

| <b>AWARD/CONTRACT</b>   |                        | 1. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 350)   |           | RATING<br>N/A   | PAGE OF PAGES<br>1 38 |  |         |
|---|------------------------|---|-----------|---|-----------------------|--|---------|
| 2. CONTRACT NO. (Proc. Inst. Ident.)<br><b>NRC-38-98-282</b>  |                        | 3. EFFECTIVE DATE<br><b>09-28-1998</b>  |           | 4. REQUISITION/PURCHASE REQUEST/PROJECT NO.<br><b>PER-98-282</b>                                  |                       |  |         |
| 5. ISSUED BY<br>U.S. Nuclear Regulatory Commission<br>Division of Contracts and Property Mgt.<br>Attn: T-7-1-2<br>Contract Management Branch No. 2<br>Washington DC 20555   |                        | 6. ADMINISTERED BY (if other than item 5)<br>CODE   |           |   |                       |  |         |
| 7. NAME AND ADDRESS OF CONTRACTOR (No. street, city, county, State and ZIP Code)<br><br>FMF Corporation<br>ATTN: Mr. Mathew D. Custer<br>President<br>537 Springvale Road<br>Great Falls VA 22066   |                        |   |           | 8. DELIVERY<br><br><input type="checkbox"/> FOB ORIGIN <input type="checkbox"/> OTHER (See below) |                       |  |         |
|   |                        |   |           | 9. DISCOUNT FOR PROMPT PAYMENT<br><br>Net 30 days   |                       |  |         |
|   |                        |   |           | 10. SUBMIT INVOICES (4 copies unless otherwise specified) TO THE ADDRESS SHOWN IN:<br>ITEM<br>5   |                       |  |         |
| CODE  |                        | FACILITY CODE   |           |   |                       |  |         |
| 11. SHIP TO/MARK FOR<br>U.S. Nuclear Regulatory Commission<br>Office of Human Resources<br>ATTN: Randall Brown, M/S T-3-A-2<br>11545 Rockville Pike<br>Washington, DC 20555   |                        | 12. PAYMENT WILL BE MADE BY<br>U.S. Nuclear Regulatory Commission<br>Office of the Chief Financial Officer<br>Attn: Ms. Carolyn Berry, M/S T-9-H-4<br>11545 Rockville Pike<br>Washington DC 20555   |           |   |                       |  |         |
| 13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:<br><input type="checkbox"/> 10 U.S.C. 2304(c)(1) <input type="checkbox"/> 41 U.S.C. 253(c)(1)   |                        | 14. ACCOUNTING AND APPROPRIATION DATA<br>884-15-31-20-10 31X0200 A8410 252A \$37,552.00   |           |   |                       |  |         |
| 15A. ITEM NO.   | 15B. SUPPLIES/SERVICES | 15C. QUANTITY   | 15D. UNIT | 15E. UNIT PRICE   | 15F. AMOUNT           |  |         |
| See Section B, Schedule of Items and Prices   |                        |   |           |   |                       |  |         |
| <b>9809240031 980918</b><br><b>PDR CONTR</b><br><b>NRC-38-98-282 PDR</b>  |                        |   |           |   |                       |  |         |
| 15G. TOTAL AMOUNT OF CONTRACT   |                        |   |           |   | <b>\$84,902.00</b>    |  |         |
| 16. TABLE OF CONTENTS See Attached Table of Contents  |                        |   |           |   |                       |  |         |
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| 17. <input checked="" type="checkbox"/> <b>CONTRACTOR'S NEGOTIATED AGREEMENT</b> (Contractor is required to sign this document and return _____ copies to issuing office.)<br>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.) |                        | 18. <input type="checkbox"/> <b>AWARD</b> (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. |           |   |                       |  |         |
| 19A. NAME AND TITLE OF SIGNER (Type or print)<br><b>MATTHEW D. CUSTER</b><br><b>PRESIDENT</b>   |                        | 20A. NAME OF CONTRACTING OFFICER<br><b>Elois J. Wiggins</b><br><b>Contracting Officer</b>   |           |   |                       |  |         |
| 19B. NAME OF CONTRACTOR<br><b>Mathew D. Custer</b><br>BY _____<br>(Signature of person authorized to sign)  |                        | 20B. UNITED STATES OF AMERICA<br>BY <b>Elois J. Wiggins</b><br>(Signature of Contracting Officer)   |           |   |                       |  |         |
| 19C. DATE SIGNED<br><b>9/18/98</b>  |                        | 20C. DATE SIGNED<br><b>9/18/98</b>  |           |   |                       |  |         |

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## PART I - THE SCHEDULE

## SECTION B - SUPPLIES OR SERVICES AND PRICE/COSTS

**B.1 PROJECT TITLE**

The title of this project is as follows:

"Operation and Management of the NRC Fitness Center"

**B.2 BRIEF DESCRIPTION OF WORK (MAR 1987)**

The contractor shall provide the necessary management and personnel to operate and manage the NRC Fitness Center located in the Two White Flint North Building at NRC Headquarters. The Contractor shall also be responsible for the development and implementation of a comprehensive fitness/wellness program.

**B.3 FIRM FIXED PRICES FOR THE PHASE-OUT SERVICES**

a. If required, the Contractor shall perform all work necessary for Phase-out Services in accordance with the Contractor's approved Phase-out Plan as specified in Subsection C.6, of this contract, commencing upon the expiration date of the contract.

**B.4 PRICE SCHEDULE**

The firm-fixed monthly prices for services listed below shall reflect the cost for all necessary labor, fringe benefits, overhead, G&A Expenses and profit, to ensure effective operation and management of the NRC Fitness Center.

BASE PERIOD (September 28, 1998 through March 27, 1999)

| ITEM                               | QUANTITY | UNIT | UNIT PRICE  | TOTAL       |
|------------------------------------|----------|------|-------------|-------------|
| Fitness Center Operation           | 6        | mon  | \$13,317.00 | \$79,902.00 |
| Equipment Repairs and Replacements |          |      | NTE         | \$ 5,000.00 |
| TOTAL BASE PERIOD                  |          |      |             | \$84,902.00 |

OPTION YEAR ONE (March 27, 1999 through March 27, 2000)

| ITEM                               | QUANTITY | UNIT | UNIT PRICE  | TOTAL        |
|------------------------------------|----------|------|-------------|--------------|
| Fitness Center Operation           | 12       | mon  | \$13,744.00 | \$164,928.00 |
| Equipment Repairs and Replacements |          |      | NTE         | \$ 10,000.00 |
| TOTAL OPTION YEAR ONE              |          |      |             | \$174,928.00 |

## OPTION YEAR TWO (March 27, 2000 through March 27, 2001)

| ITEM                               | QUANTITY | UNIT | UNIT PRICE  | TOTAL        |
|------------------------------------|----------|------|-------------|--------------|
| Fitness Center Operation           | 12       | mon  | \$14,236.00 | \$170,832.00 |
| Equipment Repairs and Replacements |          |      | \$ NTE      | \$ 10,000.00 |
| TOTAL OPTION YEAR TWO              |          |      |             | \$180,832.00 |

## OPTION YEAR THREE (March 27, 2001 through March 27, 2002)

| ITEM                                     | QUANTITY | UNIT | UNIT PRICE  | TOTAL        |
|--|----------|------|-------------|--------------|
| Fitness Center Operation                 | 12       | mon  | \$14,349.00 | \$172,188.00 |
| Equipment Repairs and Replacements       |          |      | \$ NTE      | \$ 10,000.00 |
| Phase-out Services                       | 1        | lot  | \$ 2,814.00 | \$ 2,814.00  |
| TOTAL OPTION YEAR THREE                  |          |      |             | \$185,002.00 |
| GRAND TOTAL BASE PERIOD AND OPTION YEARS |          |      |             | \$625,664.00 |

**B.5 INCENTIVE FEE PAYMENTS**

The Contractor will receive incentive fee payments for membership recruitment in excess of 599 fitness center enrollees. Fee payments shall be made according to the following recruitment schedule:

| ITEM                                    | QUANTITY | UNIT    | FEE          |
|---|----------|---------|--------------|
| Membership Enrollment                   | 600      | Members | \$2,050.00*  |
| Membership Enrollment                   | 700      | Members | \$2,750.00** |
| Membership Enrollment                   | 800      | Members | \$3,450.00** |
| TOTAL AVAILABLE INCENTIVE FEE PAYMENTS: |          |         | \$8,250.00   |

\* Available during Base Period and Option Years

\*\*Available during Option Years

**B.6 OBLIGATION OF FUNDS**

In accordance with Section C, the contractor is required to collect membership fees from members and participants. The amount collected monthly is to be subtracted from the monthly fixed-price to arrive at the actual price to be paid by the Government.

The amount obligated under this contract is as follows: Total average membership of 475 members multiplied by a annual membership fee of \$208.00 (semi-annual membership fee of \$104.00).

|                            |                |
|----------------------------|----------------|
| FIXED PRICE                | \$84,902.00    |
| MINUS MEMBERSHIP FEES      | \$49,400.00    |
| PLUS INCENTIVE FEE PAYMENT | \$ 2,050.00*** |

TOTAL AMOUNT TO BE OBLIGATED \$37,552.00

\*\*\*Funding for the first Incentive Fee Payment is being obligated at this time.

#### **B.7 MEMBERSHIP FEE RESTRICTION**

The contractor shall charge fitness center members a fee of \$208.00 per year plus an enrollment fee of \$25.00 (new members). The contractor shall implement and maintain the price structure in cooperation with the NRC's Project Officer.

#### **B.8 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE**

The firm fixed price for fitness center operation for the base period of this contract is \$79,902.00.

##### **B.8.1 CONSIDERATION AND OBLIGATION--COST REIMBURSEMENT**

- a. The total estimated cost to the Government for equipment repair and replacements for the base period of this contract is \$5,000.00.
- b. The amount obligated by the Government with respect to equipment repair and replacements for the base period of this contract is \$5,000.00.
- c. The amount obligated by the Government with respect to incentive fee payments is \$2,050.00.

#### **B.9 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE (OPTION YEAR ONE)**

The firm fixed price for fitness center operation for option year one of this contract is \$164,928.00.

##### **B.9.1 CONSIDERATION AND OBLIGATION--COST REIMBURSEMENT (OPTION YEAR ONE)**

- a. The total estimated cost to the Government for equipment repair and replacements for option year one of this contract is \$10,000.00.

#### **B.10 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE (OPTION YEAR TWO)**

The firm fixed price for fitness center operation for option year two of this contract is \$170,832.00.

**B.10.1 CONSIDERATION AND OBLIGATION--COST REIMBURSEMENT  
(OPTION YEAR TWO)**

a. The total estimated cost to the Government for equipment repair and replacements for option year two of this contract is \$10,000.00.

**B.11 CONSIDERATION AND OBLIGATION--FIRM FIXED PRICE  
(OPTION YEAR THREE)**

The firm fixed price for fitness center operation and phase-out services (if required) for option year three of this contract is \$175,002.00.

**B.11.1 CONSIDERATION AND OBLIGATION--COST REIMBURSEMENT  
(OPTION YEAR THREE)**

a. The total estimated cost to the Government for equipment repair and replacements for option year three of this contract is \$10,000.00.

End of Clause

## SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

## C.1 BACKGROUND

The Nuclear Regulatory Commission's Office of Human Resources is responsible for administering a comprehensive employee fitness program. Studies have shown that participants in worksite-based programs can significantly reduce their health risk and absenteeism due to illness, thereby contributing to increased productivity. The NRC's program is being expanded to focus on disease prevention and encourage lifestyle changes for the purpose of enhancing job performance and decreasing absenteeism. The Fitness program will operate in conjunction with the Employee Health Care Center, the Employee Assistance Program, and the Occupational Safety and Health Program, to provide employees with a complete health promotion and disease prevention strategy. The NRC employs approximately 2100 employees at the site of the Center, of which approximately 500 are active members.

## C.2 SCOPE OF WORK

The contractor shall operate and manage the NRC Fitness Center, including the design and implementation of comprehensive physical fitness programs as defined herein. The contractor shall conform to the standards outlined in this contract.

The contractor shall develop a backup plan to ensure that there is sufficient staff available to provide all the required services during the official hours of operation. The backup staffing plan shall be submitted to the NRC Project Officer (PO) within five (5) working days of the effective date of the contract. The NRC PO will approve or disapprove the plan within three (3) working days after receipt. If the plan is disapproved, the contractor shall have two (2) working days to incorporate changes and submit one copy to the NRC PO after receipt.

The contractor on-site staff will be located in the Two White Flint North (TWFN) Building, 11545 Rockville Pike, Rockville, Maryland 20852. The Center contains a total of 4,907 sq. ft. of space which includes the following:

- Aerobics Area - 877 q.ft.
- Cardiovascular/Strength Equipment Area - 1637 sq.ft.
- Free Weight Area - 224 sq.ft.
- Office - 144 sq.ft.
- Testing Room - 58 sq.ft.
- Reception Area - 152 sq.ft.
- Storage Area - 96 sq.ft.
- Closets - 44 sq.ft.
- Mechanical Room - 256 sq.ft.
- Men's Locker Room - 698 sq.ft.
- Women's Locker Room - 721 sq ft..

Each locker room contains showers, lockers, benches, mirrors, toilet facilities, hair dryers, electrical outlets, and wash basins. Both locker rooms are accessible from the workout area.

The Government will provide office space and office equipment, including facsimile and Xerox machines, telephones and local service, file cabinets, computers, monitors, printers and the appropriate software. In addition, televisions, VCR systems, and a music sound system will be provided.

Fitness equipment, aerobic equipment and accessories, and fitness assessment equipment will be provided by the Government. (See Section J, Attachment No. 4 for list of equipment and Attachment Nos. 5 and 6 for Cleaning, Maintenance and Calibration of Equipment)

The NRC will provide general office supplies, such as pens, pencils, paper pads, folders, etc. and photocopying supplies, such as paper and toner cartridges, ect. The NRC Project Officer will be responsible for providing the supplies to the Contractor. All marketing materials shall be provided by the Contractor.

#### Hours of Operation.

The contractor shall provide on-site personnel during the official hours of operation, 6:00 a.m. to 8:00 p.m., Monday through Friday, except Federal holidays. The contractor shall provide adequate qualified backup personnel so that the continuity of service will not be disrupted at any time during the official hours of operation.

The NRC recognizes the following days as Federal holidays:

- New Year's Day
- Martin Luther King Jr. Birthday
- Washington's Birthday
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

In addition to the holidays listed above, Contractor services are not required under this contract when Government offices are closed by the Office of Personnel Management (OPM) as a result of inclement weather, potentially hazardous conditions, or other special circumstances. When Government employees are granted administrative leave, the Contractor shall continue to provide the services required under the contract, unless directed otherwise by the Contracting Officer, or his/her duly appointed representative.

During all operations on Government premises, the Contractor shall comply with the rules and regulations governing the conduct of the personnel and the operations of the facility.

### C.3 CONTRACTOR PERSONNEL

1. Contract Manager. The contractor shall provide a contract manager (director) who shall be responsible for the performance of the work. The name of this person, and an alternate or alternates who shall act on behalf of the contractor when the contract manager is absent, shall be designated in writing to the CO and PO. The contractor shall provide the names(s), telephone number(s), and address(es) of its representative(s), in writing, to the CO and PO upon contract award.

The contract manager or alternate shall have full authority to act on behalf of contractor on all contractual matters relating to daily the operation of this contract. The contract manager shall have the authority to accept notices of deductions and any other correspondence on behalf of the contractor. The contract manager shall attend monthly meetings with the PO, or his/her alternate, in order to better monitor the services being provided by the contractor.

The contract manager or alternate shall be available during normal duty hours, within 60 minutes after notification, to meet with the NRC Project Officer (designated by the contracting officer) to discuss problems that may arise.

The contract manager and alternates, must be able to read, write, speak, and understand the English language.

2. Director/Fitness Specialist/Instructor. The contractor shall provide, at a minimum, one (1) full-time Director/Fitness Specialist or one (1) full-time Associate Director/Fitness Specialist, and one (1) full-time Instructor, during all hours of operation, as follows:

a. A full-time Director and Associate Director will be required, one with duty hours of 6:00 a.m. to 2:30 p.m. and the other with duty hours of 11:30 a.m. to 8:00 p.m. Work hours shall include a half hour break for lunch.

b. Staff members must be present in the facility during all hours of operation. At least one Director or Associate Director and one staff person must be present during all periods of scheduled classes or time periods established as high usage periods. A Fitness Instructor (Aerobics, Yoga, etc.) may be considered in the determination of this staffing requirement. The high usage periods are expected to be in the mornings (6:00 a.m. to 9:15 a.m.), during lunchtime (11:30 a.m. to 1:00 p.m.), and in the afternoons and evenings (3:30 p.m. to 8:00 p.m.).

c. Receptionist coverage is required for all hours of operation to monitor entrance of the Fitness Center and to assure members are properly logged in and out.

d. At least one staff member must be male and another female to ensure that both the men's and women's facilities are regularly inspected for safety and to assure that emergency assistance can be easily provided to both men and women.

e. The contractor shall ensure that qualified staff is available for temporary substitutions in the event regular personnel are temporarily unavailable. Only a qualified Fitness Specialist can serve as a substitute for the Director or Associate Director position.

f. The contractor shall provide a team of professionals with appropriate certifications from associations such as the American College of Sports Medicine, American Council on Exercise, sports medicine management programs, and/or evidence of knowledge of occupational health organization/fitness facility management.

3. Contractor Employees. The contractor shall not employ persons for work on this contract if such employees are considered by the Contracting Officer to be a potential threat to the health, safety, security, general well-being or operational mission of the installation and its population. Contractor personnel shall present a neat appearance and be easily recognized as contractor employees. The contractor shall provide qualified personnel that meet the minimum skilled requirements described below.

4. The following are the minimum qualification requirements for the Director and/or Associate Director:

- a. The Director and/or Associate Director must possess demonstrated experience and qualifications in management and supervision. The Director's and/or Associate Director's experience and education must clearly demonstrate competencies in fitness assessment, designing and implementing exercise programs, teaching exercise techniques, supervisory ability, and skills in organizing and operating fitness facilities.
- b. The minimum level of education for both positions will include a Bachelor's degree in health and fitness management, exercise physiology, or an allied health field. The incumbents of these positions must demonstrate a clear understanding of all conditioning programs, including walking, running, aerobic dance, step training, flexibility, and strength training. The incumbents of these positions must also demonstrate the ability to work effectively with staff, coordinate staff scheduling, develop and teach programs, employ marketing and maintain a physical fitness facility in a safe and a professional manner.

5. The following are the minimum personnel qualification requirements for the Fitness Instructors:

- a. The Fitness Instructors serve under the general supervision of the Director. The Instructors' experience must demonstrate competencies in conducting aerobic movement classes (for aerobic instructors only) along with a solid background in areas such as kinesiology, physiology, biomechanics, and injury prevention. The Instructors' minimum education requirements should include at least a Bachelor's degree in physical education or an allied health field.

- b. Appropriate relative qualifying experience will be considered in determining the acceptability of the individuals, particularly for aerobics, step, jazzercise, yoga, body sculpting or other similar type classes.
6. The following are the minimum personnel qualification requirements for Certifications:
- a. All Contractor employees must have completed a basic course in first aid and be CPR certified. All aerobic instructors must be certified through the International Dance and Exercise Association, the Aerobic and Fitness Association of America, the American College of Sports Medicine or the Aerobics Institute.
  - b. All certifications must remain current throughout the life of the contract. The contractor shall provide the Project Officer with evidence of renewal of all such certification(s). Failure to provide evidence of such renewals will result in NRC withholding payments to the contractor, pending receipt of confirming evidence of required renewals. If the contractor continues to fail to provide evidence of renewals, the Government may terminate the contract for default.
7. At least one staff member must possess knowledge of personal computers and software sufficient to manage and operate the Center's established programs and databases at all times.

All contractor personnel shall exhibit a professional and service-oriented attitude and approach in the performance of their duties. All personnel shall exhibit interpersonal skills and a pleasant demeanor while working in the center.

8. The contractor shall not employ any person who is an employee of the U.S. Government if employing that person would create a conflict of interest.

#### C.4 DELINEATION OF CONTRACTOR RESPONSIBILITIES

##### C.4.1 Specific Tasks

The contractor shall develop and implement an employee fitness program aimed at improving employee fitness. The contractor shall operate and manage the Fitness Center by performing the following tasks:

- a. The contractor shall staff the facility from 6:00 a.m. to 8:00 p.m., Monday through Friday, with the exception of federal government holidays. During periods when normal NRC operations have been suspended due to weather conditions or other exigencies, the center shall be closed. All physical conditioning classes conducted by contractor personnel shall begin at the scheduled time.

- b. The contractor shall conduct a physical fitness assessment for all new NRC Fitness Center members. This assessment shall include testing blood pressure and heart rate, height/body weight, body circumference and body composition, cardiovascular submaximal bicycle evaluation, low back flexibility, and abdominal strength test.
- c. The contractor shall conduct follow-up evaluations at the employee's request to assess the employee's progress, reevaluate or redesign exercise programs, and address any complications that may surface.
- d. Contractor staff shall conduct an individual meeting with each member to develop a personalized program or fitness prescription according to fitness screening results. The contractor shall provide advice on how to warm up, stretch, cool-down, record workouts, and use all equipment, including free weights, as part of a tailored program. Follow-up should be available on an as needed basis to update or revise a member's program.
- e. The contractor shall develop and implement an Operations and Procedures Manual providing information on the execution of tasks, in addition to procedures for emergency and general office procedures. The development of this effort shall be coordinated with the Employee Health Unit, Office of Human Resources and the Division of Security, Office of Administration. This manual shall be completed within 120 days after contract award. The NRC Project Officer will review the manual and provide comments to the Contractor within two weeks of receipt. The Contractor shall revise the manual, incorporating the Government's comments and provide one copy to the PO and one copy to the CO within two weeks of receipt of the Government's comments.
- f. Contractor management shall provide regularly-scheduled service evaluations, site visits, and performance reviews.
- g. The contractor shall provide ongoing staff training to ensure that employees are fully trained and knowledgeable in their field.
- h. The Contractor shall prepare membership information packages to be provided to new and current members. The membership information package shall consist of the following:
  - 1) Enrollment Application
  - 2) Health and Fitness Survey Form
  - 3) Consent Form
  - 4) Fitness Center Rules and Regulations
  - 5) Membership Fee Schedule
  - 6) Staff Biographies

The NRC will provide the following documentation to be included in the membership information packages:

- 1) NUREG/Brochure 0214, Revision 1, dated December 1997, entitled "NRC Fitness Center"
- 2) NRC Announcement No., 116 dated October 7, 1992, entitled "Physical Fitness Activities"
- 3) Direct Deposit Sign-up Form

The Contractor shall ensure that all new members complete required forms prior to joining the center. Current members will not be required to complete the enrollment application. The Contractor personnel shall register all new members and secure the required fees, applications and waiver forms.

NOTE: If the Contractor has reason to believe that an employee should be precluded from using the fitness center because of health reasons, the employee shall be required to seek a medical clearance in writing from his/her physician or the NRC Health Center physician.

i. The contractor shall develop procedures and records for:

1. Membership documentation, financial accounting, monthly reports and statistics. Software installed on the computer provided by the government shall be used to track membership status, fees collected, inventories and subcontractor fees, and create monthly reports. All records and databases shall remain the property of the Government.
2. Collecting, compiling, analyzing, maintaining, and reporting information on member participation and use. This includes:
  - (a) Maintaining a computer log of the time of member ingress and membership activity usage.
  - (b) Maintaining and reviewing individual member participation records. These records are confidential and shall be maintained in a secured file.
3. Obtaining written suggestions, evaluations, and complaints related to the facility and its operations from Fitness Center members. These shall be immediately forwarded to the Project Officer.
4. Preparing informational notices to members and all NRC employees, i.e., quarterly newsletters, membership renewals, and seminar announcements.

j. The contractor shall provide employees, as part of the basic membership, a choice of twenty exercise sessions weekly. Length of sessions should vary from 20 minutes to one hour. Final determination of classes will include those listed below in k., as well as variations and combinations of similar types of programs/classes. The contractor shall provide a schedule of proposed classes to the Project Officer for review and approval on a quarterly schedule. Changes in

the schedule of classes will be based on periodic surveys of members, member requests, class requirements and availability of staff.

- k. The contractor shall conduct twenty exercise classes weekly. The classes should include any of the following: aerobics, step, jazzercise, stretch and tone, abs, back strengthening, controlled impact aerobics, body sculpting, yoga, etc. Classes will be conducted daily, with at least two classes between 11:30 a.m. and 1:15 p.m. Each session will range between 20 minutes and one hour. The scope of this program is physical conditioning to include, but not be limited to:

1. Low/Intermediate, and High intensity aerobic classes
2. Step, Power Step, and COMBO aerobic classes
3. Yoga
4. Muscle toning and sculpting classes
5. Jazzercise
6. Focused conditioning classes (e.g., back strengthening, abdominals)
7. Sports conditioning

NOTE: The above classes should incorporate the use of step, slides, Dynabands, and hand weights, as appropriate.

1. The contractor shall conduct the following support programs:
  1. Tours for prospective members
  2. New member orientation
  3. Blood pressure screening (two per year)
  4. Physical conditioning instructions (personalized one-on-one)
  5. Injury prevention seminars (two per year)
  6. Interest groups (i.e., jogging, walking, competitive sports events)
  7. Sports Medicine seminars (two per year)

The content of all physical conditioning classes must comply with safety standards practiced by associations such as the American College of Sports Medicine or the American Council on Exercise. All classes developed by the contractor shall be approved by the Project Officer.

- m. The contractor shall instruct members in the proper use of the exercise equipment, free weights, and provide tailored programs for individuals, as requested.
- n. The contractor shall develop and implement incentive programs to attract new members and encourage a regular pattern of workouts by current members.
- o. The contractor shall promote and coordinate the participation by employees in organized activities outside the parameters of the Fitness Center such as those events sponsored by the President's Counsel on Physical Fitness and the American Heart Association.

- p. The contractor shall promote programs to encourage headquarters and regional employees to participate in fitness activities, classes, and programs, in addition to promoting fitness awareness. These programs should include the use of posters, flyers, handouts, and articles for all-employee publications. The contractor shall develop and issue a newsletter four times a year. The contractor shall develop and issue seminar announcements monthly. All newsletters and announcements must be reviewed and approved by the Project Officer before release.
- q. The contractor shall conduct an annual survey of members on the quality of the Fitness Center and wellness/fitness activities. The contractor shall submit the survey to the Project Officer for approval prior to circulation to members. The contractor shall provide the results of the survey to the Project Officer.
- r. The contractor shall be responsible for creating and maintaining the Government required records that are specifically cited in this SOW. If requested by the Government, the contractor shall provide the original record, or a reproducible copy of any such record within five working days of the receipt of the request.

#### C.4.2 Equipment Maintenance, Repairs and Replacements

The contractor shall maintain all exercise equipment in a safe and operational manner. This includes responsibility for cleaning and preventive maintenance on all equipment in the fitness center in accordance with the schedule provided in Attachment No. 5, Cleaning and Maintenance Schedule for Exercise Equipment and Attachment No. 6, Equipment Calibration. The Contractor shall provide all necessary and reasonable repairs and replacements of equipment to ensure that all equipment functions properly. The Contractor shall also make recommendations to the PO of any alternate equipment which he/she believes will enhance the operation of the fitness center.

1. All preventive maintenance and repairs shall be performed only by qualified personnel who are fully knowledgeable and experienced in inspecting, testing, and maintaining exercise equipment. The costs for all preventive maintenance shall be included in the fixed monthly price for the fitness center operation.

2. A repair is defined as work required to prevent a breakdown of equipment, or the restoration of service after a breakdown or failure of equipment has occurred. Additionally, a repair is defined as repair services which will prevent damage and premature deterioration to components.

3. Replacement services include the purchase of substantially identical equipment which replaces equipment that is irreparably damaged due to normal usage and the purchase of alternative equipment, such as equipment design changes, modifications or upgrades, as determined necessary for the successful operation of the fitness center.

the fitness center.

4. The contractor is required to obtain approval from the PO for all repairs/replacements exceeding \$100.00. The Contractor is required to obtain approval from the CO for all repairs/replacements exceeding \$2,500.00. The Contractor shall be reimbursed for actual costs incurred less profit for repair/replacement services. The price for any components/equipment shall be based on an established catalog or list price in effect when components/equipment are purchased, less all applicable discounts granted to the Government.

The contractor shall be responsible for any damage to the equipment arising from wrongful acts or acts of negligence by the contractor.

The contractor shall provide a log of all maintenance activities, and inventory of equipment and supplies. This log shall be provided to the Project Officer quarterly. If equipment or accessories are lost or damaged, a statement shall be submitted with the inventory results detailing the circumstances.

5. The contractor shall also be responsible for the maintenance and update of the software (KI).

#### **C.4.3 Facilities Management**

The contractor shall monitor the locker rooms and shower facilities at least once every half hour during non-peak hours to ensure that no one is in need of help. The contractor shall control access to all government provided lock combinations to preclude unauthorized entry. The contractor shall ensure that all users of the facility comply with the rules and regulations established by the NRC concerning the use of the facility and equipment. The contractor shall be responsible for safeguarding all government property provided for contractor use. At the end of each work period, all government facilities, equipment and materials shall be secured. The contractor shall make sure employees practice utilities conservation. The contractor shall be responsible for operating under conditions that prevent the waste of utilities. Lights shall be used only in areas where work is actually being performed. Employees shall not adjust mechanical equipment controls for heating, ventilation, and air conditioning systems.

#### **C.4.4 Reporting Requirements**

The contractor shall provide a monthly report to the CO and PO, due on the fifth day of every month, which provides the following information:

- a. new membership enrollment; fees collected;
- b. membership totals to date/daily usage/peak hours of usage;
- c. classes/sessions/programs offered and number of attendees;
- d. equipment repair and maintenance activities completed;
- e. other significant accomplishments during period.

The contractor shall provide a biannual report on program

including proposed program improvements. These programs and plans will be reviewed by the Project Officer.

The contractor shall provide the CO and PO with a monthly accounting of all facility-related transactions and allowing, upon reasonable notice, inspection of all related membership and financial records maintained by the contractor. The contractor shall be subject to annual audits of financial books, records and expenditures.

#### C.4.5 Financial Management

The contractor shall invoice the NRC monthly for services performed, based on the firm-fixed price. Each billing shall reflect the fixed price for the billing period and for the year to date. The invoice shall include any incentive fees earned during the billing period. Each invoice will reflect membership fees collected during the billing period and for the year to date.

Actual monthly payments by the NRC to the contractor shall occur only when the year-to-date price of services performed exceeds actual membership fees collected. Payment shall consist of the difference between the two amounts.

Amount due to Contractor is the excess of fees collected over cost of services performed. Membership fees shall be determined by the Project Officer. The contractor shall collect and account for membership fees, credit such collections against the total contract price for the current year and bill the NRC monthly, reflecting the difference between the total contract price for the year and the fees generated from membership dues.

In order to facilitate the widest participation in the fitness center, employees may authorize collection of fees by payroll deduction (provided not all allotments are used) to an interest-bearing account established by the contractor at the Energy Federal Credit Union (EFCU), NRC Fitness Center Account. Those employees who do not wish to use payroll deduction, may pay annually, semiannually, or quarterly, by check. The contractor shall be responsible for collecting, accounting for, and depositing all such collections into an established account at the Energy Federal Credit Union, to be used solely to offset NRC payments. The Contractor shall provide copies of all credit union statements to the CO and PO, as statements are received by the EFCU.

The Contractor shall maintain the account solely for NRC Fitness Center purposes and funds will not be withdrawn without notifying the Project Officer.

The contractor shall maintain accounting records to reflect income generated by membership fees and for billings to the NRC. The contractor's records shall be made available for NRC to review and/or audit upon request.

**C.5 INVOICE DEDUCTIONS**

If, as a result of contractor employee absence, a scheduled physical conditioning class cannot be held, those damages specified in Section F shall be deducted from the contractor's monthly payment.

**C.6 PHASE-OUT SERVICES**

If requested by the Contracting Officer, and in accordance with FAR Clause 52,237-3, Continuity of Services, of this contract, the Contractor shall provide phase-out services for a duration not to exceed 3 days after the expiration date of the contract. The Contractor shall be reimbursed for these phase-out services on a fixed price basis, as specified in Section B, of this contract.

**C.7 QUALITY ASSURANCE**

The Project Officer will perform an annual Fitness Center Program Evaluation to ensure that the requirements and objectives of the contract are being met by the Contractor.

## SECTION D - PACKAGING AND MARKING

## D.1 PACKAGING AND MARKING (MAR 1987)

The Contractor shall package material for shipment to the NRC in such a manner that will ensure acceptance by common carrier and safe delivery at destination. Containers and closures shall comply with the Interstate Commerce Commission Regulations, Uniform Freight Classification Rules, or regulations of other carriers as applicable to the mode of transportation. On the front of the package, the Contractor shall clearly identify the contract number under which the product is being provided.

## SECTION E - INSPECTION AND ACCEPTANCE

## E.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

| NUMBER   | TITLE  | DATE     |
|----------|--|----------|
| 52.246-4 | FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)<br>INSPECTION OF SERVICES--FIXED-PRICE | AUG 1996 |

## E.2 PLACE OF INSPECTION AND ACCEPTANCE (MAR 1987)

Inspection and acceptance of the deliverable items to be furnished hereunder shall be made by the Project Officer at the destination.

## SECTION F - DELIVERIES OR PERFORMANCE

## F.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

| NUMBER    | TITLE  | DATE     |
|-----------|--|----------|
| 52.242-15 | FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)<br>STOP-WORK ORDER | AUG 1989 |

F.2 DURATION OF CONTRACT PERIOD (MAR 1987)  
ALTERNATE 2 (MAR 1987)

This contract shall commence on September 28, 1998 and will expire on March 27, 1999. The term of this contract may be extended at the option of the Government for an additional 3 years.

## SECTION G - CONTRACT ADMINISTRATION DATA

## G.1 2052.215-73 PROJECT OFFICER AUTHORITY-ALTERNATE 2

(a) The contracting officer's authorized representative, hereinafter referred to as the project officer for this contract is:

Name: Randall Brown

Address: 11545 Rockville Pike  
Mail Stop T-3-A-2  
Rockville, MD 20850

Telephone Number: (301) 415-7111

(b) The project officer shall:

(1) Place delivery orders for items required under this contract.

(2) Monitor contractor performance and recommend to the contracting officer changes in requirements.

(3) Inspect and accept products/services provided under the contract.

(4) Review all contractor invoices/vouchers requesting payment for products/services provided under the contract and make recommendations for approval, disapproval, or suspension.

(c) The project officer may not make changes to the express terms and conditions of this contract.

## G.2 ELECTRONIC PAYMENT

The Debt Collection Improvement Act of 1996 requires that all payments except IRS tax refunds be made by Electronic Funds Transfer. It is the policy of the Nuclear Regulatory Commission to pay vendors by the Automated Clearing House (ACH) electronic funds transfer payment system. The electronic system is known as Vendor Express. Payment shall be made in accordance with FAR 52.232-33, entitled "Mandatory Information for Electronic Funds Transfer Payment".

To receive payment, the contractor shall complete the "Company Information" portion of the Standard Form 3881, entitled "ACH Vendor/Miscellaneous Payment Enrollment Form" found as an attachment to this document. The contractor shall take the form to the ACH

Coordinator at the financial institution that maintains its company's bank account. The contractor shall discuss with the ACH Coordinator how the payment identification information (addendum record) will be passed to them once the payment is received by the financial institution. Further information concerning the addendum is provided at Attachment. The ACN Coordinator should fill out the "Financial Institution Information" portion of the form and return it to the Office of the Controller at the following address: Nuclear Regulatory Commission, Division of Accounting and Finance, Financial Operations Section, Mail Stop T-9-H-4, Washington, DC 20555, ATTN: ACH/Vendor Express. It is the responsibility of the contractor to ensure that the financial institution returns the completed form to the above cited NRC address. If the contractor can provide the financial information, signature of the financial institutions ACH Coordinator is not required. The NRC is under no obligation to send reminders. Only after the Office of the Controller has processed the contractor's sign-up form will the contractor be eligible to receive payments.

Once electronic funds transfer is established for payments authorized by NRC, the contractor needs to submit an additional SF 3881 only to report changes to the information supplied.

Questions concerning ACH/Vendor Express should be directed to the Financial Operations staff at (301) 415-7520."

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

## H.1 2052.204-71 SITE ACCESS BADGE REQUIREMENT

During the life of this contract, the rights of ingress and egress for contractor personnel must be made available as required. In this regard, all contractor personnel whose duties under this contract require their presence on-site shall be clearly identifiable by a distinctive badge furnished by the Government. The Project Officer shall assist the contractor in obtaining the badges for the contractor personnel. It is the sole responsibility of the contractor to ensure that each employee has proper identification at all times. All prescribed identification must be immediately delivered to the Security Office for cancellation or disposition upon the termination of employment of any contractor personnel. Contractor personnel must have this identification in their possession during on-site performance under this contract. It is the contractor's duty to assure that contractor personnel enter only those work areas necessary for performance of contract work, and to assure the safeguarding of any Government records or data that contractor personnel may come into contact with.

## H.2 2052.215-70 KEY PERSONNEL

(a) The following individuals are considered to be essential to the successful performance of the work hereunder:

Jill Mills  
Meredith A. Fenton

Richard A. Davis  
Benjamin Gossard

The contractor agrees that personnel may not be removed from the contract work or replaced without compliance with paragraphs (b) and (c) of this section.

(b) If one or more of the key personnel, for whatever reason, becomes, or is expected to become, unavailable for work under this contract for a continuous period exceeding 30 work days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, the contractor shall immediately notify the contracting officer and shall, subject to the concurrence of the contracting officer, promptly replace the personnel with personnel of at least substantially equal ability and qualifications.

(c) Each request for approval of substitutions must be in writing and contain a detailed explanation of the circumstances necessitating the proposed substitutions. The request must also contain a complete resume for the proposed substitute and other information requested or needed by the contracting officer to evaluate the proposed substitution. The contracting officer or his/her authorized representative shall evaluate the request and promptly notify the contractor of his or her approval or disapproval in writing.

(d) If the contracting officer determines that suitable and timely replacement of key personnel who have been reassigned, terminated, or have otherwise become unavailable for the contract work is not reasonably forthcoming, or that the resultant reduction of productive effort would be so substantial as to impair the successful completion of the contract or the service order, the contract may be terminated by the contracting officer for default or for the convenience of the Government, as appropriate. If the contracting officer finds the contractor at fault for the condition, the contract price or fixed fee may be equitably adjusted downward to compensate the Government for any resultant delay, loss, or damage.

### H.3 SITE ACCESS BADGE PROCEDURES (FEB 1995)

The contractor shall ensure that all its employees, including any subcontractor employees and any subsequent new employees who are assigned to perform the work herein, are approved by the Government for building access.

Within ten working days after award of a contract, execution of a modification of a contract or proposal of new personnel for contract tasks, the firm so notified must furnish properly completed security applications for employees. Timely receipt of properly completed security applications is a contract requirement. Failure of the contractor to comply with this condition within the ten work-day period may be a basis to void the notice of selection. In that event, the Government may select another firm for award.

The Government shall have and exercise full and complete control over granting, denying, withholding, or terminating building access approvals for individuals performing work under this contract. Individuals performing work under this contract shall be required to complete and submit to the contractor representative an acceptable Form 176 (Statement of Personal History), and two FD-258 (Fingerprint Charts) at least 48 hours prior to performing services at the NRC. The contractor representative will submit the documents to the Project Officer who will give them to the Division of Security. Since the NRC/Government approval process takes 45 to 60 days or longer from receipt of acceptable security applications, the NRC may, among other things, grant or deny temporary building access approval to an individual based upon its review of the information contained in the GSA Form 176. Also, in the exercise of its

authority, GSA may, among other things, grant or deny permanent building access approval based on the results of its investigation and adjudication guidelines. This submittal requirement also applies to the officers of the firm who, for any reason, may visit the work sites for an extended period of time during the term of the contract. In the event that NRC and GSA are unable to grant a temporary or permanent building access approval, to any individual performing work under this contract, the contractor is responsible for assigning another individual to perform the necessary function without any delay in the contract's performance schedule, or without adverse impact to any other terms or conditions of the contract. The contractor is responsible for informing those affected by this procedure of the required building access approval process (i.e., temporary and permanent determinations), and the possibility that individuals may be required to wait until permanent building access approvals are granted before beginning work in NRC's buildings.

The contractor will advise the Project Officer, who, in turn, will advise the Division of Security, of the termination or dismissal of any employee who has applied for, or has been granted, NRC building access approval. It is the responsibility of the contractor to obtain and return to the Division of Security, any photo-identification or temporary badge of an individual who no longer requires access to NRC space.

#### H.4 SEAT BELTS

Contractors, subcontractors, and grantees, are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

#### H.5 GOVERNMENT - FURNISHED PROPERTY AND SERVICES

The government will provide the equipment, materials and services listed below.

##### 1. Government Furnished Property

The Government will provide the equipment and materials as listed in Section J, Attachment No. 4.

##### 2. Government Furnished Services

a. Regularly scheduled janitorial services will be provided by the NRC's building maintenance contractor. The Government will provide cleaning services for the men's and women's locker rooms, staff offices, aerobic exercise room, and equipment exercise room.

b. The Government will provide LAN support and computer services assistance.

c. The Government will provide a security alarm system to secure the facility, including security guard assistance during an emergency.

## PART II - CONTRACT CLAUSES

## SECTION I - CONTRACT CLAUSES

## I.1 NOTICE LISTING CONTRACT CLAUSES INCORPORATED BY REFERENCE

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252-2 CLAUSES INCORPORATED BY REFERENCE" in Section I of this contract. See FAR 52.252-2 for an internet address (if specified) for electronic access to the full text of a clause.

| NUMBER    | TITLE   | DATE     |
|-----------|---|----------|
|           | FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)   |          |
| 52.202-1  | DEFINITIONS   | OCT 1995 |
| 52.203-3  | GRATUITIES  | APR 1984 |
| 52.203-5  | COVENANT AGAINST CONTINGENT FEES  | APR 1984 |
| 52.203-6  | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT   | JUL 1995 |
| 52.203-7  | ANTI-KICKBACK PROCEDURES  | JUL 1995 |
| 52.203-8  | CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY   | JAN 1997 |
| 52.203-10 | PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY  | JAN 1997 |
| 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS  | JUN 1997 |
| 52.204-4  | PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER   | JUN 1996 |
| 52.209-6  | PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTOR'S DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT | JUL 1995 |
| 52.215-2  | AUDIT AND RECORDS--NEGOTIATION  | AUG 1996 |
| 52.215-8  | ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT  | OCT 1997 |
| 52.219-6  | NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE  | JUL 1996 |
| 52.219-8  | UTILIZATION OF SMALL, SMALL DISADVANTAGED BUSINESS AND WOMEN-OWNED SMALL BUSINESS CONCERNS                                | JUN 1997 |
| 52.219-14 | LIMITATIONS ON SUBCONTRACTING   | DEC 1996 |
| 52.222-3  | CONVICT LABOR   | AUG 1996 |
| 52.222-26 | EQUAL OPPORTUNITY   | APR 1984 |
| 52.222-35 | AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA  | APR 1998 |
| 52.222-36 | AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES  | JUN 1998 |
| 52.222-37 | EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA   | APR 1998 |
| 52.223-2  | CLEAN AIR AND WATER   | APR 1984 |
| 52.223-5  | POLLUTION PREVENTION AND RIGHT-TO-KNOW  | APR 1998 |

|           |  |          |
|-----------|--|----------|
| 52.223-6  | DRUG-FREE WORKPLACE  | JAN 1997 |
| 52.225-11 | RESTRICTIONS ON CERTAIN FOREIGN<br>PURCHASES                             | AUG 1998 |
| 52.227-1  | AUTHORIZATION AND CONSENT  | JUL 1995 |
| 52.228-5  | INSURANCE--WORK ON A GOVERNMENT<br>INSTALLATION                          | JAN 1997 |
| 52.229-3  | FEDERAL, STATE, AND LOCAL TAXES  | JAN 1991 |
| 52.229-5  | TAXES--CONTRACTS PERFORMED IN U.S.<br>POSSESSIONS OR PUERTO RICO         | APR 1984 |
| 52.232-1  | PAYMENT  | APR 1984 |
| 52.232-8  | DISCOUNTS FOR PROMPT PAYMENT   | MAY 1997 |
| 52.232-11 | EXTRAS   | APR 1984 |
| 52.232-17 | INTEREST   | JUN 1996 |
| 52.232-23 | ASSIGNMENT OF CLAIMS<br>ALTERNATE I (APR 1984)                           | JAN 1986 |
| 52.232-33 | MANDATORY INFORMATION FOR ELECTRONIC<br>FUNDS TRANSFER PAYMENT           | AUG 1996 |
| 52.233-1  | DISPUTES<br>ALTERNATE I (DEC 1991)                                       | MAR 1994 |
| 52.233-3  | PROTEST AFTER AWARD  | AUG 1996 |
| 52.237-2  | PROTECTION OF GOVERNMENT BUILDINGS,<br>EQUIPMENT, AND VEGETATION         | APR 1984 |
| 52.237-3  | CONTINUITY OF SERVICES   | JAN 1991 |
| 52.242-13 | BANKRUPTCY   | JUL 1995 |
| 52.243-1  | CHANGES--FIXED PRICE<br>ALTERNATE I (APR 1994)                           | AUG 1987 |
| 52.244-2  | SUBCONTRACTS (COST-REIMBURSEMENT AND<br>LETTER CONTRACTS)                | AUG 1998 |
| 52.245-1  | PROPERTY RECORDS   | APR 1984 |
| 52.246-25 | LIMITATION OF LIABILITY--SERVICES  | FEB 1997 |
| 52.249-4  | TERMINATION FOR CONVENIENCE OF THE<br>GOVERNMENT (SERVICES) (SHORT FORM) | APR 1984 |
| 52.249-8  | DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)                                 | APR 1984 |
| 52.253-1  | COMPUTER GENERATED FORMS   | JAN 1991 |

**I.2 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT  
(MAR 1989)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 60 days provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 4 years.

## I.3 52.232-25 PROMPT PAYMENT (JUN 1997)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments (1) Due Date. (i) Except as indicated in subparagraph (a)(2) and paragraph (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office has received a proper invoice from the Contractor (except as provided in subdivision (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor. On a final invoice where the payment amount is subject to contract settlement actions, acceptance shall be deemed to have occurred on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in

the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraph (a)(3)(i) through (a)(3)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(4) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(3) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors

in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than 1 year. Interest penalties of less than \$1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(6) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(5) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(7) Additional interest penalty. (i) a penalty amount, calculated in accordance with paragraph (a)(7)(iii) of this clause, shall be paid in addition to the interest penalty amount if the

Contractor--

(A) Is owed an interest penalty of \$1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that--

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except--

(1) The additional penalty shall not exceed \$5,000;

(2) The additional penalty shall never be less than \$25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than \$1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in paragraph (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty

specified in paragraph (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments--(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the 30th day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be made in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

#### I.4 52.246-20 WARRANTY OF SERVICES (APR 1984)

(a) Definitions. "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor

warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor. This notice shall state either (1) that the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

#### I.5 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

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

N/A