contractor, provided, however, that no agreement may be made under this provision that will increase costs paid by the United States.

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5.11 Cost Accounting Standards--Nondefense Contract (1-3.1204-2(a)) Cont'd.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if it or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any practice disclosed or established pursuant to subparagraph (a)(1) or (a)(2) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Pub. L. 92-41 (50 U.S.C. App. 1215(b)(2)), or 7 percent per annum, whichever is less, from time the payment by the United States was made to the time the adjustment is effected.

(6) Negotiate an equitable adjustment (as provided in the Changes clause of this contract, if any) when the parties agree to a change to either a disclosed cost accounting practice or an established cost accounting practice.

(b) The Contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause until the expiration of 3 years after final payment under this contract or such lesser time specified in the Federal Procurement Regulations (FPR) part 1-20.

(c) Unless a subcontract or Subcontractor is exempt under rules or regulations prescribed by the administrator of General Services, the Contractor: (1) shall include the substance of this clause including this paragraph (c) in all negotiated subcontracts under this contract with subcontractors that are currently performing a national defense contract or subcontract that contains the clause entitled to Cost Accounting Standards and that are currently required to accept the clause in applicable national defense awards, and (2) shall include the substance of the Consistency of Cost Accounting Practices--Non-defense Contract clause set forth in § 1-3.1204-2(b) of the FPR in negotiated subcontracts under this contract with all other subcontractors. The Contractor may elect to use the substance of the solicitation notice set forth in § 1-3.1203-2(b) of the FPR in his determination of applicability cost accounting standards to subcontracts.

(d) The terms defined in § 331.20 of Part 331 of Title 4, Code of Federal Regulations, shall have the same meaning herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

(e) The administration of this clause by the Government shall be accomplished in conjunction with the administration of the Contractor's national defense contracts and subcontracts subject to rules and regulations of the Cost Accounting Standards Board, pursuant to the Administration of Cost Accounting Standards clause. For the purposes of the Administration of Cost Accounting Standards clause contained in this contract, references to the Cost Accounting Standards clause shall be deemed to include this Cost Accounting Standards--Nondefense Contract clause and reference to the Disclosure and Consistency of Cost Accounting Practices clause shall be deemed to include the Consistency of Cost Accounting Practices--Nondefense Contract clause.

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## 5.12 Administration of Cost Accounting Standards (1-3.1204-1(b))

For the purpose of administering Cost Accounting Standards requirements under this contract, the Contractor shall:

(a) Submit to the cognizant Contracting Officer a description of the accounting change and the general dollar magnitude of the change to reflect the sum of all increases and the sum of all decreases for all contracts containing the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause:

(1) For any change in cost accounting practices required to comply with a new cost accounting standard in accordance with paragraph (a)(3) and (a)(4)(A) of the Cost Accounting Standards clause within 60 days (or such other date as may be mutually agreed to) after award of a contract requiring such change;

(2) For any change to cost accounting practices proposed in accordance with paragraphs (a)(4)(B), (a)(4)(C) of the Cost Accounting Standards clause or with paragraph (a)(3) or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause not less than 60 days (or such other date as may be mutually agreed to) prior to the effective date of the Proposed change;  
or

(3) For any failure to comply with an applicable Cost Accounting Standard or to follow a disclosed practice as contemplated by paragraph (a)(5) of the Cost Accounting Standards clause or with paragraph (a)(4) of the Disclosure and Consistency of Cost Accounting Practices clause within 60 days (or such other date as may be mutually agreed to) after the date of agreement of such noncompliance by the Contractor.

(b) Submit a cost impact proposal in the form and manner specified by the cognizant Contracting Officer within sixty (60) days (or such other date as may be mutually agreed to) after the date of determination of the adequacy and compliance of a change submitted pursuant to (a) (1), (2), or (3), above.

(c) Agree to appropriate contract and subcontract amendments to reflect adjustments established in accordance with paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause or with paragraphs (a)(3), (a)(4), or (a)(5) of the Disclosure and Consistency of Cost Accounting Practices clause.

(d) When the subcontract is subject to either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practice clause so state in the body of the subcontract and/or in the letter of award. Self-deleting clauses shall not be used.

(e) Include the substance of this clause in all negotiated subcontracts containing either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause. In addition, include a provision in these subcontracts which will require such subcontractors, within 30 days after receipt of award (or such other date as may be mutually agreed to) to submit the following information to the Contract Administration Office Cognizant of the subcontractor's facility.

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5.12 Administration of Cost Accounting Standards (1-3.1204-1(b)) Cont'd.

- (1) Subcontractor's name and subcontract number.
- (2) Dollar amount and date of award.
- (3) Name of Contractor making the award.

(4) A statement as to whether the subcontractor has made or proposes to make any changes to accounting practices that affect prime contracts or subcontracts containing the Cost Accounting Standards clause or Disclosure and Consistency of Cost Accounting Practices clause unless such changes have already been reported. If award of the subcontract results in making a cost accounting standard(s) effective for the first time, this shall also be reported.

(f) For negotiated subcontracts containing the Cost Accounting Standards clause, require the subcontractor to comply with all Standards in effect on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data or date of award, whichever is earlier.

(g) In the event an adjustment is required to be made to any subcontract hereunder, notify the Contracting Officer in writing of such adjustment and agree to an adjustment in the price or estimated cost and fee of this contract, as appropriate, based upon the adjustment established under the subcontract. Such notice shall be given within 30 days after receipt of the proposed subcontract adjustment, and shall include a proposal for adjustment to such higher tier subcontract or prime contract as appropriate.

(h) When either the Cost Accounting Standards clause or the Disclosure and Consistency of Cost Accounting Practices clause and this clause are included in subcontracts, the term "Contracting Officer" shall be suitably altered to identify the purchaser.

5.13 Cost Accounting Standard Withdrawal

Cost Accounting Standard 414--Cost of money as an element of the cost of facilities capital--shall not be reimbursed as an allowable cost under this contract.

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