Department of Homeland Security Acquisition Regulation

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CHAPTER 30 — DEPARTMENT OF HOMELAND SECURITY

HOMELAND SECURITY ACQUISITION REGULATION (HSAR)

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Subpart 3001.1 Purpose, Authority, Issuance

3001.101 Purpose.

The Department of Homeland Security Acquisition Regulation (HSAR) establishes uniform acquisition policies and procedures, which implement and supplement the Federal Acquisition Regulation (FAR).

3001.102 Statement of Guiding Principles for the Federal Acquisition System.

(d) The FAR and this supplement are to be interpreted permissively, if consistent with statutory and regulatory requirements, policy, and sound professional judgment.

3001.104 Applicability.

(a) The following order of precedence applies to resolve any acquisition regulation or procedural inconsistency found within HSAR or the Homeland Security Acquisition Manual (HSAM):

(1) Statute;
(2) FAR or other applicable regulation or Executive Order;
(3) HSAR;
(4) Department of Homeland Security (DHS) Directives; and
(5) HSAM (which establishes uniform DHS-wide acquisition procedures).

(b) The Transportation Security Administration (TSA) exception to this regulation is authorized by the Aviation and Transportation Security Act of 2001 (Section 101(a) of Public Law 107-71). However, see (HSAR) 48 CFR 3033.211, regarding Board of Contract Appeals (BCA).

(c) For nonappropriated fund contracts, the FAR and HSAR will be followed to the maximum extent feasible excluding provisions determined by counsel not to apply to Nonappropriated Fund institutions (NAFIs). Contracting terms may provide for mutual agreement as to the Board of Contract Appeals jurisdiction but this policy will not confer court jurisdiction concerning NAFIs that does not otherwise exist.

3001.105 Issuance.

3001.105-1 Publication and code arrangement.

(a) The HSAR is published in:

(1) the Federal Register and
(2) cumulated form in the Code of Federal Regulations (CFR).

3001.105-2 Arrangement of regulations.

(a) General. The HSAR, which encompasses both Department-wide and organizational element-unique guidance, conforms to the arrangement and numbering system prescribed by (FAR) 48 CFR 1.105-2. Guidance that is unique to an organization with Head of the

Contracting Activity (HCA) authority contains the organization's acronym directly preceding the cite. The following acronyms apply:
Bureau of Customs and Border Protection (CBP)
Bureau of Immigration and Customs Enforcement (ICE)
DHS Office of Procurement Operations (OPO)
Federal Emergency and Management Agency (FEMA) (Includes all elements of the Emergency Preparedness and Response Directorate)
Federal Law Enforcement Training Center (FLETC)
Transportation Security Administration (TSA)
U.S. Coast Guard (USCG)
U.S. Secret Service (Secret Service)

3001.105-3 Copies.

The HSAR is available in the Federal Register and electronically at http://www.dhs.gov/dhspublic/

3001.106 OMB Approval under the Paperwork Reduction Act.

(a) The Office of Management and Budget (OMB) has assigned the following control numbers that must appear on the upper right-hand corner of the face page of each solicitation, contract, modification, and order:

OMB Control No. 1600-0002	(Contract related forms)
OMB Control No. 1600-0005	(Offeror submissions)
OMB Control No. 1600-0003	(Contractor submissions)
OMB Control No. 1600-0004	(Protests)

(b) OMB regulations and OMB's approval and assignment of control numbers are conditioned upon not requiring more than three copies (including the original) of any document of information. OMB has granted a waiver to permit the Department to require up to eight copies of proposal packages, including proprietary data, for solicitations, provided that contractors who submit only an original and two copies will not be placed at a disadvantage.

Subpart 3001.3 Agency Acquisition Regulations

3001.301 Policy.

(a)(1) The HSAR is issued for Departmental guidance according to the policy cited in (FAR) 48 CFR 1.301. The HSAR establishes uniform Homeland Security policies and procedures for all acquisition activities within the Department of the Homeland Security, except the TSA. OE supplemental acquisition regulations to be inserted in the HSAR as a HSAR supplement regulation must be reviewed and approved by the Chief Procurement Officer (CPO) before the CPO submits the proposed coverage for publication in the Federal Register according to (FAR) 48 CFR 1.501.

(2)(i) The CPO is authorized to issue internal agency guidance at any organizational level. Department-wide procedures are contained in the HSAM. The HCA may implement internal procedures or supplement the FAR, HSAR, or HSAM as provided in HSAM 3001.3. The HCA may issue procedures or delegate this authority to any organizational level deemed appropriate. OE procedures may be more restrictive or require higher approval levels than those permitted by the HSAM, unless otherwise specified.

(ii) Individuals granted authority in the HSAR may delegate that authority, unless the FAR or HSAR specifically state that the authority is not delegable.

(b) The Under Secretary of Management established procedures through Management Directive (MD) 0490.1, entitled Federal Register Notice and Rules, to ensure that agency acquisition regulations are published for comment in the Federal Register in conformance with FAR procedures at (FAR) 48 CFR Subpart 1.5.

3001.301-70 Amendment of HSAR.

(a) Request for changes to the regulation may be recommended by DHS personnel, other Government agencies, or the public. Change requests are to be submitted in the following format to the Department of Homeland Security, ATTN: Office of the Under Secretary of Management, Chief Procurement Officer, Washington, DC 20598.

(1) PROBLEM: Succinctly state the problem(s) created by current HSAR requirements or processes and describe the factual or legal reasons for requesting a regulatory change.

(2) RECOMMENDATION: Identify the recommended change by using the current language and lining through the words to be deleted and inserting proposed language in brackets. If the change is extensive, deleted language may be displayed by forming a box with diagonal lines connecting the corners.

(3) DISCUSSION: Explain why the change is necessary and how the change will solve the problem. Address any cost or administrative impact on Government activities, offerors, and contractors. Provide any other helpful information and documents such as statutes, legal decisions, regulations, reports, etc.

(4) POINT OF CONTACT: Provide a point of contact for answering questions regarding the recommendation, along with a telephone number, e-mail or other method of reaching the contact.

(b) The HSAR is maintained by the CPO through the HSAR/HSAM change process (i.e., input from various OEs including representatives specifically designated to formulate Departmental acquisition policies and procedures).

(1) Homeland Security Acquisition Circular (HSAC). HSAC (see (HSAR) 48 Chapter 3001.301-72) will be used to amend (HSAR) 48 Chapter 30.

(2) HSAR Notices will be issued (with a specified expiration date) when interim guidance is necessary under any of the following circumstances:

(i) To promulgate, as rapidly as possible, selected material in a general or narrative manner, in advance of a HSAC issuance;

(ii) To disseminate other acquisition related information; or

(iii) To issue guidance that is expected to be effective for a period of 1 year or less.

3001.301-71 Effective date.

Unless otherwise stated, the following applies--
(a) Statements in HSACs or HSAR Notices that the content is "upon a specified date," or that changes in the document are "to be used upon receipt," mean that any new or revised provisions, clauses, procedures, or forms must be included in solicitations or contracts issued thereafter; and

(b) Unless expressly directed by statute or regulation, if solicitations have been issued prior to the HSAC or HSAR notice receipt or publication, the new information (e.g., forms and clauses) need not be included if the Chief of the Contracting Office (COCO) determines, in writing, that including the new information would not be in the best interests of the Government.

3001.301-72 HSAC or HSAR Notice numbering.

HSACs and HSAR Notices will be numbered consecutively on a fiscal year basis beginning with number "01" prefixed by the last two digits of the fiscal year (e.g., HSAR Notices 03-01 and 03-02 indicate the first two HSAR Notices issued in fiscal year 2003).

3001.303 Publication and codification.

(a) The HSAR is issued as chapter 30 of Title 48 of the CFR.

(1) The FAR numbering illustrations at (FAR) 48 CFR 1.105-2 apply to the HSAR.

(2) Coverage within HSAR 48 CFR chapter 30 is identified by the prefix "30" followed by the complete FAR cite which may extend downward to the subparagraph level (e.g., (HSAR) 48 CFR 3001.101).

(3) Coverage in HSAR Chapter 30 that supplements the FAR will use part, subpart, section and subsection numbers ending in "70" through "89". A series of numbers

beginning with "70" is used for provisions and clauses (e.g., (HSAR) 48 CFR 3001.301-70).

(4) Coverage in HSAR 48 CFR chapter 30, other than that identified with a "70" or higher number, which implements the FAR uses the identical number sequence and caption of the FAR segment being implemented which may extend downward to the subparagraph level. Subparagraph numbers/letters may not be shown as sequential, but may be shown by the specific paragraph/subparagraph implemented from the FAR (e.g., (HSAR) 48 CFR 3003.301 contains subparagraphs (a) and (b) because only these subparagraphs, correlating to FAR, are being supplemented by (HSAR) 48 CFR chapter 30).

(5) Organizational Element-unique guidance. Supplementary material for which there is no counterpart in the FAR or HSAR shall be identified using chapter, part, subpart, section, or subsection numbers of "90" and up (e.g., the U.S. Coast Guard's acronym is "USCG"; an USCG-unique clause pertaining to "Inspection and/or Acceptance" would be designated "USCG 3052.246-90").

(6) References and citations. Cross references to the FAR in the HSAR will be cited by "FAR" followed by the FAR numbered cite, and cross reference to the HSAM in the HSAR will be cited by "HSAM" followed by the HSAM numbered cite.

(7) Department/agency and OE supplements must parallel the FAR and HSAR numbering, except department/agency supplemental numbering uses subsection numbering of 90 and up, instead of 70 and up.

TABLE 1-1, HSAR NUMBERING		
FAR	Is Implemented As	Is Supplemented As
19	3019	3019.70
19.5	3019.5	3019.570
19.501	3019.501	3019.501-70
19.501-1	3019.501-1	3019.501-170

3001.304 Agency control and compliance procedures.

(a) The HSAR is under the direct oversight and control of the Homeland Security, Office of the Chief Procurement Officer (OCPO), which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance. Each HCA may supplement the HSAR with OE guidance. Supplementation should be kept to a minimum. OEs proposing to issue regulatory supplements or use solicitation or contract clauses on a repetitive basis must obtain legal review by the OE's legal counsel and

forward supplements to the CPO for concurrence prior to publication in the Federal Register.

(c) The CPO is responsible for evaluating all regulatory coverage in agency acquisition regulations to determine if the substance could apply to other agencies and to make recommendation for inclusion in the FAR.

Subpart 3001.4 Deviations from the FAR and HSAR.

3001.403 Individual deviations.

Unless precluded by law, executive order, or other regulation, the HCA is authorized to approve individual deviation (except with respect to (FAR) 48 CFR 30.201-3, 30.201-4; the requirements of the Cost Accounting Standards board rules and regulations at 48 CFR Chapter 99 (FAR Appendix); and Part 50). Submit requests per (HSAR) 48 CFR 3001.7000 (a), including complete documentation of the justification for the deviation (See HSAM 3001.403)

3001.404 Class deviations.

(a) Unless precluded by law, executive order, or other regulation, the CPO is authorized to approve class deviations (except (FAR) 48 CFR 30.201-3, 30.201-4; the requirements of the Cost Accounting Standards board rules and regulations at 48 CFR Chapter 99 (FAR Appendix); and Part 50). Submit requests per (HSAR) 48 CFR 3001.7000 (a), including complete documentation of the justification for the deviation, and the number and type of contract actions affected. Include a copy of the approved deviation in each contract file. The CPO will transmit a copy of each approved deviation to the FAR Secretariat.

Subpart 3001.6 Career Development, Contracting Authority, and Responsibilities

3001.601 General.

DHS Delegation Number 0200.1, Delegation to the Directorate of Management, delegates authority from the Secretary to the Under Secretary of Management to manage the acquisition function. DHS Delegation 0700, Delegation to the Chief Procurement Officer for Acquisition and Financial Assistance Management, delegates this authority from the Under Secretary of Management to the Chief Procurement Officer.

3001.602 Contracting officers.

3001.602-3 Ratification of unauthorized commitments.

Department of Homeland Security (DHS) policy requires that acquisitions be made only by Government officials having authority to enter into such acquisitions. Acquisitions made by other than authorized personnel are contrary to Departmental policy and may be

considered matters of serious misconduct on the part of an employee making an unauthorized commitment, and may result in disciplinary action being taken against an employee who makes an unauthorized commitment.

3001.603 Selection, appointment, and termination of appointment.

3001.603-1 General.

Under DHS Delegations, the Heads of the Contracting Activity (HCA), with authority to redelegate no lower than the COCO, are authorized to select and appoint contracting officers and terminate their appointment.

Subpart 3001.7 Determinations and Findings

3001.704 Content.

The following format shall be used for all determinations and findings (D&Fs), unless otherwise specified in the FAR or the HSAR. The contracting officer is responsible for preparing D&Fs, and requirements and technical personnel are responsible for the accuracy and adequacy of the supporting factual information, which shall be furnished to the contracting officer.

Insert specific information indicated in brackets.

Determination and Findings

Under [insert citation for appropriate statutory and/or regulatory basis for D&F], the Department of Homeland Security, [insert contracting activity], is granted authority to [insert nature and/or description of the action being approved].

Findings

[Findings that detail the particular circumstances, facts, or reasoning essential to support the determination.]

Determination

[A determination, based on the findings, that the proposed action is justified under the applicable statute or regulation.]

[Expiration date of the D&F, if required.]

[Signature of authorized official]	[month, day, and year]
Name and Title	Date

Subpart 3001.70 Other Determinations, Waivers, Exceptions, Approvals, Reviews, and Submittals

3001.7000 Coordination and approval.

Documents requiring CPO approval.

Requests shall be prepared in writing by the contracting officer and submitted through the HCA to the CPO for approval.

3001.7001 Content.

The general format at (HSAR) 48 CFR 3001.704 shall be used to provide a justification to support the requested determination, waiver, exception or approval.

PART 3002 DEFINITIONS OF WORDS AND TERMS

Subpart 3002.1 Definitions
3002.101 Definitions.

Subpart 3002.2 Abbreviations
3002.270 Abbreviations.

Subpart 3002.1 Definitions

3002.101 Definitions.

***"Chief Information Officer"* (CIO)** means the Director of the Office of the CIO.

"**Chief of the Contracting Office" (COCO**) means the individual(s) responsible for managing the contracting office(s) within an organizational element (OE).

"Chief Procurement Officer" (CPO) means the Senior Procurement Executive (SPE).

"**Contracting activity**" includes all the contracting offices within an OE and is the same as the term "procuring activity."

"Contracting officer" means an individual authorized by virtue of position or by appointment to perform the functions assigned by the Federal Acquisition Regulation and the Homeland Security Acquisition Regulation.

"Head of Contracting Activity (HCA)" means the individual responsible for direct management of the entire acquisition function within an organizational element.

"Head of the Agency" means the Secretary of the Department of Homeland Security, or, by delegation, the Under Secretary of Management.

"Legal counsel" means the Department of Homeland Security Office of General Counsel or OE office providing legal services to the contracting organization.

"Legal review" means review by legal counsel**.**

"Major system" means an acquisition as defined in Management Directive Number 1400, Investment Review Process.

"Micro-purchase threshold" means $2,500 (see (HSAR) 48 CFR 3013-70), except it means-

(1) $2,000 for construction subject to the Davis-Bacon Act; and

(2) $7,500 for acquisitions of supplies or services, except for construction subject to the Davis-Bacon, if the Secretary determines in writing that the mission of the Department (described in Public Law 107-296, Sec. 101) would be seriously impaired without the use of such authorities, Act (Public Law 107-296, Sec. 833).

"**Organizational Element (OE)"** means the following entities for purposes of this chapter:

(1) Bureau of Customs and Border Protection (CBP);
(2) Bureau of Immigration and Customs Enforcement (ICE);
(3) DHS Office of Procurement Operations (OPO);
(4) Federal Emergency Management Agency (FEMA) (Includes all elements of the Emergency Preparedness and Response Directorate);
(5) Federal Law Enforcement Training Center (FLETC);
(6) Transportation Security Administration (TSA); (TSA is exempt from the HSAR and HSAM according to the "Aviation and Transportation Security Act of 2001");
(7) U.S. Coast Guard (USCG); and
(8) U.S. Secret Service (Secret Service).

"Senior Procurement Executive (SPE)" for the Department of Homeland Security is the Chief Procurement Officer (CPO).

***"*Simplified acquisition threshold**" means $100,000 (see (HSAR) 48 CFR 3013-70), except that for acquisitions of supplies or services that, if the Secretary determines in writing that the mission of the Department (described in Public Law 107-296, Sec. 101) would be seriously impaired without the use of such authorities from November 25, 2002 to DEC 30, 2007 (Public Law 107-296, Sec. 833(c)), the term means-
(1) $200,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(2) $300,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

Subpart 3002.2 Abbreivations

Subpart 3002.270 Abbreviations.

CFO	Chief Financial Officer
CIO	Chief Information Officer
COCO	Chief of the Contracting Office
COR	Contracting Officers Representative
COTR	Contracting Officer's Technical Representative
CPO	Chief Procurement Officer
D&F	Determination and Findings

DOTBCA	Department of Transportation Board of Contract Appeals
FOIA	Freedom of Information Act
HCA	Head of Contracting Activity
J & A	Justification and Approval for Other than Full and Open Competition
KO	Contracting officer
MD	Management Directive
OCPO	Office of the Chief Procurement Officer
OE	Organizational Element
OIG	Office of the Inspector General
OSDBU	Office of Small and Disadvantaged Business Utilization
PCR	SBA's Procurement Center Representative
RFP	Request for Proposal
SBA	Small Business Administration
SBS	Small Business Specialist
SPE	Senior Procurement Executive

PART 3003 IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

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Subpart 3003.2 Contractor Gratuities to Government Personnel
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Subpart 3003.9 Whistleblower Protections for Contractor Employees
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Subpart 3003.1 Safeguards

3003.101 Standards of conduct.

3003.101-3 Agency regulations.

(a) Government-wide and Department of Homeland Security regulations governing the conduct and responsibilities of employees are contained in 5 CFR Parts 2635 and 3101, and MD 0480, Ethics/Standards of Conduct.

Subpart 3003.2 Contractor Gratuities to Government Personnel

3003.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or the COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

(1) The date, time, and place of the suspected violation;
(2) The name and title (if known) of the individual(s) involved in the violation; and
(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.
(4) The person reporting the violation and witnesses (if any) shall be requested to sign and date the information certifying that the information furnished is true and correct.

(b) The contracting officer shall submit the report to the COCO (unless the alleged violation was directly reported to the COCO) and the Head of the Contracting Activity (HCA) for further action. The COCO and HCA will determine, with the advice of OE legal counsel, whether the case warrants submission to the OIG, or other investigatory organization.

3003.204 Treatment of violations.

(a) The HCA is the individual to determine whether a Gratuities clause violation has occurred. If the HCA has been personally and substantially involved in the specific procurement, the advice of Government legal counsel should be sought to determine whether an alternate decision maker should be designated.

(b) The COCO shall ensure that the hearing procedures required by (FAR) 48 CFR 3.204(b) are afforded to the contractor. Government legal counsel shall be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the HCA determines that the alleged gratuities violation occurred during the "conduct of an agency procurement" the COCO shall consult with Government legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation or the Gratuities violation.

Subpart 3003.3 Reports Of Suspected Antitrust Violations

3003.301 General.

(b) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for suspected antitrust violations, except reports of suspected antitrust violations shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subpart 3003.4 Contingent Fees

3003.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees.

(b)(4) The procedures at (HSAR) 48 CFR 3003.203 shall be followed for misrepresentation or violations of the covenant against contingent fees, except reports of

misrepresentation or violations of the covenant against contingent fees shall be coordinated with legal counsel for referral to the Department of Justice, if deemed appropriate.

Subchapter 3003.5 Other Improper Business Practices

3003.502 Subcontractor kickbacks.

3003.502-2 Subcontractor kickbacks.

(g) The DHS OIG shall receive the prime contractor or subcontractors written report.

Subpart 3003.9 Whistleblower Protections for Contractor Employees

3003.901 Definitions.

"Authorized official of an agency" means the Department of Homeland Security's CPO.

PART 3004 ADMINISTRATIVE MATTERS

Subpart 3004.1 Contract Execution
3004.103 Contract clause.

Subpart 3004.4 Contract Clause
3004.470-4 Contract clause.

Subpart 3004.8 Government Contract Files
3004.804 Closeout of contract files.
3004.804-1 Closeout by the office administering the contract.
3004.804-5 Procedures for closing out contract files.
3004.804-570 Supporting closeout documents.

Subpart 3004.1 Contract Execution

3004.103 Contract clause.

Insert the clause at (FAR) 48 CFR 52.204-1, Approval of Contract, in each solicitation where approval to award the resulting contract is required above the contracting officer level.

3004.4 Contract clause

3004.470-4 Contract clause.

The contracting officer shall insert a clause substantially the same as the clause at (HSAR) 48 CFR 3052.204-70, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts which require submission of an IT Security Plan.

Subpart 3004.8 Government Contract Files

3004.804 Closeout of contract files.

3004.804-1 Closeout by the office administering the contract.

(b) The quick closeout procedures under (FAR) 48 CFR 42.708 may be used for the settlement of indirect costs under contracts when the estimated amount (excluding any fixed fee) of the contract is $3 million or less if determined appropriate by the contracting officer.

3004.804-5 Procedures for closing out contract files.

3004.804-570 Supporting closeout documents.

(a) When applicable and prior to contract closure, the contracting officer shall obtain the listed DHS and Department of Defense (DOD) forms from the contractor for closeout.

(1) DHS Form 0700-03, Contractor's Release (e.g., see (FAR) 48 CFR 52.216-7);

(2) DHS Form 0700-02, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts (e.g., see (FAR) 48 CFR 52.216-7);

(3) DHS Form 0700-01, Cumulative Claim and Reconciliation Statement (e.g., see (FAR) 48 CFR 4.804-5(a)(13); and

(4) DD Form 882, Report of Inventions and Subcontracts (e.g., see (FAR) 48 CFR 52.227-14).

(b) The forms listed in this section (see (HSAR) 48 CFR Part 3053) are used primarily for the closeout of cost-reimbursement, time-and-materials, and labor-hour contracts. The forms may also be used for closeout of other contract types to protect the Government's interest.

PART 3005 PUBLICIZING CONTRACT ACTIONS

Subpart 3005.4 **Release of Information**
3005.402 General public.

Subpart 3005.90 **Publicizing Contract Actions for Personal Services Contracting**
3005.9000 Applicability (USCG).

Subpart 3005.4 Release of Information

3005.402 General public.

Requests for other specific records information shall be processed according to the DHS Freedom of Information Act rules and regulations (HSAR) 48 CFR 3024.203.

Subpart 3005.90 Publicizing Contract Actions for Personal Services Contracting.

3005.9000 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended by Public Law 107-296, for the Coast Guard and are exempt from the requirements of (FAR) 48 CFR Part 5.

PART	**3006**	**COMPETITION REQUIREMENTS**
Subpart	**3006.2**	**Full and Open Competition After Exclusion of Sources**
	3006.202	Establishing or maintaining alternative sources.
Subpart	**3006.3**	**Other Than Full and Open Competition**
	3006.302	Circumstances permitting other than full and open competition.
	3006.302-7	Public interest.
Subpart	**3006.5**	**Competition Advocates**
	3006.501	Requirement.
	3006.502	Duties and responsibilities.
Subpart	**3006.90**	**Competition Requirements for Personal Services Contracting**
	3006.9000	Applicability (USCG).

Subpart 3006.2 Full and Open Competition After Exclusion of Sources

3006.202 Establishing or maintaining alternative sources.

(b)(1) The HCA is delegated authority to approve a D&F in support of a contract action award under the authority of (FAR) 48 CFR 6.202(a). Submit D&F in the format per (HSAR) 48 CFR 3001.704.

Subpart 3006.3 Other Than Full and Open Competition

3006.302 Circumstances permitting other than full and open competition.

3006.302-7 Public interest.

(c)(1)(ii) Requests shall be prepared in writing by the contracting officer, using the format found in (HSAR) 48 CFR 3001.704, and submitted through the HCA to the CPO for review and transmittal to the Secretary for approval.

Subpart 3006.5 Competition Advocates

3006.501 Requirement.

The DHS Senior Competition Advocate (SCA) is located in the Office of the Chief Procurement Officer (OCPO).

3006.502 Duties and responsibilities.

(a) OE competition advocates will submit an annual report to the Departmental Advocate for Competition.

Subpart 3006.90 Competition Requirements For Personal Services Contracting

3006.9000 Applicability (USCG).

Contracts awarded by the U.S. Coast Guard using the procedures in (HSAR) 48 CFR 3037.104-91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended, for the Coast Guard and are exempt from the competition requirements of (FAR) 48 CFR Part 6.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3007

ACQUISITION PLANNING

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3008

REQUIRED SOURCES OF SUPPLIES AND SERVICES

[RESERVED]

PART 3009 CONTRACTOR QUALIFICATIONS

Subpart	**3009.1**	**Responsible Prospective Contractors**
	3009.104-70	Prohibition on contracts with corporate expatriates.
	3009.104-71	General.
	3009.104-72	Definitions.
	3009.104-73	Special rules.
	3009.104-74	Waiver.
	3009.104-75	Clause.
Subpart	**3009.4**	**Debarment, Suspension, and Ineligibility**
	3009.470	Reserve Officer Training Corps and military recruiting on campus.
	3009.470-1	Definition.
	3009.470-2	Policy.
	3009.470-3	Procedures.
	3009.470-4	Contract clause.
Subpart	**3009.5**	**Organizational and Consultant Conflicts of Interest**
	3009.507	Solicitation provisions.

Subpart 3009.1 Responsible Prospective Contractors

3009.104-70 Prohibition on contracts with corporate expatriates.

3009.104-71 General.

DHS may not enter into any contract with a foreign incorporated entity, which is treated as an inverted domestic corporation under subsection (b) of Section 835 of the Homeland Security Act, Public Law 107-296.

3009.104-72 Definitions.

As used in this subpart—

"Expanded Affiliated Group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting `more than 50 percent' for `at least 80 percent' each place it appears.

"Foreign Incorporated Entity" means any entity which is, or but for subsection (b) of Section 835 of the Homeland Security Act, Public Law 107-296, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

"Inverted Domestic Corporation" A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

"Person", "domestic", and "foreign" have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

3009.104-73 Special Rules.

The following special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(a) Certain stock disregarded- For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(1) Stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or
(2) Stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1) of Section 835 of the Act, Public Law 107-296.

(b) Plan deemed in certain cases- If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this

Act and which is 2 years before the ownership requirements of subsection (b)(2) of the Act are met, such actions shall be treated as pursuant to a plan.

(c) Certain transfers disregarded- The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) Special Rule for Related Partnerships- For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights-

(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:

(i) warrants
(ii) options
(iii) contracts to acquire stock
(iv) convertible debt instruments
(v) others similar interests

(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835 of the Act.

3009.104-74 Waiver.

(a) The Secretary shall waive subsection (a) of Section 835 of Public law 107-296, with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

(b) Contractors shall submit waiver requests to the CPO. If a waiver is granted, a copy of the approved waiver shall be attached with the bid or proposal.

3009.104-75 Clause.

Insert the provision (HSAR) 48 CFR 3052.209-70, Prohibition on Contracts with Corporate Expatriates, in all solicitations and contracts.

Subpart 3009.4 Debarment, Suspension, and Ineligibility

3009.470 Reserve Officer Training Corps and military recruiting on campus.

3009.470-1 Definition.

"Institution of higher education" as used in this section, means an institution that meets the requirements of 20 U.S.C. 1001 and includes all subelements of such an institution.

3009.470-2 Policy.

(a) Except as provided in paragraph (b) of this subsection, 10 U.S.C. 983 prohibits the Department of Homeland Security from providing funds by contract or grant to an institution of higher education if the Secretary of Defense determines that the institution has a policy or practice that prohibits or in effect prevents-

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Homeland Security from gaining entry to campuses, or access to students on campuses, for purposes of military recruiting; or

(4) Military recruiters from accessing certain information pertaining to students enrolled at that institution.

(b) The prohibition in paragraph (a) of this subsection does not apply to an institution of higher education if the Secretary of Defense determines that-

(1) The institution (and each subelement of that institution) has ceased the policy or practice described in paragraph (a) of this subsection; or

(2) The institution involved has a long-standing policy of pacifism based on historical religious affiliation.

3009.470-3 Procedures.

Whenever the Secretary of Defense determines that an institution of higher education (including any subelement of such institution) is ineligible and the provisions of 10 U.S.C. 983 apply:

(a) The Secretary of Defense will list the institution on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs published by the General Services Administration (also see (FAR) 48 CFR 9.404 and 32 CFR Part 216); and

(b) The Department of Homeland Security-
(1) Shall not solicit offers from, award contracts to, or consent to subcontracts with the institution;

(2) Shall make no further payments under existing contracts with the institution; and
(3) Shall terminate existing contracts with the institution.

3009.470-4 Contract clause.

Insert the clause at (HSAR) 48 CFR 3052.3009-71, Reserve Officer Training Corps and Military Recruiting on Campus, in all solicitations and contracts with institutions of higher education.

Subpart 3009.5 Organizational and Consultant Conflicts of Interest
3009.507 Solicitation provisions.

The contracting officer may insert the provision at (HSAR) 48 CFR 3052.209-72, "Disclosure of Conflicts of Interest" in all solicitations for negotiated acquisitions, and when simplified acquisitions procedures in (FAR) 48 CFR Part 13, are not used. The contracting officer shall ensure the conditions enumerated in (FAR) 48 CFR 9.507-2 warrant inclusion.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3010

MARKET RESEARCH

[RESERVED]

PART 3011 DESCRIBING AGENCY NEEDS

Subpart 3011.1 Selecting and Developing Requirements Documents
3011.103 Market acceptance.

Subpart 3011.2 Using and Maintaining Requirements Documents
3011.204-70 Solicitation provisions and contract clauses.
3011.204-90 Solicitation provisions and contract clauses (USCG).

Subpart 3011.5 Liquidated Damages
3011.501.1 Policy.

Subpart 3011.6 Priorities and Allocations
3011.602 General.

Subpart 3011.1 Selecting and Developing Requirements Documents

3011.103 Market acceptance.

(a) Contracting officers may act on behalf of the head of the agency in this subpart only. Contracting officers may, under appropriate circumstances, require offerors to make the required demonstrations.

Subpart 3011.2 Using and Maintaining Requirements Documents

3011.204-70 Solicitation provisions and contract clauses.

The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.211-70, Index for Specifications, when an index or table of contents may be furnished with the specification.

3011.204-90 Solicitation provision and contract clause (USCG).

(a) For U.S. Coast Guard contracts, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.211-90, Bar Coding Requirement, (also see (HSAR) 48 CFR 3013.302-70) when the bar coding of supplies is necessary.

(b) See (HSAR) 48 CFR 3013.302-590 for a provision which is required when the USCG clause at HSAR 3052.211-90, Bar Coding Requirement, is used with simplified acquisition procedures.

Subpart 3011.5 Liquidated Damages

3011.501 Policy.

(d) The HCA may reduce or waive the amount of liquidated damages assessed under a contract, if the Commissioner, Financial Management Service, or designee approves.

Subpart 3011.6 Priorities and Allocations

3011.602 General.

(c) The following DHS OEs may assign priority ratings on contracts and orders placed with contractors to acquire products, materials, and services under the Defense Priorities and Allocations System (DPAS) regulations (15 CFR Part 700):

(1) The U.S. Coast Guard in support of certified national defense related programs; and

(2) The Federal Emergency Management Agency in support of emergency preparedness activities.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3012

ACQUISITION OF COMMERCIAL ITEMS

[RESERVED]

PART 3013 SIMPLIFIED ACQUSITION PROCEDURES

Subpart 3013.1 Procedures
3013.106 Soliciting competition, evaluation of quotations or offers, award and documentation.
3013.106-190 Soliciting competition (USCG).

Subpart 3013.3 Simplified Acquisition Methods
3013.302 Purchase Orders.
3013.302-590 Clauses (USCG).

Subpart 3013.70 Special Streamlined Acquisition Authority
3013.7000 General.
3013.7001 Delegations.
3013.7002 Reporting requirements.
3013.7003 Micro-purchase authority.
3013.7004 Simplified acquisition authority.
3013.7005 Test program for certain commercial items.

Subpart 3013.1 Procedures

3013.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

3013.106-190 Soliciting competition (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG provision at (HSAR) 48 CFR 3052.213-90, Evaluation Factor for Coast Guard Performance of Bar Coding Requirement, in requests for quotations when the USCG clause at (HSAR) 48 CFR 3052.211-90, Bar Coding Requirement, is used with simplified acquisition procedures.

Subpart 3013.3 Simplified Acquisition Methods

3013.302 Purchase orders.

3013.302-590 Clauses (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.211-90, Bar Coding Requirement, in requests for quotations and purchase orders issued by the Inventory Control Points when bar coding of supplies is necessary.

Subpart 3013.70 Special Streamlined Acquisition Authority

3013.7000 General.

(a) The Secretary may use special streamlined acquisition authority set forth in Public Law 107-296, Sec. 833, with respect to any procurement made during the period beginning on November 25, 2002 and ending September 30, 2007 where if the Secretary determines in writing the mission of the Department (described in Public Law 107-296, Sec 101) would be seriously impaired without the use of such authorities.

(b) The Secretary may deem any item or service to be a commercial item for the purpose of federal procurement laws for procurements described in (HSAR) 48 CFR 3013.7005.

3013.7001 Delegations.

The Secretary may delegate this authority to an officer of the Department who is appointed by the President with the advice and consent of the Senate. Delegations of this authority are discussed in HSAM 3013.

3013.7002 Reporting requirements.

(a) The Secretary shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate-

(1) notification of such determination; and

(2) the justification for such determination.

(b) This report shall be submitted no later than seven days after the date of any determination. Reporting requirements and procedures are discussed in HSAM 3013.

3013.7003 Micro-purchase authority.

(a) When the streamlined acquisition authority is exercised, the micro-purchase threshold is raised to $7,500.

(b) The authority in this section may be exercised only by individuals designated by the Secretary. The number of employees shall be—

(1) fewer than the number of employees of the Department that are authorized to make purchases without obtaining competitive quotations.

(2) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(3) sufficiently limited to allow for careful monitoring of employees designated under each paragraph.

(c) Procurements made under this authority shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than seven employees making procurements under this authority.

3013.7004 Simplified acquisition authority.

When the streamlined acquisition authority is exercised, the simplified acquisition threshold shall be: (a) $200,000 in the case of a contract to be awarded and performed, or purchase to be made, within the United States; and (b) $300,000 in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States.

3013.7005 Test program for certain commercial items.

When the streamlined authority is exercised, the $5,000,000 limitation provided in (FAR) 48 CFR Subpart 13.5 is increased to $7,500,000.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3014

SEALED BIDDING

[RESERVED]

PART	**3015**	**CONTRACTING BY NEGOTIATION**
Subpart	**3015.2**	**Solicitation and Receipt of Proposals and Information**
	3015.204-3	Contract clauses.
	3015.207-70	Handling proposals and information.
Subpart	**3015.4**	**Contract Pricing**
	3015.404-470	Payment of profit or fee.
Subpart	**3015.6**	**Unsolicited Proposals**
	3015.602	Policy.
	3015.603	General.
	3015.604	Agency points of contact.
	3015.606	Agency procedures.
	3015.606-1	Receipt and initial review.
	3015.606-2	Evaluation.

Subpart 3015.2 Solicitation and Receipt of Proposals and Information

3015.204-3 Contract clauses.

The contracting officer shall insert clause (HSAR) 48 CFR 3052.215-70, Key Personnel or Facilities, in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel or facilities.

3015.207-70 Handling proposals and information.

(b) Proposals and information may be released outside the Government for evaluation and similar purposes if qualified personnel are not available to thoroughly evaluate or analyze proposals or information. The contracting officer shall document the file in such cases.

Subpart 3015.4 Contract Pricing

3015.404-470 Payment of profit or fee.

The contracting officer shall not pay profit or fee on undefinitized contracts or undefinitized contract modifications. Any profit or fee earned shall be paid after the contract or modification is definitized.

Subpart 3015.6 Unsolicited Proposals

3015.602 Policy.

The Department of Homeland Security (DHS) encourages new and innovative proposals and ideas that will sustain or enhance the DHS mission, which is stipulated in the Homeland Security Act of 2002, Public Law 107-296.

3015.603 General.

(a) Costs associated with the time and effort to prepare a proposal are solely the responsibility of and assumed by the offeror that is submitting the proposal.

3015.604 Agency points of contact.

(a) The DHS does not have a central clearinghouse for distributing information or assistance regarding unsolicited proposals. Each HCA is responsible for disseminating the information required at (FAR) 48 CFR 15.604(a). General information concerning DHS's scope of responsibilities and functions is available at http://www.dhs.gov/dhspublic/

3015.606 Agency procedures.

(a) The agency authority to establish procedures for receiving, reviewing and evaluating, and timely disposing of unsolicited proposals, consistent with the requirements of (FAR) 48 CFR 15.6 and this subpart, is delegated to each HCA.

(b) The agency authority to establish points of contact (see (FAR) 48 CFR 15.604) to coordinate the receipt and handling of unsolicited proposals is delegated to each HCA. Contracting offices are designated as the receiving point for unsolicited proposals. Persons within DHS (e.g., technical personnel) who receive proposals shall forward them to their cognizant contracting office.

3015.606-1 Receipt and initial review.

(a) The agency contact point shall make an initial review determination within seven calendar days after receiving a proposal.

(b) If the proposal meets the requirements at (FAR) 48 CFR 15.606-1(a), the agency contact point shall acknowledge receipt within three calendar days after making the initial review determination and advise the offeror of the general timeframe for completing the evaluation.

(c) If the proposal does not meet the requirements of (FAR) 48 CFR 15.606-1(a), the agency contact point shall return the proposal within three calendar days after making the determination. The offeror shall be informed, in writing, of the reasons for returning the proposal.

3015.606-2 Evaluation.

(a) Comprehensive evaluations should be completed within sixty calendar days after making the initial review determination. If additional time is needed, then the agency contact point shall advise the offeror accordingly and provide a new evaluation completion date. The evaluating office shall neither reproduce nor disseminate the proposal to other offices without the consent of the contracting office from which the proposal was received for evaluation. If the evaluating office requires additional information from the offeror, the evaluator shall convey this request to the responsible contracting office. The evaluator shall not directly contact the proposal originator.

(b) If the evaluators recommend accepting the proposal, the responsible contracting officer shall ensure compliance with all of the requirements of (FAR) 48 CFR 15.607.

PART	**3016**	**TYPES OF CONTRACTS**
Subpart	**3016.2**	**Fixed-Price Contracts**
	3016.203	Fixed-price contracts with economic price adjustment.
	3016.203-4	Contract Clauses.
	3016.203-470	Solicitation Provisions.
Subpart	**3016.4**	**Incentive Contracts**
	3016.406	Contract clauses.
Subpart	**3016.5**	**Indefinite-Delivery Contracts**
	3016.505	Ordering.
Subpart	**3016.6**	**Time-and-Materials, Labor-Hour, and Letter Contracts**
	3016.603	Letter contracts.
	3016.603-4	Contract Clauses.

Subpart 3016.2 Fixed-Price Contracts

3016.203 Fixed price contracts with economic price adjustments.

3016.203-4 Contract clauses.

(d)(2) Any clause using this method shall be prepared and approved by the contracting officer.

3016.203-470 Solicitation provision.

The contracting officer shall insert a provision substantially the same as (HSAR) 48 CFR 3052.216-70, Evaluation of Offers Subject to an Economic Price Adjustment Clause, in solicitations containing an economic price adjustment clause.

Subpart 3016.4 Incentive Contracts

3016.406 Contract clauses.

(e)(1)(i) The contracting officer shall insert a clause substantially the same as (HSAR) 48 CFR 3052.216-71, Determination of Award Fee, in solicitations and contracts that includes an award fee.

(ii) The contracting officer shall insert a clause substantially the same as (HSAR) 48 CFR 3052.216-72, Performance Evaluation Plan, in all solicitations and contracts that includes an award fee.

(iii) The contracting officer shall insert a clause substantially the same as (HSAR) 48 CFR 3052.216-73, Distribution of Award Fee, in all solicitations and contracts that includes an award fee.

Subpart 3016.5 Indefinite-Delivery Contracts

3016.505 Ordering.

(b)(5) The OE Competition Advocate is designated as the OE Task and Delivery Order Ombudsman, unless otherwise provided in OE procedures.

(i) If any corrective action is needed after reviewing complaints from contractors on task and delivery order contracts, the OE Ombudsman shall provide a written determination of such action to the contracting officer.

(ii) Issues that cannot be resolved within the OE, shall be forwarded to the DHS Task and Delivery Order Ombudsman for review and resolution.

Subpart 3016.6 Time-and-Materials, Labor-Hour, and Letter Contracts

3016.603 Letter contracts.

3016.603-4 Contract clauses.

The contracting officer shall insert a clause substantially the same as (HSAR) 48 CFR 3052.216-74, Settlement of Letter Contract, in all definitized letter contracts.

PART	**3017**	**SPECIAL CONTRACTING METHODS**
Subpart	**3017.2**	**Options**
	3017.202	Use of options.
Subpart	**3017.4**	**Leader Company Contracting**
	3017.402	Limitations.
Subpart	**3017.70**	**Energy Savings Performance Contracts**
	3017.7000	Policy.
Subpart	**3017.90**	**Fixed Price Contracts for Vessel Repair, Alteration or Conversion**
	3017.9000	Clauses (USCG).

Subpart 3017.2 Options

3017.202 Use of options.

(a) Contracting officers shall not use unpriced options.

Subpart 3017.4 Leader Company Contracting

3017.402 Limitations.

(a)(4) Submit requests per (HSAR) 48 CFR 3001.7000(a).

Subpart 3017.70 Energy Savings Performance Contracts

3017.7000 Policy.

DHS and its OEs may enter into Energy Savings Performance Contracts under 42 U.S.C. 8287, as amended subject to the requirements of 10 CFR Part 436. Proposed contracts under this section shall be coordinated with the CPO.

Subpart 3017.90 Fixed Price Contracts for Vessel Repair, Alteration or Conversion

3017.9000 Clauses (USCG).

For the U.S. Coast Guard, the following clauses are to be used in specific solicitations and contracts:

(a) The clauses in (HSAR) 48 CFR 3052.217-90 through (HSAR) 48 CFR 3052.217-93 and (HSAR) 48 CFR 3052.217-95 through (HSAR) 48 CFR 3052.217-99 shall be included and clause (HSAR) 48 CFR 3052.217-94 may be included in sealed bid fixed-

price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. The contracting officer may, in whole or in part (such as after incidents), increase the dollar amounts in the clause at (HSAR) 48 CFR 3052.217-95(b)(6) and (c)(1) consistent with contract size, inflation, and other circumstances.

(b) Unless inappropriate, the clauses in (HSAR) 48 CFR 3052.217-90 through (HSAR) 48 CFR 3052.217-93 and (HSAR) 48 CFR 3052.217-95 through (HSAR) 48 CFR 3052.217-99 should be included and (HSAR) 48 CFR 3052.217-94 may be included in negotiated solicitations and contracts to be performed outside the United States. The contracting officer may, in whole or in part (such as after incidents), increase the dollar amounts in the clause at (HSAR) 48 CFR 3052.217-95(b)(6) and (c)(1) consistent with contract size, inflation, and other circumstances.

(c) The clause at (HSAR) 48 CFR 3052.217-100, Guarantee, shall be used where general guarantee provisions are deemed desirable by the contracting officer.

(1) When inspection and acceptance tests will afford full protection to the Government in ascertaining conformance to specifications and the absence of defects and deficiencies, no guarantee clause for that purpose shall be included in the contract.

(2) The customary guarantee period, to be inserted in the first sentence of the clause at (HSAR) 48 CFR 3052.217-100, Guarantee, is 60 days. However, in certain instances, the contracting officer may desire to include a clause in a contract for a guarantee period of more than 60 days. In such instances:

(i) Where, after full inquiry, it has been determined that such longer guarantee period will not involve increased costs, a longer guarantee period may be substituted by the contracting officer for the usual 60 days; or
(ii) Where the full inquiry discloses that such longer guarantee period will involve, or is reasonably expected to involve, increased costs, such facts and the reasons for the need for such longer period shall be set forth in letter form to the COCO, requesting approval for use of guarantee period in excess of 60 days. Upon approval, the longer period may be inserted by the contracting officer in the first sentence of the clause at (HSAR) 48 CFR 3052.217-100, Guarantee.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3018

[RESERVED]

PART 3019 SMALL BUSINESS PROGRAMS

Subpart 3019.2 Policies
3019.201 General policy.

Subpart 3019.7 The Small Business Subcontracting Program
3019.705 Responsibilities of the contracting officer under the subcontracting assistance program.
3019.705-1 General support for the program.
3019.708 Contract clauses.
3019.708-70 DHS solicitation and contract clauses.

Subpart 3019.2 Policies

3019.201 General policy.

(d) The Director, Office of Small and Disadvantaged Business Utilization is responsible for the implementation and execution of the small and small disadvantaged business programs required by the Small Business Act.

Subpart 3019.7 The Small Business Subcontracting Program

3019.705 Responsibilities for the contracting officer under the subcontracting program.

3019.705-1 General Support for the Program.

Contracting officers will consider making the submission of a subcontracting plan part of the evaluation criteria. Contracting officers may also consider an offerors past performance in previous subcontracting plan goals and efforts to achieve those goals.

3019.708 Contract clauses.

3019.708-70 DHS solicitation and contract clauses.

(a) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.219-70, Small Business and Small Disadvantaged Business Subcontracting Reporting, in solicitations and contracts containing the clause at (FAR) 48 CFR 52.219-9.

(b) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.219-71, DHS Mentor-Protégé Program in all solicitations that anticipate the need for a subcontracting plan.

(c) The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.219-72, Evaluation of Prime Contractor Participation in the Mentor-Protégé Program, in all

solicitations containing (HSAR) 48 CFR 3052.219-71, Mentor-Protégé Program and (FAR) 48 CFR 52.219-9 Small Business Subcontracting Plan.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3020

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3021

[RESERVED]

PART 3022 APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart	**3022.1**	**Basic Labor Policies**
	3022.101	Labor relations.
	3022.101-70	Admittance of union representatives to DHS installations.
	3022.101-71	Contract clauses.
Subpart	**3022.4**	**Labor Standards for Contracts Involving Construction**
	3022.406	Administration and enforcement.
	3022.406-9	Withholding from or suspension of contract payments.
Subpart	**3022.90**	**Local Hire (USCG).**
	3022.9000	Policy (USCG).
	3022.9001	Contract clause (USCG).

Subpart 3022.1 Basic Labor Policies

3022.101 Labor relations.

3022.101-70 Admittance of union representatives to DHS installations.

(a) It is the policy of DHS to admit labor union representatives of contractor employees to DHS installations to visit work sites and transact labor union business with contractors, their employees, or union stewards pursuant to existing union collective bargaining agreements. Their presence shall not interfere with the contractor's work progress under a DHS contract nor violate safety or security regulations that may be applicable to persons visiting the installation. Union representatives will not be permitted to conduct meetings, collect union dues, or make speeches concerning union matters while visiting a work site.

(b) Whenever a union representative is denied entry to a work site, the person denying entry shall make a written report to the DHS labor coordinator and OE labor advisor, if any, within two working days after the request for entry is denied. The report shall include the reason(s) for the denial, the name of the representative denied entry, the union affiliation and number, and the name and title of the person that denied the entry.

3022.101-71 Contract clauses.

(a) The contracting officer, may, when applicable, insert the clause at (HSAR) 48 CFR 3052.222-70, Strikes or Picketing Affecting Timely Completion of the Contract Work, in solicitations and contracts.

(b) The contracting officer may, when applicable, insert the clause at (HSAR) 48 CFR 3052.222-71, Strikes or Picketing Affecting Access to a DHS Facility, in solicitations and contracts.

Subpart 3022.4 Labor Standards for Contracts Involving Construction

3022.406 Administration and enforcement.

3022.406-9 Withholding from or suspension of contract payments.

(c) Disposition of contract payments withheld or suspended.

(1) Forwarding wage underpayments to the Comptroller General. The contracting officer shall ensure that a completed DHS Form 0700-04, Employee Claim for Wage Restitution, is obtained from each employee claiming restitution under the contract. The Comptroller General (Claims Division) shall receive this form with a completed SF 1093, Schedule of Withholding Under the Davis-Bacon Act and/or the Contract Work Hours and Safety Standards Act, before payment can be made to the employee.

Subpart 3022.90 Local Hire (USCG).

3022.9000 Policy (USCG).

As required by 14 U.S.C. 666, the U.S. Coast Guard shall include a provision for local hire in each contract for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor.

3022.9001 Contract clause (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.222-90, Local Hire Provision, in all solicitations and contracts as stated in (HSAR) 48 CFR 3022.9000.

PART 3023 ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

Subpart	**3023.3**	**Hazardous Material Identification and Material Safety Data**
	3023.303	Contract Clause.
Subpart	**3023.5**	**Drug-Free Workplace**
	3023.501	Applicability.
	3023.506	Suspension of payments, termination of contract, and debarment and suspension actions.
Subpart	**3023.10**	**Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements**
	3023.1002	Applicability.
Subpart	**3023.90**	**Safety Requirements for USCG Contracts**
	3023.9000	Contract clause (USCG).

Subpart 3023.3 Hazardous Material Identification and Material Safety Data

3023.303 Contract clause.

The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.223-70, Removal or Disposal of Hazardous Substances - Applicable Licenses and Permits, in solicitations and contracts involving the removal or disposal of hazardous waste material.

Subpart 3023.5 Drug-Free Workplace

3023.501 Applicability.

(d) The head of the law enforcement organizational element may determine that (FAR) 48 CFR 23.501 does not apply. This authority may not be redelegated.

3023.506 Suspension of payments, termination of contract, and debarment and suspension actions.

(e) Submit requests per (HSAR) 48 CFR 3001.7000(b).

3023.10 Federal Compliance with Right-to-Know Laws and Pollution Requirements

3023.1002 Applicability.

DHS MD 5110, Environmental Compliance, provides guidance and direction for compliance with environmental laws.

Subpart 3023.90 Safety Requirements for USCG Contracts

3023.9000 Contract clause (USCG).

For the U.S. Coast Guard, where all or part of a contract will be performed on Government-owned or leased property, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.223-90, Accident and Fire Reporting.

PART 3024 PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 3024.1 **Protection of Individual Privacy**
3024.102-70 General.

Subpart 3024.2 **Freedom of Information Act**
3024.203 Policy.

Subpart 3024.1 Protection of Individual Privacy

3024.102-70 General.

Procedures for implementing the Privacy Act of 1974 are contained in Departmental regulations under 6 CFR Part 5, Subpart B, Privacy Act.

Subpart 3024.2 Freedom of Information Act

3024.203 Policy.

(a) The Department's implementation of the Freedom of Information Act is codified in regulations 6 CFR part 5, Subpart B, FOIA. Information request concerning awards beyond those routinely handled by contracting officers (e.g., identification of successful offerors, public announcements, debriefings, surety notices under HSAR 3028.106-6) shall be submitted to the FOIA Office of the Organizational Element making the award. The FOIA office for the DHS Office of Operations only, is Departmental Disclosure Officer (DDO), DHS, Washington, D.C., 20528 or foia@dhs.gov.

(b) See (FAR) 48 CFR 15.207(b) on safeguarding proposals.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3025 FOREIGN ACQUISITION

[RESERVED]

HOMELAND SECURITY ACQUISITION

PART 3026 OTHER SOCIOECONOMIC PROGRAMS

[RESERVED]

PART 3027 PATENTS, DATA, AND COPYRIGHTS

Subpart	**3027.2**	**Patents**
	3027.205	Adjustment of royalties.
	3027.208	Use of patented technology under the North American Free Trade Agreement.
Subpart	**3027.3**	**Patent Rights Under Government Contracts**
	3027.304-1	General.
	3027.304-5	Appeals.
	3027.305-4	Administration of Patent Rights Clause.
	3027.306	Licensing background patent rights to third parties.
Subpart	**3027.4**	**Rights in Data and Copyrights**
	3027.404	Basic Rights in Data clause.
	3027.409	Solicitation provisions and contract clauses.

Subpart 3027.2 Patents

3027.205 Adjustment of royalties.

(a) Reports shall be made to OE legal counsel. Contracting Officers shall coordinate actions with the COCO and HCA.

3027.208 Use of patented technology under the North American Free Trade Agreements.

(f) Contracting officers shall ensure compliance.

Subpart 3027.3 Patent Rights under Government Contracts

3027.304-1 General.

Interim and final invention reports and notification of all subcontracts for experimental, developmental, or research work (FAR) 48 CFR 27.304-1(e)(2)(ii) may be submitted on DD Form 882, Report of Inventions and Subcontracts.

3027.304-5 Appeals.

(a) Contracting officers are authorized to take the specified actions.

(b) Appeals shall be made to the CPO.

3027.305 Administration of Patent Rights Clauses.

3027.305-4 Conveyance of invention rights acquired by the Government.

The contracting officer shall ensure that solicitations and contracts which include a patent rights clause include a means for the contractor to report inventions made in the course of contract performance and at contract completion. This requirement may be fulfilled by requiring the contractor to submit a DD Form 882, Report of Inventions and Subcontract.

3027.306 Licensing background patent rights to third parties.

(b) The CPO shall make the required determinations and notifications under this subpart.

Subpart 3027.4 Rights in Data and Copyrights

3027.404 Basic rights in data clause.

(f)(1)(iii) The DHS will use Alternate IV of the (FAR) 48 CFR clause 52.227-14 in all contracts containing the basic clause, unless the HCA approves an exclusion. Approval at a level above the contracting officer is required for the contract to exclude items or categories of data from Alternative IV.

3027.409 Solicitation provisions and contract clauses.

Alternate IV of the (FAR) 48 CFR clause 52.227-14 shall be included in solicitations and contracts containing the basic clause unless the HCA approves an exclusion. Additional non-conflicting alternates may be used.

PART 3028 BONDS AND INSURANCE

Subpart 3028.1 Bonds and Other Financial Protections
3028.106 Administration.
3028.106-6 Furnishing information.
3028.106-70 Execution and administration of bonds.
3028.106-490 Contract clause (USCG).

Subpart 3028.3 Insurance
3028.306 Insurance under fixed-price contracts.
3028.306-90 Contracts for lease of aircraft (USCG).
3028.307 Insurance under cost-reimbursement contracts.
3028.307-1 Group insurance plans.
3028.310 Contract clause for work on a Government installation.
3028.310-70 Contract clause.
3028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.
3028.311-1 Contract clause.

Subpart 3028.1 Bonds and Other Financial Protections

3028.106 Administration.

3028.106-6 Furnishing information.

(b) The contracting officer shall, upon request, furnish the name and address of the prime contractor's surety or sureties to employees, suppliers, and subcontractors having a contractual or employment relationship with prime contractors, subcontractors or suppliers. When furnishing surety information, the inquirer may also be informed that:

(1) Persons believing that they have legal remedies under the Miller Act are cautioned to consult their own legal advisor regarding the proper steps to take to obtain remedies.

(2) On construction contracts exceeding $2,000, if the contracting officer is informed (through routine compliance checking, a complaint, or a request for information) that a laborer, mechanic, apprentice, trainee, watchman, or guard employed by the contractor or subcontractor at any tier may have been paid wages less than those required by the applicable labor standards provisions of the contract, the contracting officer shall promptly initiate an investigation in accordance with (FAR) 48 CFR Subpart 22.4, irrespective of the employee's rights under the Miller Act. When an employee's request for information is involved, the contracting officer shall inform the inquirer that such investigation will be made. Such investigation is required pursuant to the provisions of the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland (Anti-Kickback) Act for assuring proper payment to such employees.

(c) When furnishing a copy of a payment bond and contract in accordance with (FAR) 48 CFR 28.106-6(c), the requirement for a copy of the contract may be satisfied by furnishing a machine-duplicate copy of the contractor's first pages which show the contract number and date, the contractor's name and signature, the contracting officer's signature, and the description of the contract work. The contracting officer furnishing the copies shall place the statement "Certified to be a true and correct copy" followed by a signature, title and name of the OE. The fee for furnishing the requested certified copies shall be determined according to the DHS Freedom of Information Act regulation, 6 CFR Part 5, Subpart B, FOIA.

3028.106-70 Execution and administration of bonds.

(a) The contracting officer shall notify the surety within 30 days, of the contractor's failure to perform in accordance with the terms of the contract.

(b) When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm, and the phrase "a partnership composed of." If a principal is a corporation, the state of incorporation shall also appear on the bond.

(c) Performance or payment bond(s) other than an annual bond shall not predate the contract to which it pertains.

(d) Bonds may be filed with the original contract to which they apply, or all bonds can be separately maintained and reviewed quarterly for validity. If separately maintained, each contract file shall cross-reference the applicable bonds.

3028.106-490 Contract clause (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.228-90. Notification of Miller Act Payment Bond Protection, in solicitation and contracts, and shall require its first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.

Subpart 3028.3 Insurance

3028.306 Insurance under fixed-price contracts.

3028.306-90 Contracts for lease of aircraft (USCG).

(a) For the U.S. Coast Guard, the contracting officer shall insert the clauses at (HSAR) 48 CFR 3052.228-91 through 3052.228-93, unless otherwise indicated by the specific instructions for their use, in any contract for the lease of aircraft (including aircraft used in out-service flight training).

(b) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-91, Loss of or Damage to Leased Aircraft, in any contract for the lease of aircraft, except in the following circumstances:

(1) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500:

(2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or

(3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

(c) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-92, Fair Market Value of Aircraft, when fair market value of the aircraft can be determined.

(d) 49 U.S.C. 44112, as amended, provides that no lessor of an aircraft under a bona fide lease of 30 days or more shall be liable by reason of his interest as lessor or title-holder of the aircraft for any injury to or death of persons, or damage to or loss of property, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage or loss. On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause at (HSAR) 48 CFR 3052.228-93 prescribed in paragraph (d)(1) of this section shall be used.

(1) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-93, Risk and Indemnities, in any contract for out-service flight training or for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days.

(2) For the U.S. Coast Guard, any contract for out-service flight training shall include a clause in the contract schedule stating substantially that the contractor's personnel shall at all times during the course of the training be in command of the aircraft and that at no time shall other personnel be permitted to take command of the aircraft.

3028.307 Insurance under cost-reimbursement contracts.

3028.307-1 Group insurance plans.

Plans shall be submitted to the contracting officer, who must obtain the advice of legal counsel.

3028.310 Contract clause for work on a Government installation.

3028.310-70 Contract clause.

Insert a clause substantially similar to (HSAR) 48 CFR 3052.228-70, "Insurance," in all solicitations and contracts that contain the clause at (FAR) 47 CFR 52.228-5.

3028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

3028.311-1 Contract clause.

Insert a clause substantially similar to (HSAR) 48 CFR 3052.228-70, "Insurance," in all solicitations and contracts that contain the clause at (FAR) 48 CFR 52.228-7, unless waived by an official one level above the contracting officer.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3029 TAXES

[RESERVED]

PART 3030 COST ACCOUNTING STANDARDS ADMINISTRATION

Subpart 3030.2 CAS Program Requirements
3030.201 Contract requirements.
3030.201-5 Waiver.

Subpart 3030.2 CAS Program Requirements

3030.201 Contract requirements.

3030.201-5 Waiver.

(b)(1) The CPO is authorized to waive the application of the Cost Accounting Standards to individual firm fixed-price contracts for the acquisition of commercial items. This authority may not be redelegated.

(2) Submit waiver requests per (HSAR) 48 CFR 3001.7000(a), for review and transmittal by the CPO to the Cost Accounting Standard Board.

PART 3031 CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 3031.2 Contracts with Commercial Organizations.
3031.205 Selected Costs.
3031.205-32 Precontract costs.

Subpart 3031.2 Contracts with Commercial Organizations

3031.205 Selected costs.

3031.205-32 Precontract costs.

(a) The decision to incur precontract costs is that of the contractor. DHS employees may not can authorize, demand, or require a contractor to incur precontract costs. The contracting officer must advise the prospective contractor that any costs incurred before contract award are incurred at the contractor's sole risk and that if negotiations fail to result in a binding contract, payment of these costs will not be made by the Government. See (HSAR) 48 CFR 3032.205-32(b) regarding exception due to reconciliation of costs.

(b) When the contracting officer determines that incurring precontract costs was necessary to meet the proposed contract delivery schedule of a cost-reimbursement contract, the clause at (HSAR) 48 CFR 3052.231-70, Precontract Costs, may be inserted in the resultant contract.

PART 3032 CONTRACT FINANCING

Subpart	**3032.000**	**Scope of part**
	3032.003	Simplified acquisition procedures financing.
	3032.006	Reduction or suspension of contract payments upon finding of fraud.
	3032.006-2	Definition.
	3032.006-3	Responsibilities.
Subpart	**3032.11**	**Electronic Funds Transfer**
	3032.1110	Solicitation provision and contract clauses.

Subpart 3032.000 Scope of part

3032.003 Simplified acquisition procedures financing.

Contract financing may be permitted for purchases made under the authority of (FAR) 48 CFR Part 13. This authority is delegated to COCO and may not be redelegated.

3032.006 Reduction or suspension of contract payments upon finding of fraud.

3032.006-2 Definition.

The CPO is the DHS remedy coordination official (RCO).

3032.006-3 Responsibilities.

(a) The CPO is authorized to establish specific procedures.

(b) Reports shall be made through the HCA to the CPO.

3032.11 Electronic Funds Transfer

3032.1110 Solicitation provision and contract clauses.

(a)(1) Contracting officer shall insert FAR 48 CFR 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, in all proposed solicitations and contracts.

PART 3033 PROTESTS, DISPUTES, AND APPEALS

Subpart 3033.2 Disputes and Appeals
3033.201 Definitions.
3033.211 Contracting officer's decision.
3033.214 Alternative disputes resolution (ADR).

Subpart 3033.2 Disputes and Appeals

3033.201 Definitions.

"Agency Board of Contract Appeals" means the Department of Transportation Board of Contract Appeals (DOTBCA).

3033.211 Contracting officer's decision.

For DHS contracts, the Board of Contract Appeals (BCA) noted in (FAR) 48 CFR 33.211 is the Department of Transportation Board of Contract Appeals (DOTBCA)(S-20), 400 7th Street, S.W., Washington, DC, 20590. The DOTBCA Rules of Procedure are contained in 48 CFR Chapter 63, Part 6301. TSA shall use the DOTBCA for only Contract Disputes Act (CDA) requirements.

3033.214 Alternative dispute resolution (ADR).

(c) The Administrative Dispute Resolution Act (ADRA) of 1996, as amended, 5 U.S.C. 571, *et. seq.*, authorizes and encourages agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes. The DOTBCA ADR procedures are contained in 48 CFR chapter 63, Section 6302.30, ADR Methods (Rule 30), and will be distributed to the parties, if ADR procedures are used. These procedures may be obtained from the DOTBCA upon request. ADR procedures may be used when--

(1) there is mutual consent by the parties to participate in the ADR process (with consent being obtained either before or after an issue in controversy has arisen);

(2) prior to the submission of a claim; and

(3) in resolution of a formal claim.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3034 MAJOR SYSTEM ACQUISITION

[RESERVED]

PART 3035 RESEARCH AND DEVELOPMENT CONTRACTING

Subpart 3035.000 Scope of Part
3035.003 Policy.

Subpart 3035.000 Scope of Part

3035.003 Policy.

(b) Cost sharing shall be determined on a case by case basis. OEs may establish procedures for cost sharing.

(c) Recoupment shall be determined on a case-by-case basis. Recoupment not otherwise required by law should be structured to address factors such as recovering the Department's fair share of its investment in nonrecurring costs related to the items acquired. Advice of legal counsel shall be obtained prior to establishing cost sharing policies and recoupment mechanisms under (FAR) 48 CFR 35.003(b) and (c).

PART 3036 **CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

Subpart 3036.2 **Special Aspects of Contracting for Construction**
3036.201 Evaluation of contractor performance.

Subpart 3036.5 **Contract Clauses**
3036-570 Special precautions for work at operating airports.

Subpart 3036.2 Special Aspects of Contracting for Construction

3036.201 Evaluation of contractor performance.

(a)(2) Performance reports shall be prepared and entered into the Contractor Performance System (CPS) on an annual basis for contracts exceeding one year, or as otherwise required by (FAR) 48 CFR 36.201. Access to reports is through the CPS or the government-wide system, Past Performance Information Retrieval System (PPIRS).

Subpart 3036.5 Contract Clauses.

3036.570 Special precautions for work at operating airports.

Where any acquisition will require work at an operating airport, insert the clause at (HSAR) 48 CFR 3052.236-70, Special Precautions for Work at Operating Airports, in solicitations and contracts.

PART 3037 SERVICE CONTRACTING

Subpart	**3037.1**	**Service Contracts – General**
	3037.103	Contracting officer responsibility.
	3037.103-70	Contractor personnel access application.
	3037.103-71	Conditional access to sensitive but unclassified information.
	3037.104	Personal services contracts.
	3037.104-70	Personal services contracts.
	3037.104-90	Personal services contracts (USCG).
	3037.104-91	Personal services with individuals under the authority of 10 U.S.C. 1091 (USCG).
	3037.110-70	Solicitation provisions and contract clauses.

Subpart 3037.1 Service Contracts – General

3037.103 Contracting officer responsibility.

3037.103-70 Contractor personnel access application.

Contractor personnel who will require recurring access to DHS facilities as part of contract performances shall complete HSIF Form 3237, Contractor Personnel Access Application, before starting work under the contract. The completed form shall be submitted to the appropriate DHS office as designated in the contract. Contractor personnel may be required to complete additional forms, as necessary.

3037.103-71 Conditional access to sensitive but unclassified information.

Contractor personnel who will require access to sensitive but unclassified information as part of contract performances shall complete HSIF Form 4024, Sensitive Information Non-Disclosure Agreement, before starting work under the contract. The completed form shall be submitted to the appropriate DHS office as designated in the contract. Additional requirements are established in clause (HSAR) 48 CFR 3052.237-71, Information Technology Systems Access for Contractors.

3037.104 Personal services contracts.

3037.104-70 Personal services contracts.

(b)(i) Authorization to acquire the personal services of experts and consultants is included in Public Law 107-296, Section 832(1) and (2).
This section includes authority to use personal service contracts without regard to the pay limitation of 5 U.S.C. 3109 when the services are necessary due to an urgent homeland security need.
(A) Prepare each D&F in accordance with (FAR) 48 CFR 1.7 and include a

determination that-

(1) The duties are of a temporary or intermittent nature and not to exceed one year;

(2) DHS personnel with necessary skills are not available;

(3) Excepted appointment cannot be obtained;

(4) A nonpersonal services contract is not practicable;

(5) Statutory authority, Public Law 107-297, Section 832(1) or Section 832(2) and other legislation, apply;

(6) If the pay limitation of 5 U.S.C. 3109 is exceeded, the D&F supports the rationale; and

(7) Any other determination required by statues has been made.

(B)(1) Except as provided in paragraph (b)(i)(B)(2) of this subsection, the COCO shall approve the D&F required by subparagraph (b)(i)(A).

(2) The HCA shall approve the D&F for personal service contracts for experts and consultant services that are acquired without regard to the pay limitation of 5 U.S.C. 3109. This determination shall include a finding that the services are necessary due to urgent homeland security needs.

(i) The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(ii) Coordinate benefits, taxes, personnel ceilings, and maintenance of records with the appropriate office(s).

3037.104-90 Personal services contracts (USCG).

(a) The U.S. Coast Guard HCA may enter into medical personal services contracts according to 10 U.S.C. 1091.

(b) The authority of 10 U.S.C. 1091(a)(2) expires DEC 31, 2003.

3037.104-91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091 (USCG).

(a) Health care personal services contracts awarded to individuals shall be selected through procedures established in this section. Selections made using the procedures in

this section are exempt by statute from (HSAR) 48 CFR part 3006 competition requirements (see (HSAR) 48 CFR 3006.9000 (USCG)) and from (FAR) 48 CFR Part 6 competition requirements.

(b) The contracting officer shall provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice should include the qualification criteria against which individuals responding shall be evaluated. Contracting officers shall solicit offerors through the most effective means of seeking competition, such as a local publication, which serves the area of the facility. Acquisitions of health care services using personal services contracts are exempt from posting and synopsis requirements of (FAR) 48 CFR Part 5.

(c) The contracting officer shall provide the qualifications of individuals responding to the notice to the representative(s) responsible for evaluation and ranking according to the evaluation procedures. Individuals shall be considered solely on the professional qualifications established for the particular health care services being acquired and the Government's estimate of reasonable rates, fees, or costs. The representative(s) responsible for the evaluation and ranking shall provide the contracting officer with rationale for the ranking of the individuals consistent with the required qualifications.

(d) Upon receipt of the ranked listing of offerors, the contracting officer shall either:
(1) enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;
(2) enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

3037.110-70 Solicitation provisions and contract clauses.

(a) Contracting officers shall insert the clause at (HSAR) 48 CFR 3052.237-70, Qualifications of Contractor Employees, in all solicitations and contracts for services, which require contract employees to have recurring access to Government facilities, sensitive information, including proprietary data or resources. This may include Information Technology (IT) requirements for design, development, or operation and maintenance of sensitive application in non-DHS or DHS facilities.

(b) In addition to the (HSAR) clause 48 CFR 3052.237-70, the contracting officer shall also include the contract clauses, (HSAR) clause 48 CFR 3052.237-71, "Information Systems Access for Contractors" and (HSAR) clause 48 CFR 3052.237-72, "Contractor Personnel Screening for Unclassified Information Technology".

(c) The contracting officer shall also include (HSAR) clause 48 CFR 3052.204-70, "Information Technology Security Plan" in solicitations and contracts when the prescription at paragraph (a) above applies.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3038

FEDERAL SUPPLY SCHEDULE CONTRACTING

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3039

ACQUISITION OF INFORMATION TECHNOLOGY

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3040

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3041

ACQUSITION OF UTILITY SERVICES

[RESERVED]

PART 3042 CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 3042.2 **Contract Administration Services**
3042.202 Assignment of contract administration.
3042.202-70 Contract clauses.

Subpart 3042.15 **Contractor Performance Information**
3042.1502 Policy.

Subpart 3042.70 **Contracting Officer's Technical Representative**
3042.7000 Contract clause.

Subpart 3042.2 Contract Administration Services

3042.202 Assignment of contract administration.

3042.202-70 Contract clauses.

(a) The contracting officer may use the clause at (HSAR) 48 CFR 3052.242-70, Dissemination of Information - Educational Institutions, in lieu of the clause at (HSAR) 48 CFR 3052.242-71, Dissemination of Contract Information, in DHS research contracts with educational institutions, except contracts that require the release or coordination of information.

(b) The contracting officer may insert the clause at (HSAR) 48 CFR 3052.242-71, Dissemination of Contract Information, in all DHS contracts except contracts that require the release or coordination of information.

Subpart 3042.15 Contractor Performance Information

3042.1502 Policy.

(a) OEs shall use the Contractor Performance System (CPS) for evaluating contractor performance in accordance with (FAR) 48 CFR Parts 42.1502 and 1503.

Subpart 3042.70 Contracting Officer's Technical Representative

3042.7000 Contract clause.

The contracting officer shall insert the clause at (HSAR) 48 CFR 3052.242-72, Contracting Officer's Technical Representative, in solicitations and contracts when it is intended that a representative will be assigned to the contract to perform functions of a technical nature.

HOMELAND SECURITY ACQUISITION REGULATION

PART 3043

CONTRACT MODIFICATIONS

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3044

SUBCONTRACTING POLICIES AND PROCEDURES

[RESERVED]

PART 3045 GOVERNMENT PROPERTY

Subpart 3045.5 Management of Government Property in the Possession of Contractors
3045.505 Records and reports of Government property.
3045.505-14 Reports of Government property.
3045.505-70 Solicitation provisions and contract clauses.
3045.508 Physical inventories.
3045.508-2 Reporting results of inventories.
3045.508-3 Quantitative and monetary control.
3045.511 Audit of property control system.

Subpart 3045.5 Management of Government Property in the Possession of Contractors

3045.505 Records and reports of Government property.

3045.505-14 Reports of Government property.

(a) When Government property is furnished to or acquired by the contractor to perform the contract, the contract shall require the contractor to submit annual reports (see (FAR) 48 CFR 45.505-14) to the contracting officer not later than September 15 of each year. The contractor's report shall be submitted on DHS Form 0700-05, Contractor Report of Government Property.

3045.505-70 Solicitation provisions and contract clauses.

Contracting officers shall insert the clause at (HSAR) 48 CFR 3052.245-70 in solicitations and contracts when the contract will require Government provided or contractor acquired property.

3045.508 Physical inventories.

3045.508-2 Reporting results of inventories.

The inventory report shall also include the following:

(a) Name and title of the individual(s) that performed the physical inventory;

(b) An itemized, categorized listing of all property capitalized: (1) land and rights therein;

(2) other real property; (3) plant equipment; (4) special test equipment; and (5) special tooling;

(c) An itemized listing of the property lost, damaged, destroyed, or stolen, the circumstances surrounding each incident, and the resolution of the incident; and

(d) Any discrepancies between the physical inventory and the contractor's record of Government property.

3045.508-3 Quantitative and monetary control.

Contracting officers shall require the contractor to provide the quantity and unit cost of each item of Government property reported under (HSAR) 48 CFR 3045.508-2(b) and (c).

3045.511 Audit of property control system.

(a) The property administrator (or other Government official authorized by the contracting officer) shall audit the contractor's property control system whenever there are indications that the contractor's property control system may be deficient. Examples of deficiencies are:

(1) Failure of the contractor to acknowledge receipt of GFP;

(2) Failure of the contractor to submit the annual property reports required by (HSAR) 48 CFR 3045.505-14;

(3) Failure of the contractor to reconcile its physical inventory with its property control record; or

(4) Failure of the contractor to submit a Government property listing when requested by the property administrator.

(b) When it is determined that the contractor's property control system is deficient, the property administrator, in coordination with the contracting officer, shall discuss the deficiencies with the contractor. If the contractor does not take action to correct the deficiencies, the contracting officer shall provide the contractor with a written notice of the deficiencies and the date all deficiencies shall be corrected.

PART 3046 QUALITY ASSURANCE

Subpart	**3046.7**	**Warranties**
	3046.702	General.
	3046.702-70	Additional definitions.
	3046.703	Criteria for use of warranties.
	3046.705	Limitations.
	3046.706	Warranty terms and conditions.
	3046.790	Additional USCG definitions (USCG).
	3046.791	Use of warranties in major systems acquisitions by the USCG (USCG).
	3046.791-1	Policy (USCG).
	3046.791-2	Tailoring warranty terms and conditions (USCG).
	3046.791-3	Warranties on Government-furnished property (USCG).
	3046.792	Cost benefit analysis (USCG).
	3046.793	Waiver and notification procedures (USCG).

3046.7 Warranties

3046.702 General.

3046.702-70 Additional definitions.

"At no additional cost to the Government", means without an increase in price for firm-fixed-price contracts, without an increase in target or ceiling price for fixed price incentive contracts (see (FAR) 48 CFR 46.707), or without an increase in estimated cost or fee for cost-reimbursement contracts.

"Defect" means any condition or characteristic in any supplies or services furnished by the contractor under the contract that is not in compliance with the requirements of the contract.

"Design and manufacturing requirements" means structural and engineering plans and manufacturing particulars, including precise measurements, tolerances, materials and finished product tests for the major system being produced.

"Major system" means a system or major subsystem used directly by the Department of Homeland Security (DHS) to carry out its mission(s), as defined by HSAM Chapter 1234, Major Acquisition Policies and Procedures (for dollar threshold applicable to U.S. Coast Guard, See Coast Guard guidance at (HSAR) 48 CFR 3046.701-90). The term does not include:

(1) related support equipment, such as ground-handling equipment, training devices and accessories thereto, unless a cost effective warranty for the system would require inclusion of such items; or

(2) commercial items sold in substantial quantities to the general public as described in (FAR) 48 CFR Part 2.

"Performance requirements" means the operating capabilities, maintenance, and reliability characteristics of a system that are determined to be necessary for it to fulfill the requirement for which the system is designed.

3046.703 Criteria for use of warranties.

(a) Major Systems. The use of warranties in the procurement of major systems by the USCG is mandatory, unless waived (see USCG guidance at (HSAR) 48 CFR 3046.792). Other OEs may use the procedures in USCG guidance in this part as a guideline for major systems acquisitions.

3046.705 Limitations.

(a) The following restrictions are applicable to DHS contracts:

(1) The USCG is required to include a warranty in cost reimbursement contracts for the production of major systems acquisitions.

(2) Any warranty on major system acquisitions shall not apply in the case of any system or component thereof which has been furnished by the Government to a contractor except as indicated in the USCG guidance at (HSAR) 48 CFR 3046.791-3.

(3) Any warranty obtained shall specifically exclude coverage of damage in time of war or national emergency.

3046.706 Warranty terms and conditions.

(a) The contracting officer, in developing the warranty terms and conditions, shall consider the following, and, where appropriate and cost beneficial, shall:

(1) Identify the affected line item(s) and the applicable specification(s);

(2) Require that the line item's design and manufacture will conform to: (i) an identified revision of a top-level drawing; and/or (ii) an identified specification or revision thereof;

(3) Require that the system conform to the specified Government performance requirements;

(4) Require that all systems and components delivered under the contract will be free from defects in materials and workmanship;

(5) State that in the event of failure due to nonconformance with specification and/or defects in material and workmanship, the contractor will bear the cost of all work

necessary to achieve the specified performance requirements, including repair and/or replacement of all parts;

(6) Require the timely replacement/repair of warranted items and specify lead times for replacement/repair where possible;

(7) Identify the specific paragraphs containing Government performance requirements which must be met;

(8) Ensure that any performance requirements identified as goals or objectives in excess of specification requirements are excluded from the warranty provision;

(9) Define what constitutes the start of the warranty period (e.g., delivery, acceptance, in-service date), the ending of the warranty (e.g., passing a test or demonstration, or operation without failure for a specified time period), and circumstances requiring an extension of warranty duration (e.g., extending the warranty period as a result of mass defect correction during warranty period);

(10) Identify what transportation costs will be paid by the contractor in conjunction with warranty coverage;

(11) Identify any conditions which will not be covered by the warranty, other than the exclusion of combat damage; and

(12) Identify any limitation on the total dollar amount of the contractor's warranty exposure, or agreement to share costs after a certain dollar threshold to avoid unnecessary warranty returns.

(b) Any contract that contains a warranty clause shall contain warranty implementation procedures, including warranty notification content and procedures, and identify the individuals responsible for implementation of warranty provisions. The contract may also permit the contractor's participation in investigation of system failures, providing that the contractor is reimbursed at established rates for fault isolation work, and that the Government receives credit for any payments where equipment failure is covered by warranty provisions.

3046.790 Additional USCG definitions (USCG).

For the USCG, in accordance with Public Law 99-190, the dollar threshold as it pertains to the inclusion of a warranty in major systems acquisitions is $10 million.

3046.791 Use of warranties in major systems acquisitions by the USCG (USCG).

This subpart provides the policy for the USCG to use in obtaining warranties from contractors when contracting for the acquisition of a major system.

3046.791-1 Policy (USCG).

The USCG shall include a warranty in all contracts for major systems acquisitions. When drafting warranty provisions/clauses for major systems acquisitions, the contracting officer shall ensure that the items listed at (HSAR) 48 CFR 3046.706 have been considered. The warranty shall also meet the following requirements:

(a) For systems or components which are commercially available, such warranty as is normally provided by the manufacturer or supplier shall be obtained in accordance with (FAR) 48 CFR 46.703(d) and (FAR) 48 CFR 46.710(b)(2).

(b) For systems or components provided in accordance with either design and manufacturing or performance requirements as specified in the contract or any modification to that contract, a warranty of compliance with the stated requirements shall be obtained.

(c) The warranty provided under paragraph (b) of this section shall provide that in the event the major system or any component thereof fails to meet the terms of the warranty provided, the contracting officer may:

(1) require the contractor to promptly take such corrective action as the contracting officer deter-mines to be necessary at no additional cost to the Government, including repairing or replacing all parts necessary to achieve the requirements set forth in the contract;

(2) require the contractor to pay costs reasonably incurred by the United States in taking necessary corrective action; or

(3) equitably reduce the contract price.

(d) Any warranty shall specifically exclude coverage of combat damage.

3046.791-2 Tailoring warranty terms and conditions (USCG).

(a) As the objectives and circumstances vary considerably among major systems acquisition programs, contracting officers shall appropriately tailor the warranty on a case-by-case basis, including remedies, exclusions, limitations and durations, provided the tailoring is consistent with the specific requirements of this subpart and (FAR) 48 CFR 46.706.

(b) Contracting officers of major systems acquisitions may exclude from the terms of the warranty certain defects for specified supplies (exclusions) and may limit the contractor's liability under the terms of the warranty (limitations), as appropriate, if necessary to derive a cost-effective warranty in light of the technical risk, contractor financial risk, or other program uncertainties.

(c) Contracting officers are encouraged to structure a broader and more comprehensive warranty where such is advantageous. Likewise, the contracting officer may narrow the scope of a warranty when appropriate (e.g., where it would be inequitable to require a warranty of all performance requirements because a contractor had not designed the system).

(d) Contracting officers shall not include in a warranty clause any terms that require the contractor to incur liability for loss, damage, or injury to third parties.

3046.791-3 Warranties on Government-furnished property (USCG).
A contractor for a major systems acquisition shall not be required to provide the warranties specified in (HSAR) 48 CFR 3046.790-1 on any property furnished to that contractor by the Government except for: (a) defects in installation; and (b) installation or modification in such a manner that invalidates a warranty provided by the manufacturer of the property.

3046.792 Cost benefit analysis (USCG).

If a specific warranty is considered not to be cost beneficial by the contracting officer, a waiver request shall be initiated in accordance with guidance at (HSAR) 48 CFR 3046.793.

3046.793 Waiver and notification procedures (USCG).

(a) The Secretary of Homeland Security, without delegation, may waive the requirement for a warranty for USCG major system acquisitions when the waiver is in the interest of national defense or if the warranty obtained would not be cost beneficial. A waiver may be granted provided that the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified, in writing, of the Secretary's intention to waive the warranty requirements and the reasons supporting such a determination prior to granting the waiver. The request for Secretarial waiver shall include, as a minimum:

(1) A brief description of the major system and its stage of production (e.g., the number of units delivered and anticipated to be delivered during the life of the program);

(2) The specific waiver requested, the duration of the waiver if it is to involve more than one contract, and the rationale for the waiver; and

(3) All documentation supporting the request for waiver, such as a cost-benefit analysis.

(b) The waiver request shall be forwarded to the Secretary, via the CPO. The USCG shall maintain a written record of each waiver granted and the Congressional notification and report made, together with supporting documentation.

PART 3047 TRANSPORTATION

Subpart	**3047.3**	**Transportation in Supply Contracts**
	3047.305	Solicitation provisions, contract clauses, and transportation factors.
	3047.305-70	Solicitation provision.

Subpart 3047.3 Transportation in Supply Contracts

3047.305 Solicitation provisions, contract clauses, and transportation factors.

3047.305-70 Solicitation provisions.

The contracting officer shall insert the following provisions in solicitations, as applicable:

(a) (HSAR) 48 CFR 3052.247-70, F.o.b. Origin Information, with Alternates I or II, as applicable, shall be inserted in accordance with (FAR) 48 CFR 47.305-3(b);

(b) (HSAR) 48 CFR 3052.247-71, F.o.b. Origin Only, shall be inserted in accordance with (FAR) 48 CFR 47.305-3(e); and

(c) (HSAR) 48 CFR 3052.247-72, F.o.b. Destination Only, shall be inserted in accordance with (FAR) 48 CFR 47.305-4(b).

HOMELAND SECURITY ACQUISITION REGULATION

PART 3048

VALUE ENGINEERING

[RESERVE]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3049

TERMINATION OF CONTRACTS

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3050

EXTRAORDINARY CONTRACTUAL ACTIONS

[RESERVED]

HOMELAND SECURITY ACQUISITION REGULATION

PART 3051

USE OF GOVERNMENT SOURCES BY CONTRACTORS

[RESERVED]

PART 3052 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 3052.1 Instructions for Using Provisions and Clauses

3052.101 Using Part 3052.

Subpart 3052.2 Texts of Provisions and Clauses

3052.204-70 Security Requirements for Unclassified Information Technology Resources.
3052.209-70 Prohibition on Contracts with Corporate Expatriates.
3052.209-71 Reserve Officer Training Corps and Military Recruiting on Campus.
3052.209-72 Disclosure of Conflicts of Interest.
3052.211-70 Index for Specifications.
3052.211-90 Bar Coding Requirement (USCG).
3052.213-90 Evaluation Factor for Coast Guard Performance of Bar Coding Requirement (USCG).
3052.215-70 Key Personnel or Facilities.
3052.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause.
3052.216-71 Determination of Award Fee.
3052.216-72 Performance Evaluation Plan.
3052.216-73 Distribution of Award Fee.
3052.216-74 Settlement of Letter Contract.
3052.217-90 Delivery and Shifting of Vessel (USCG).
3052.217-91 Performance (USCG).
3052.217-92 Inspection and Manner of Doing Work (USCG).
3052.217-93 Subcontracts (USCG).
3052.217-94 Lay Days (USCG).
3052.217-95 Liability and Insurance (USCG).
3052.217-96 Title (USCG).
3052.217-97 Discharge of Liens (USCG).
3052.217-98 Delays (USCG).
3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair (USCG).
3052.217-100 Guarantee (USCG).
3052.219-70 Small Business Subcontracting Program Reporting.
3052.219-71 DHS Mentor-Protégé Program.
3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program.
3052.222-70 Strikes or Picketing Affecting Timely Completion of the Contract Work.
3052.222-71 Strikes or Picketing Affecting Access to a DHS Facility.
3052.222-90 Local Hire (USCG).
3052.223-70 Removal or Disposal of Hazardous Substances-Applicable Licenses and Permits.

3052.223-90	Accident and Fire Reporting (USCG).
3052.228-70	Insurance.
3052.228-90	Notification of Miller Act Payment Bond Protection (USCG).
3052.228-91	Loss of or Damage to Leased Aircraft (USCG).
3052.228-92	Fair Market Value of Aircraft (USCG).
3052.228-93	Risk and Indemnities (USCG).
3052.231-70	Precontract Costs.
3052.236-70	Special Provisions for Work at Operating Airports.
3052.237-70	Qualifications of Contractor Employees.
3052.237-71	Information Technology Systems Access for Contractors.
3052.237-72	Contractor Personnel Screening for Unclassified Information Technology Access.
3052.242.70	Dissemination of Information-Educational Institutions.
3052.242-71	Dissemination of Contract Information.
3052.242-72	Contracting Officer's Technical Representative.
3052.245-70	Government Property reports.
3052.247-70	F.o.B. Origin Information**.**
3052.247-71	F.o.B. Origin Only.
3052.247-72	F.o.B. Destination Only.

Subpart 3052.1 Instructions for Using Provisions and Clauses

3052.101 Using Part 3052.

(b) Numbering.

(2)(i) Provisions or clauses that supplement the FAR.

(A) Agency-prescribed provisions and clauses permitted by HSAR and used on a standard basis (i.e., normally used in two or more solicitations or contracts regardless of contract type) shall be prescribed and contained in the HSAR. OEs desiring to use a provision or a clause on a standard basis shall submit a request containing a copy of the clause(s), justification for its use, and evidence of legal counsel review to the CPO in accordance with (HSAR) 48 CFR 3001.304 for possible inclusion in the HSAR.

(B) Provisions and clauses used on a one-time basis (i.e., non-standard provisions and clauses) may be approved by the contracting officer, unless a higher level is designated by the OE. This authority is subject to:

(1) evidence of legal counsel review in the contract file;

(2) inserting these clauses in the appropriate sections of the uniform contract format; and

(3) ensuring the provisions and clauses do not deviate from the requirements of the FAR and HSAR.

Subpart 3052.2 Text of Provisions and Clauses

3052.204-70 Security Requirements for Unclassified Information Technology Resources.

As prescribed in (HSAR) 48 CFR 3004.470-4 Contract clauses, and (HSAR) 48 CFR 3037.110-70 (a) and (b), insert a clause substantially the same as follows:

SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES [DEC 2003]

(a) The Contractor shall be responsible for Information Technology (IT) security for all systems connected to a DHS network or operated by the Contractor for DHS, regardless of location. This clause applies to all or any part of the contract that includes information technology resources or services for which the Contractor must have physical or electronic access to sensitive information contained in DHS unclassified systems that directly support the agency's mission. The security requirements include, but are not limited to, how the Department of Homeland Security's sensitive information is to be handled and protected at the Contractor's site, (including any information stored, processed, or transmitted using the Contractor's computer systems), the background investigation and/or clearances required, and the facility security required. This requirement includes information technology, hardware, software, and the management, operation, maintenance, programming, and system administration of computer systems, networks, and telecommunications systems. Examples of tasks that require security provisions include--

(1) Acquisition, transmission or analysis of data owned by DHS with significant replacement cost should the contractor's copy be corrupted; and

(2) Access to DHS networks or computers at a level beyond that granted the general public, (e.g. such as bypassing a firewall).

(b) At the expiration of the contract, the contractor shall return all sensitive DHS information and IT resources provided to the contractor during the contract, and a certification that all DHS information has been purged from any contractor-owned system used to process DHS information. Organizational elements shall conduct reviews to ensure that the security requirements in the contract are implemented and enforced.

(c) The Contractor shall provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The

Contractor's IT Security Plan shall be compliant with Federal laws that include, but are not limited to, the Computer Security Act of 1987 (40 U.S.C. 1441 et seq.), and the Government Information Security Reform Act of 2000, and the Federal Information Security Management Act of 2002. The plan shall meet IT security requirements in accordance with Federal policies and procedures that include, but are not limited to OMB Circular A-130, Management of Federal Information Resources, Appendix III, and Security of Federal Automated Information Resources;

(d) Within ____days after contract award, the contractor shall submit for approval an IT Security Plan. This plan shall be consistent with and further detail the approach contained in the offeror's proposal or quote that resulted in the award of this contract and in compliance with the requirements stated in this clause. The plan, as approved by the Contracting Officer, shall be incorporated into the contract as a compliance document.

(e) Within 6 months after contract award, the contractor shall submit written proof of IT Security accreditation to DHS for approval by the DHS Contracting Officer. Accreditation will be according to the criteria of the Homeland Security Information Technology Security program Publication, DHS MD 4300.Pub., Volume I, Policy Guide, Part A, Sensitive Systems, which is available from the Contracting Officer upon request. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document, and shall include a final security plan, a risk assessment, security test and evaluation, and disaster recovery/continuity of operations plan. The contractor shall comply with the approved accreditation documentation.

(End of clause)

3052.209-70 Prohibition on contracts with corporate expatriates.

As prescribed at (HSAR) 48 CFR 3009.104-75, insert the following clause:

PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES [DEC 2003]

(a) Prohibitions.
Section 835 of Public Law 107-296, prohibits the Department of Homeland Security from entering into any contract with a foreign incorporated entity after November 25, 2002, which is treated as an inverted domestic corporation as defined in this clause. The Secretary shall waive the prohibition with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

(b) Definitions. As used in this clause:

"Expanded Affiliated Group" means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code),

except that section 1504 of such Code shall be applied by substituting `more than 50 percent' for `at least 80 percent' each place it appears.

"Foreign Incorporated Entity" means any entity which is, or but for subsection (b) of Section 835 of the Homeland Security Act, Public Law 107-296, would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

"Inverted Domestic Corporation." A foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) The entity completes after November 25, 2002, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) After the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(i) In the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(ii) In the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) The expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.
"Person", "domestic", and "foreign" have the meanings given such terms by paragraphs

(1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(c) Special rules. The following definitions and special rules shall apply when determining whether a foreign incorporated entity should be treated as an inverted domestic corporation.

(1) Certain Stock Disregarded. For the purpose of treating a foreign incorporated entity as an inverted domestic corporation these shall not be taken into account in determining ownership:

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1) of Section 835 of the Homeland Security Act, Public Law 107-296.

(2) Plan Deemed In Certain Cases. If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(3) Certain Transfers Disregarded. The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(d) Special Rule For Related Partnerships. For purposes of applying Section 835(b) of Public Law 107-296 to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as a partnership.

(e) Treatment of Certain Rights.
(1) Certain rights shall be treated as stocks to the extent necessary to reflect the present value of all equitable interests incident to the transaction, as follows:
(i) warrants;
(ii) options;
(iii) contracts to acquire stock;
(iv) convertible debt instruments; and
(v) others similar interests.
(2) Rights labeled as stocks shall not be treated as stocks whenever it is deemed appropriate to do so to reflect the present value of the transaction or to disregard transactions whose recognition would defeat the purpose of Section 835.

(f) Disclosure.
By signing and submitting its offer, an offeror under this solicitation represents that it not a foreign incorporated entity that should be treated as an inverted domestic corporation pursuant to the criteria of Section 835 of the Homeland Security Act, Public Law 107-296 of November 25, 2002.

(g) If a waiver has been granted, a copy of the approved waiver shall be attached to the bid or proposal.

(End of provision)

3052.209-71 Reserve Officer Training Corps and Military Recruiting on Campus.

As prescribed in (HSAR) 48 CFR 3009.470-4, use the following clause:

RESERVE OFFICER TRAINING CORPS AND MILITARY RECRUITING ON CAMPUS [DEC 2003]

(a) Definitions. "Institution of higher education," as used in this clause, means an institution that meets the requirements of 20 U.S.C. 1001 and includes all subelements of such an institution.

(b) Limitation on contract award. Except as provided in paragraph (c) of this clause, an institution of higher education is ineligible for contract award if the Secretary of Defense determines that the institution has a policy or practice (regardless of when implemented) that prohibits or in effect prevents-

(1) The Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (ROTC) (in accordance with 10 U.S.C. 654 and other applicable Federal laws) at that institution;

(2) A student at that institution from enrolling in a unit of the Senior ROTC at another institution of higher education;

(3) The Secretary of a military department or the Secretary of Homeland Security from gaining entry to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting; or

(4) Military recruiters from accessing, for purposes of military recruiting, the following information pertaining to students (who are 17 years of age or older) enrolled at that institution:

(i) Name.
(ii) Address.
(iii) Telephone number.
(iv) Date and place of birth.
(v) Educational level.
(vi) Academic major.
(vii) Degrees received.
(viii) Most recent educational institution enrollment.

(c) Exception. The limitation in paragraph (b) of this clause does not apply to an institution of higher education if the Secretary of Defense determines that-

(1) The institution has ceased the policy or practice described in paragraph (b) of this clause; or

(2) The institution has a long-standing policy of pacifism based on historical religious affiliation.

(d) Agreement. The Contractor represents that it does not now have, and agrees that during performance of this contract it will not adopt, any policy or practice described in paragraph (b) of this clause, unless the Secretary of Defense has granted an exception in accordance with paragraph (c)(2) of this clause.

(e) Notwithstanding any other clause of this contract, if the Secretary of Defense determines that the Contractor misrepresented its policies and practices at the time of contract award or has violated the agreement in paragraph (d) of this clause-

(1) The Contractor will be ineligible for further payments under this and any other contracts with the Department of Homeland Security; and

(2) The Government will terminate this contract for default for the Contractor's material failure to comply with the terms and conditions of award.

(End of clause)

3052.209-72 Disclosure of conflicts of interest.

As prescribed in (HSAR) 48 CFR 3009.507, insert the following provision:

DISCLOSURE OF CONFLICTS OF INTEREST
[DEC 2003]

The Department of Homeland Security (DHS) will award contracts only to those offerors whose objectivity is not impaired by conflicting interests. Based on this policy—

(a) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization whose interests may be substantially affected by Departmental activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors for more than 20% of the work and key personnel of the offeror and any subcontractor accounting for more than 20% of the contract. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel, for purposes of this clause, shall include any person owning more than 20% interest in the company, and the company's corporate officers, its senior managers and any employees responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner.

(c) In the absence of any relevant interest identified in (a) above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to DHS, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If, after award, the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

(End of clause)

3052.211-70 Index for specifications.

As prescribed in (HSAR) 48 CFR 3011.204-70, insert the following clause:

INDEX FOR SPECIFICATIONS
[DEC 2003]

If an index or table of contents is furnished in connection with specifications, it is understood that such index or table of contents is for convenience only. Its accuracy and completeness is not guaranteed, and it is not to be considered as part of the specifications. In case of discrepancy between the index or table of contents and the specifications, the specifications shall govern.

(End of clause)

3052.211-90 Bar coding requirement (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3011.204-90(a) and 3013.302-590, insert the following clause:

BAR CODING REQUIREMENTS
[DEC 2003]

12-04-03

Item markings shall include bar coding in accordance with MIL-STD-1189 as clarified below:

(a) The stock number shall be bar coded with no prefixes, dashes, spaces, or suffixes encoded. The contract number, the delivery order, or call order number, when used, shall be bar coded with no spaces or dashes encoded.

(b) Prefixes and suffixes to the stock number may be included in the OCR-A in-the-clear markings, but not in the bar code.

(c) Preferred Bar Code Density (characters per inch as defined in MIL-STD-1189) is "standard," but densities from "standard" to "low" are acceptable.

(d) OCR-A characters do not have to be machine-readable.

(e) Bar coding shall be machine-readable.

(f) Unless otherwise specified herein, minimum bar code height shall be 0.25 inch (6.4 mm) or 15 percent of the bar code length, whichever is greater.

(g) The preferred position of the OCR-A characters is below the bar codes, but the OCR-A characters may be above the bar codes.

(h) On outer containers contractors shall either:

(1) Encode the stock numbers and contract number in one line of bar code with the stock number appearing first; or

(2) Encode the item stock number and contract number on two labels, with the top label containing the stock number and the lower label containing the contract number.

(i) On unit and intermediate containers, the item stock number in bar code with OCR-A below may be on the same label as the other data (identification markings) required by MIL-STD-129H. However, the bar code stock number shall appear on the top line with OCR-A characters on the second line; the OCR-A characters may include the stock number prefix and suffix, or alternatively, the complete stock number including any prefix and suffix, shall be repeated as part of the identification markings.

(j) Exclusions from bar code markings are:
(1) Multi-packs/consolidation containers (containers with two or more different stock numbers within).
(2) Reusable shipping containers used for multiple/ different stock number applications.
(3) Items consigned to a prime contractor's plant for installation in production.

(End of clause)

3052.213-90 Evaluation factor for Coast Guard performance of bar coding requirement. (USCG)

As prescribed in USCG guidance at (HSAR) 48 CFR 3013.106-190, insert the following provision:

EVALUATION FACTOR FOR COAST GUARD PERFORMANCE OF BAR CODING REQUIREMENT
[DEC 2003]

If a small business cannot provide the bar coding requirement, as indicated elsewhere in the schedule, the contracting officer will apply the following formula to the quoted amounts:
(a) Unit price quoted by small business $_____

(b) Add unit cost to the USCG to provide bar coding $_____

(c) Adjusted unit price (add lines a. and b.) $_____

The line (c) amount will become the amount the contracting officer considered when determining the lowest quoted amount.

(End of provision)

3052.215-70 Key personnel or facilities.

As prescribed in (HSAR) 48 CFR 3015.204-3, insert the following clause:

KEY PERSONNEL OR FACILITIES
[DEC 2003]

(a) The personnel or facilities specified below are considered essential to the work being performed under this contract and may, with the consent of the contracting parties, be changed from time to time during the course of the contract by adding or deleting personnel or facilities, as appropriate.

(b) Before removing or replacing any of the specified individuals or facilities, the Contractor shall notify the Contracting Officer, in writing, before the change becomes effective. The Contractor shall submit sufficient information to support the proposed action and to enable the Contracting Officer to evaluate the potential impact of the change on this contract. The Contractor shall not remove or replace personnel or facilities until the Contracting Officer approves the change.

The Key Personnel or Facilities under this Contract:
(specify key personnel or facilities)

(End of clause)

3052.216-70 Evaluation of offers subject to an economic price adjustment clause.

As prescribed in (HSAR) 48 CFR 3016.203-470, insert a provision substantially the same as the following:

EVALUATION OF OFFERS SUBJECT TO AN ECONOMIC PRICE ADJUSTMENT CLAUSE
[DEC 2003]

Offers shall be evaluated without adding an amount for an economic price adjustment. Offers will be rejected which: (1) increase the stipulated ceiling; (2) limit the downward adjustment; or (3) delete the economic price adjustment clause. If the offer stipulates a ceiling lower than that included in the solicitation, the lower ceiling will be incorporated into any resulting contract.

(End of provision)

3052.216-71 Determination of award fee.

As prescribed in (HSAR) 48 CFR 3016.406(e)(1)(i), insert a clause substantially the same as the following:

DETERMINATION OF AWARD FEE
[DEC 2003]

(a) The Government shall evaluate contractor performance at the end of each specified evaluation period(s) to determine the amount of award. The contractor agrees that the amount of award and the award fee methodology are unilateral decisions to be made at the sole discretion of the Government.

(b) Contractor performance shall be evaluated according to a Performance Evaluation Plan. The contractor shall be periodically informed of the quality of its performance and areas in which improvements are expected.

(c) The contractor shall be promptly advised, in writing, of the determination and reasons why the award fee was or was not earned. The contractor may submit a performance self-evaluation for each evaluation period. The amount of award is at the sole discretion of the Government but any self-evaluation received within (insert number) days after the end of the current evaluation period will be given such consideration, as may be deemed appropriate by the Government.

(d) The Government may specify that a fee not earned during a given evaluation period may be accumulated and be available for allocation to one or more subsequent periods. In that event, the distribution of award fee shall be adjusted to reflect such allocations.

(End of clause)

3052.216-72 Performance evaluation plan.

As prescribed in (HSAR) 48 CFR 3016.406(e)(i)(ii), insert a clause substantially the same as the following:

PERFORMANCE EVALUATION PLAN
[DEC 2003]

(a) A Performance Evaluation Plan shall be unilaterally established by the Government based on the criteria stated in the contract and used for the determination of award fee. This plan shall include the criteria used to evaluate each area and the percentage of award fee (if any) available for each area. A copy of the plan shall be provided to the contractor _____ (insert number) calendar days prior to the start of the first evaluation period.

(b) The criteria contained within the Performance Evaluation Plan may relate to: (1) Technical (including schedule) requirements if appropriate; (2) Management; and (3) Cost.

(c) The Performance Evaluation Plan may, consistent with the contract, be revised unilaterally by the Government at any time during the period of performance. Notification of such changes shall be provided to the contractor_____ (insert number) calendar days prior to the start of the evaluation period to which the change will apply.

(End of clause)

3052.216-73 Distribution of award fee.

As prescribed in (HSAR) 48 CFR 3016.406(e)(1)(iii), insert a clause substantially the same as the following:

DISTRIBUTION OF AWARD FEE
[DEC 2003]

(a) The total amount of award fee available under this contract is assigned according to the following evaluation periods and amounts:

Evaluation Period:

Available Award Fee:

(insert appropriate information)

(b) Payment of the base fee and award fee shall be made, provided that after payment of 85 percent of the base fee and potential award fee, the Government may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the Government considers necessary to protect its interest. This reserve shall not exceed 15 percent of the total base fee and potential award fee or $100,000, whichever is less.

(c) In the event of contract termination, either in whole or in part, the amount of award fee available shall represent a pro rata distribution associated with evaluation period activities or events as determined by the Government.

(d) The Government will promptly make payment of any award fee upon the submission by the contractor to the contracting officer's authorized representative, of a public voucher or invoice in the amount of the total fee earned for the period evaluated. Payment may be made without using a contract modification.

(End of clause)

3052.216-74 Settlement of letter contract.

As prescribed in (HSAR) 48 CFR 3016.603-4, insert a clause substantially the same as the following:

SETTLEMENT OF LETTER CONTRACT
[DEC 2003]

(a) This contract constitutes the definitive contract contemplated by letter contract _____ (insert number) issued on (insert effective date) _____ . It supersedes the letter contract and its modification numbered _____ (insert number(s)). To the extent there are inconsistencies between the definitive contract and the letter contract, the former governs.
(b) The cost(s) and fee(s), or price(s), established in this definitive contract represents full and complete settlement of letter contract _____ (insert number and modification numbered _____ (insert number(s)). Payment of the fee agreed upon or profit withheld pending definitization of the letter contract, may start immediately at the rate and times stated within this contract.

(End of clause)

3052.217-90 Delivery and Shifting of Vessel (USCG).

As prescribed in the USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

DELIVERY AND SHIFTING OF VESSEL
[DEC 2003]

The Government shall deliver the vessel to the Contractor at his place of business. Upon completion of the work, the Government shall accept delivery of the vessel at the Contractor's place of business. The Contractor shall provide, at no additional charge, upon 24 hours' advance notice, a tug or tugs and docking pilot, acceptable to the Contracting Officer, to assist in handling the vessel between (to and from) the Contractor's plant and the nearest point in a waterway regularly navigated by vessels of equal or greater draft and length. While the vessel is in the hands of the Contractor, any necessary towage, cartage, or other transportation between ship and shop or elsewhere,

which may be incident to the work herein specified, shall be furnished by the Contractor without additional charge to the Government.

(End of clause)

3052.217-91 Performance (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

PERFORMANCE
[DEC 2003]

(a) Upon the award of the contract, the Contractor shall promptly start the work specified and shall diligently prosecute the work to completion. The Contractor shall not start work until the contract has been awarded except in the case of emergency work ordered by the Contracting Officer in writing.

(b) The Government shall deliver the vessel described in the contract at the time and location specified in the contract. Upon completion of the work, the Government shall accept delivery of the vessel at the time and location specified in the contract.

(c) The Contractor shall without charge,--

(1) Make available to personnel of the vessel while in dry dock or on a marine railway, sanitary lavatory and similar facilities at the plant acceptable to the Contracting Officer;

(2) Supply and maintain suitable brows and gangways from the pier, dry dock, or marine railway to the vessel;

(3) Treat salvage, scrap or other ship's material of the Government resulting from performance of the work as items of Government-furnished property, in accordance with the Government Property (Fixed Price Contracts) clause;
(4) Perform, or pay the cost of, any repair, reconditioning or replacement made necessary as the result of the use by the Contractor of any of the vessel's machinery, equipment or fittings, including, but not limited to, winches, pumps, rigging, or pipe lines; and

(5) Furnish suitable offices, office equipment and telephones at or near the site of the work for the Government's use.

(d) The contract will state whether dock and sea trials are required to determine whether or not the Contractor has satisfactorily performed the work.

(1) If dock and sea trials are required, the vessel shall be under the control of the vessel's commander and crew.

(2) The Contractor shall not conduct dock and sea trials not specified in the contract without advance approval of the Contracting Officer. Dock and sea trials not specified in the contract shall be at the Contractor's expense and risk.

(3) The Contractor shall provide and install all fittings and appliances necessary for dock and sea trials. The Contractor shall be responsible for care, installation, and removal of instruments and apparatus furnished by the Government for use in the trials.

(End of clause)

3052.217-92 Inspection and manner of doing work (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

INSPECTION AND MANNER OF DOING WORK
[DEC 2003]

(a) The Contractor shall perform work in accordance with the contract, any drawings and specifications made a part of the job order, and any change or modification issued under the Changes clause.

(b)(1) Except as provided in paragraph (b)(2) of this clause, and unless otherwise specifically provided in the contract, all operational practices of the Contractor and all workmanship, material, equipment, and articles used in the performance of work under this contract shall be in accordance with the best commercial marine practices and the rules and requirements of all appropriate regulatory bodies including, but not limited to the American Bureau of Shipping, the U.S. Coast Guard, and the Institute of Electrical and Electronic Engineers, in effect at the time of Contractor's submission of offer, and shall be intended and approved for marine use.

(2) When Navy specifications are specified in the contract, the Contractor shall follow Navy standards of material and workmanship.
(c) The Government may inspect and test all material and workmanship at any time during the Contractor's performance of the work.

(1) If, prior to delivery, the Government finds any material or workmanship is defective or not in accordance with the contract, in addition to its rights under the Guarantee clause, the Government may reject the defective or nonconforming material or workmanship and require the Contractor to correct or replace it at the Contractor's expense.

(2) If the Contractor fails to proceed promptly with the replacement or correction of the material or workmanship, the Government may replace or correct the defective or nonconforming material or workmanship and charge the Contractor the excess costs incurred.

(3) As specified in the contract, the Contractor shall provide and maintain an inspection system acceptable to the Government.

(4) The Contractor shall maintain complete records of all inspection work and shall make them available to the Government during performance of the contract and for 90 days after the completion of all work required.

(d) The Contractor shall not permit any welder to work on a vessel unless the welder is, at the time of the work, qualified to the standards established by the U.S. Coast Guard, American Bureau of Shipping, or Department of the Navy for the type of welding being performed. Qualifications of a welder shall be as specified in the contract.

(e) The Contractor shall--

(1) Exercise reasonable care to protect the vessel from fire;

(2) Maintain a reasonable system of inspection over activities taking place in the vicinity of the vessel's magazines, fuel oil tanks, or storerooms containing flammable materials.

(3) Maintain a reasonable number of hose lines ready for immediate use on the vessel at all times while the vessel is berthed alongside the Contractor's pier or in dry dock or on a marine railway;

(4) Unless otherwise provided in the contract, provide sufficient security patrols to reasonably maintain a fire watch for protection of the vessel when it is in the Contractor's custody;

(5) To the extent necessary, clean, wash, and steam out or otherwise make safe, all tanks under alteration or repair.

(6) Furnish the Contracting Officer a "gas-free" or "safe-for-hotwork" certificate before any hot work is done on a tank;
(7) Treat the contents of any tank as Government property in accordance with the Government Property (Fixed-Price Contracts) clause; and

(8) Dispose of the contents of any tank only at the direction, or with the concurrence, of the Contracting Officer.

(9) Be responsible for the proper closing of all openings to the vessel's underwater structure upon which work has been performed. The contractor additionally must advise the COTR of the status of all valves closures and openings for which the contractor's workers were responsible.

(f) Except as otherwise provided in the contract, when the vessel is in the custody of the Contractor or in dry dock or on a marine railway and the temperature is expected to go as low as 35 Fahrenheit, the Contractor shall take all necessary steps to--

(1) Keep all hose pipe lines, fixtures, traps, tanks, and other receptacles on the vessel from freezing; and

(2) Protect the stern tube and propeller hubs from frost damage.

(g) The Contractor shall, whenever practicable--

(1) Perform the required work in a manner that will not interfere with the berthing and messing of Government personnel attached to the vessel; and
(2) Provide Government personnel attached to the vessel access to the vessel at all times.

(h) Government personnel attached to the vessel shall not interfere with the Contractor's work or workers.

(i)(1) The Government does not guarantee the correctness of the dimensions, sizes, and shapes set forth in any contract, sketches, drawings, plans, or specifications prepared or furnished by the Government, unless the contract requires that the Contractor perform the work prior to any opportunity to inspect.

(2) Except as stated in paragraph (i)(1) of this clause, and other than those parts furnished by the Government, and the Contractor shall be responsible for the correctness of the dimensions, sizes, and shapes of parts furnished under this agreement.

(j) The Contractor shall at all times keep the site of the work on the vessel free from accumulation of waste material or rubbish caused by its employees or the work. At the completion of the work, unless the contract specifies otherwise, the Contractor shall remove all rubbish from the site of the work and leave the immediate vicinity of the work area "broom clean."

(End of clause)

3052.217-93 Subcontracts (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

SUBCONTRACTS
[DEC 2003]

(a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors or to limit the work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of its own employees, and of subcontractors and their employees. The Contractor shall also be

responsible for the coordination of the work of the trades, subcontractors, and material men.

(c) The Contractor shall, without additional expense to the Government, employ specialty subcontractors where required by the specifications.
(d) The Government or its representatives will not undertake to settle any differences between the Contractor and its subcontractors, or between subcontractors.

(End of clause)

3052.217-94 Lay days (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

LAY DAYS
[DEC 2003]

(a) Lay day time will be paid by the Government at the Contractor's stipulated bid price for this item of the contract when the vessel remains on the dry dock or marine railway as a result of any change that involves work in addition to that required under the basic contract.

(b) No lay day time shall be paid until all items of the basic contract for which a price was established by the Contractor and for which docking of the vessel was required have been satisfactorily completed and accepted.

(c) Days of hauling out and floating, whatever the hour, shall not be paid as lay day time, and days when no work is performed by the Contractor shall not be paid as lay day time.

(d) Payment of lay day time shall constitute complete compensation for all costs, direct and indirect, to reimburse the Contractor for use of dry dock or marine railway.

(End of clause)

3052.217-95 Liability and insurance (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

LIABILITY AND INSURANCE
[DEC 2003]

(a) The Contractor shall exercise its best efforts to prevent accidents, injury, or damage to all employees, persons, and property, in and about the work, and to the vessel or part of the vessel upon which work is done.

(b) Loss or damage to the vessel, materials, or equipment. (1) Unless otherwise directed or approved in writing by the Contracting Officer, the Contractor shall not carry insurance against any form of loss or damage to the vessel(s) or to the materials or equipment to which the Government has title or which have been furnished by the Government for installation by the Contractor. The Government assumes the risks of loss of and damage to that property.

(2) The Government does not assume any risk with respect to loss or damage compensated for by insurance or otherwise or resulting from risks with respect to which the Contractor has failed to maintain insurance, if available, as required or approved by the Contracting Officer.

3) The Government does not assume risk of and will not pay for any costs of the following:

(i) Inspection, repair, replacement, or renewal of any defects in the vessel(s) or material and equipment due to--

(A) Defective workmanship performed by the Contractor or its subcontractors;

(B) Defective materials or equipment furnished by the Contractor or its subcontractors; or

(C) Workmanship, materials, or equipment which do not conform to the requirements of the contract, whether or not the defect is latent or whether or not the nonconformance is the result of negligence.

(ii) Loss, damage, liability, or expense caused by, resulting from, or incurred as a consequence of any delay or disruption, willful misconduct or lack of good faith by the Contractor or any of its representatives that have supervision or direction of--

(A) All or substantially all of the Contractor's business; or

(B) All or substantially all of the Contractor's operation at any one plant.

(4) As to any risk that is assumed by the Government, the Government shall be subrogated to any claim, demand or cause of action against third parties that exists in favor of the Contractor. If required by the Contracting Officer, the Contractor shall execute a formal assignment or transfer of the claim, demand, or cause of action.

(5) No party other than the Contractor shall have any right to proceed directly against the Government or join the Government as a codefendant in any action.

(6) Notwithstanding the foregoing, the Contractor shall bear the first $5,000 of loss or damage from each occurrence or incident, the risk of which the Government would have assumed under the provision of this paragraph (b).

(c) Indemnification. The Contractor indemnifies the Government and the vessel and its owners against all claims, demands, or causes of action to which the Government, the vessel or its owner(s) might be subject as a result of damage or injury (including death) to the property or person of anyone other than the Government or its employees, or the vessel or its owner, arising in whole or in part from the negligence or other wrongful act of the Contractor, or its agents or employees, or any subcontractor, or its agents or employees.

(1) The Contractor's obligation to indemnify under this paragraph shall not exceed the sum of $300,000 as a consequence of any single occurrence with respect to any one vessel.

(2) The indemnity includes, without limitation, suits, actions, claims, costs, or demands of any kind, resulting from death, personal injury, or property damage occurring during the period of performance of work on the vessel or within 90 days after redelivery of the vessel. For any claim, etc., made after 90 days, the rights of the parties shall be as determined by other provisions of this contract and by law. The indemnity does apply to death occurring after 90 days where the injury was received during the period covered by the indemnity.

(d) Insurance. (1) The Contractor shall, at its own expense, obtain and maintain the following insurance--

(i) Casualty, accident, and liability insurance, as approved by the Contracting Officer, insuring the performance of its obligations under paragraph (c) of this clause.

(ii) Workers Compensation Insurance (or its equivalent) covering the employees engaged on the work.
(2) The Contractor shall ensure that all subcontractors engaged on the work obtain and maintain the insurance required in paragraph (d)(1) of this clause.

(3) Upon request of the Contracting Officer, the Contractor shall provide evidence of the insurance required by paragraph (d) of this clause.

(e) The Contractor shall not make any allowance in the contract price for the inclusion of any premium expense or charge for any reserve made on account of self-insurance for coverage against any risk assumed by the Government under this clause.

(f) The Contractor shall give the Contracting Officer written notice as soon as practicable after the occurrence of a loss or damage for which the Government has assumed the risk.

(1) The notice shall contain full details of the loss or damage.

(2) If a claim or suit is later filed against the Contractor as a result of the event, the Contractor shall immediately deliver to the Government every demand, notice, summons, or other process received by the Contractor or its employees or representatives.

(3) The Contractor shall cooperate with the Government and, upon request, shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits. The Government shall reimburse the Contractor for expenses incurred in this effort, other than the cost of maintaining the Contractor's usual organization.

(4) The Contractor shall not, except at its own expense, voluntarily make any payments, assume any obligation, or incur any expense other than what would be imperative for the protection of the vessel(s) at the time of the event.

(g) In the event of loss of or damage to any vessel(s), material, or equipment which may result in a claim against the Government under the insurance provisions of this contract, the Contractor shall promptly notify the Contracting Officer of the loss or damage. The Contracting Officer may, without prejudice to any right of the Government, either--

(1) Order the Contractor to proceed with replacement or repair, in which event the Contractor shall effect the replacement or repair;

(i) The Contractor shall submit to the Contracting Officer a request for reimbursement of the cost of the replacement or repair together with whatever supporting documentation the Contracting Officer may reasonably require, and shall identify the request as being submitted under the Insurance clause of this contract.

(ii) If the Government determines that the risk of the loss or damage is within the scope of the risks assumed by the Government under this clause, the Government will reimburse the Contractor for the reasonable allowable cost of the replacement or repair, plus a reasonable profit (if the work or replacement or repair was performed by the Contractor) less the deductible amount specified in paragraph (b) of this clause.

(iii) Payments by the Government to the Contractor under this clause are outside the scope of and shall not affect the pricing structure of the contract, and are additional to the compensation otherwise payable to the Contractor under this contract; or

(2) Decide that the loss or damage shall not be replaced or repaired and in that event, the Contracting Officer shall--

(i) Modify the contract appropriately, consistent with the reduced requirements reflected by the unreplaced or unrepaired loss or damage; or

(ii) Terminate the repair of any part or all of the vessel(s) under the Termination for Convenience of the Government clause of this contract.

(End of clause)

3052.217-96 Title (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

TITLE
[DEC 2003]

(a) Unless otherwise provided, title to all materials and equipment to be incorporated in a vessel in the performance of this contract shall vest in the Government upon delivery at the location specified for the performance of the work.

(b) Upon completion of the contract, or with the approval of the Contracting Officer during performance of the contract, all Contractor-furnished materials and equipment not incorporated in, or placed on, any vessel, shall become the property of the Contractor, unless the Government has reimbursed the Contractor for the cost of the materials and equipments.

(c) The vessel, its equipment, movable stores, cargo, or other ship's materials shall not be considered Government-furnished property.

(End of clause)

3052.217-97 Discharge of liens (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

DISCHARGE OF LIENS
[DEC 2003]

(a) The Contractor shall immediately discharge or cause to be discharged, any lien or right in rem of any kind, other than in favor of the Government, that exists or arises in connection with work done or materials furnished under this contract.

(b) If any such lien or right in rem is not immediately discharged, the Government, at the expense of the Contractor, may discharge, or cause to be discharged, the lien or right.

(End of clause)

3052.217-98 Delays (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

DELAYS
[DEC 2003]

When during the performance of this contract the Contractor is required to delay work on a vessel temporarily, due to orders or actions of the Government respecting stoppage of work to permit shifting the vessel, stoppage of hot work to permit bunkering, stoppage of work due to embarking or debarking passengers and loading or discharging cargo, and the Contractor is not given sufficient advance notice or is otherwise unable to avoid incurring additional costs on account thereof, an equitable adjustment shall be made in the price of the contract pursuant to the "Changes" clause.

(End of clause)

3052.217-99 Department of Labor Safety and Health Regulations for Ship Repairing (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(a) and (b), insert the following clause:

DEPARTMENT OF LABOR SAFETY AND HEALTH
REGULATIONS FOR SHIP REPAIR
[DEC 2003]

Nothing contained in this contract shall relieve the Contractor of any obligations it may have to comply with--

(a) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651, *et seq.*);

(b) The Safety and Health Regulations for Ship Repairing (29 CFR part 1915); or

(c) Any other applicable Federal, State, and local laws, codes, ordinances, and regulations.

(End of clause)

3052.217-100 Guarantee (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3017.9000(c), insert the following clause:

GUARANTEE
[DEC 2003]

(a) In the event any work performed or materials furnished by the contractor prove defective or deficient within 60 days from the date of redelivery of the vessel(s), the Contractor, as directed by the Contracting Officer and at its own expense, shall correct and repair the deficiency to the satisfaction of the Contracting Officer.

(b) If the Contractor or any subcontractor has a guarantee for work performed or materials furnished that exceeds the 60 day period, the Government shall be entitled to rely upon the longer guarantee until its expiration.

(c) With respect to any individual work item identified as incomplete at the time of redelivery of the vessel(s), the guarantee period shall run from the date the item is completed.

(d) If practicable, the Government shall give the Contractor an opportunity to correct the deficiency.

(1) If the Contracting Officer determines it is not practicable or is otherwise not advisable to return the vessel(s) to the Contractor, or the Contractor fails to proceed with the repairs promptly, the Contracting Officer may direct that the repairs be performed elsewhere, at the Contractor's expense.

(2) If correction and repairs are performed by other than the Contractor, the Contracting Officer may discharge the Contractor's liability by making an equitable deduction in the price of the contract.

(e) The Contractor's liability shall extend for an additional 90-day guarantee period on those defects or deficiencies that the Contractor corrected.

(f) At the option of the Contracting officer, defects and deficiencies may be left uncorrected. In that event, the Contractor and Contracting Officer shall negotiate an equitable reduction in the contract price. Failure to agree upon an equitable reduction shall constitute a dispute under the Disputes clause of this contract.

(End of clause)

3052.219-70 Small Business subcontracting program reporting.

As prescribed in (HSAR) 48 CFR 3019.708-70(a), insert the following clause:

THE SMALL BUSINESS SUBCONTRACTING PROGRAM REPORTING [DEC 2003]

(a) The Contractor shall submit the Summary Subcontract Report (Standard Form 295 (SF-295)) to the Department of Homeland Security, Office of Small and Disadvantaged Business Utilization, Washington, DC, 20528.

(b) The Contractor shall include this clause in all subcontracts that include the clause at (FAR) 48 CFR 52.219-9.

(End of clause)

3052.219-71 DHS Mentor-Protégé Program

As prescribed in (HSAR) 48 CFR 3019.708-70(b), insert the following clause:

DHS MENTOR-PROTÉGÉ PROGRAM
[DEC 2003]

(a) Large businesses are encouraged to participate in the DHS Mentor-Protégé program for the purpose of providing developmental assistance to eligible small business protégé entities to enhance their capabilities and increase their participation in DHS contracts.

(b) The program consists of:

(1) Mentor firms, which are large prime contractors capable of providing developmental assistance;

(2) protégé firms, which are small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged businesses, and women-owned small business concerns; and
(3) Mentor-Protégé agreements, approved by the DHS OSDBU.

(c) Mentor participation in the program means providing business developmental assistance to aid protégés in developing the requisite expertise to effectively compete for and successfully perform DHS contracts and subcontracts.

(d) Large business prime contractors, serving as mentors in the DHS mentor-protégé program, are eligible for a post-award incentive for subcontracting plan credit by recognizing costs incurred by a mentor firm in providing assistance to a protégé firm and using this credit for purposes of determining whether the mentor firm attains a subcontracting plan participation goal applicable to the mentor firm under a DHS contract. The amount of credit given to a mentor firm for these protégé developmental assistance costs shall be calculated on a dollar for dollar basis and reported via the SF-295; for example, the mentor/large business prime contractor reports a $10,000 subcontract to the protégé/small business subcontractor and $5,000 of developmental assistance to the protégé/small business subcontractor as $15,000 ($10,000 traditional subcontract plus $5,000 in developmental assistance for a total of $15,000).
(e) Contractors interested in participating in the program are encouraged to contact the DHS OSDBU for more information.

(End of clause)

3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor-Protégé Program

As prescribed in (HSAR) 48 CFR 3019.708-70(c), insert the following clause:

EVALUATION OF PRIME CONTRACTOR PARTICIPATION IN THE DHS MENTOR-PROTÉGÉ PROGRAM [DEC 2003]

This solicitation contains a source selection factor or subfactor regarding participation in the DHS Mentor-Protégé Program. In order to receive credit under the source selection factor or subfactor, the offeror shall provide a signed letter of mentor-protégé agreement approval from the DHS OSDBU.

(End of clause)

3052.222-70 Strikes or picketing affecting timely completion of the contract work.

As prescribed in (HSAR) 48 CFR 3022.101-71(a), insert the following clause:

STRIKES OR PICKETING AFFECTING TIMELY COMPLETION OF THE CONTRACT WORK [DEC 2003]

Notwithstanding any other provision hereof, the Contractor is responsible for delays arising out of labor disputes, including but not limited to strikes, if such strikes are reasonably avoidable. A delay caused by a strike or by picketing which constitutes an unfair labor practice is not excusable unless the Contractor takes all reasonable and appropriate action to end such a strike or picketing, such as the filing of a charge with the National Labor Relations Board, the use of other available Government procedures, and the use of private boards or organizations for the settlement of disputes.

(End of clause)

3052.222-71 Strikes or picketing affecting access to a DHS facility.

As prescribed in (HSAR) 48 CFR 3022.101-71(b), insert the following clause
:

STRIKES OR PICKETING AFFECTING ACCESS TO A DHS FACILITY [DEC 2003]

If the Contracting Officer notifies the Contractor in writing that a strike or picketing: (a) is directed at the Contractor or subcontractor or any employee of either; and (b) impedes or threatens to impede access by any person to a DHS facility where the site of the work is located, the Contractor shall take all appropriate action to end such strike or picketing, including, if necessary, the filing of a charge of unfair labor practice with the National Labor Relations Board or the use of other available judicial or administrative remedies.

(End of clause)

3052.222-90 Local hire. (USCG

As prescribed in USCG guidance at (HSAR) 48 CFR 3022.9001, insert the following clause:

LOCAL HIRE
[DEC 2003]

(a) When performing a contract in a state with an unemployment rate in excess of the national average determined by the Secretary of Labor, the Contractor shall employ individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly, the necessary skills.

(b) Local resident defined. As used in this section, "local resident" means a resident of, or an individual who commutes daily to a State described in subsection (a).

(c) The Secretary of Homeland Security may waive the requirements of this subsection in the interest of national security or economic efficiency.

(End of clause)

3052.223-70 Removal or disposal of hazardous substances – applicable licenses and permits

As prescribed in (HSAR) 48 CFR 3023.303, insert the following clause:

REMOVAL OR DISPOSAL OF HAZARDOUS SUBSTANCES - APPLICABLE LICENSES AND PERMITS
[DEC 2003]

The Contractor certifies that it has ___ does not have ___ all licenses and permits required by Federal, state, and local laws to perform hazardous substance(s) removal or disposal services. If the Contractor does not currently possess these documents, it shall obtain all requisite licenses and permits within ___ days after date of award. The Contractor shall provide evidence of said documents to the Contracting Officer or designated Government representative prior to commencement of work under the contract.

(End of clause)

3052.223-90 Accident and fire reporting (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3023.9000(a), insert the following clause:

ACCIDENT AND FIRE REPORTING
[DEC 2003]

(a) The Contractor shall report to the Contracting Officer any accident or fire occurring at the site of the work that causes:

(1) A fatality or the loss as much as of at least one lost workday on the part of any employee of the Contractor or subcontractor at any tier;

(2) Damage of $1,000 or more to Federal real or personal property; either real or personal;

(3) Damage of $1,000 or more to Contractor or subcontractor owned or leased motor vehicles or mobile equipment; or

(4) Damage for which a contract time extension may be requested.

(b) Accident and fire reports required by paragraph (a) above shall be accomplished by the following means:

(1) Accidents or fires resulting in a death, hospitalization of five or more persons, or destruction of Federal real or personal property, the total value of which is estimated at $100,000 or more, shall be reported immediately by telephone to the Contracting Officer or his/her authorized representative and shall be confirmed by telegram, facsimile or e-mail transmission within 24 hours to the Contracting Officer. Such telegram or facsimile transmission shall state all known facts as to extent of injury and damage and as to cause of the accident or fire.
(2) Other accident and fire reports required by paragraph (a) above may be reported by the Contractor using a state, private insurance carrier, or Contractor accident report form which provides for the statement of:

(i) The extent of injury; and

(ii) The damage and cause of the accident or fire.
Such report shall be mailed or otherwise delivered to the Contracting Officer within 48 hours of the occurrence of the accident or fire.

(c) The Contractor shall assure compliance by subcontractors at all tiers with the requirements of this clause.

(End of clause)

3052.228-70 Insurance.

As prescribed in (HSAR) 48 CFR 3028.310-70 and 3028.311-1, insert a clause substantially the same as follows. The contracting officer may specify additional kinds (e.g., aircraft public and passenger liability, vessel liability) or increased amounts of insurance.

INSURANCE
[DEC 2003]

In accordance with the clause entitled "Insurance - Work on a Government Installation" [or Insurance - Liability to Third Persons] in Section I, insurance of the following kinds and minimum amounts shall be provided and maintained during the period of performance of this contract:

(a) Worker's compensation and employer's liability. The contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(a).

(b) General liability. The contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(b).

(c) Automobile liability. The contractor shall, as a minimum, meet the requirements specified at (FAR) 48 CFR 28.307-2(c).

(End of clause)

3052.228-90 Notification of Miller Act payment bond protection (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3028.106-490, insert the following clause:

NOTIFICATION OF MILLER ACT PAYMENT BOND PROTECTION
[DEC 2003]

This notice clause shall be inserted by first tier subcontractors in all their subcontracts and shall contain information pertaining to the surety that provided the payment bond under the prime contract.

(a) The prime contract is subject to the Miller Act (40 U.S.C. 270), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owned for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create

any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety which has provided the payment bond under the prime contract is:

_____
(Name)

_____
(Street Address)

_____
(City, State, Zip Code)

_____
(Contact & Tel. No.)

_____
(End of clause)

3052.228-91 Loss of or damage to leased aircraft (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3028.306-90(a) and (b), insert the following clause:

LOSS OF OR DAMAGE TO LEASED AIRCRAFT
[DEC 2003
]

(a) The Government assumes all risk of loss of, or damage (except normal wear and tear) to, the leased aircraft during the term of this lease while the aircraft is in the possession of the Government.

(b) In the event of damage to the aircraft, the Government, at its option, shall make the necessary repairs with its own facilities or by contract, or pay the Contractor the reasonable cost of repair of the aircraft.

(c) In the event the aircraft is lost or damaged beyond repair, the Government shall pay the Contractor a sum equal to the fair market value of the aircraft at the time of such loss or damage, which value may be specifically agreed to in clause 3052.228-92-, "Fair Market Value of Aircraft," less the salvage value of the aircraft. However, the Government may retain the damaged aircraft or dispose of it as it wishes. In that event, the Contractor will be paid the fair market value of the aircraft as stated in the clause.

(d) The Contractor agrees that the contract price does not include any cost attributable to hull insurance or to any reserve fund it has established to protect its interest in the aircraft. If, in the event of loss or damage to the leased aircraft, the Contractor receives compensation for such loss or damage in any form from any source, the amount of such compensation shall be:

(1) Credited to the Government in determining the amount of the Government's liability; or
(2) For an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss of or damage to the aircraft, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and the Contractor shall promptly assign such rights in writing to the Government.

(End of clause)

3052.228-92 Fair market value of aircraft (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3028.306-90(a) and (c), insert the following clause:

FAIR MARKET VALUE OF AIRCRAFT
[DEC 2003]

For purposes of the clause entitled "Loss of or Damage to Leased Aircraft," the fair market value of the aircraft to be used in the
performance of this contract shall be the lesser of the two values set out in paragraphs (a) and (b) below:

(a) $_____; or

(b) If the contractor has insured the same aircraft against loss or destruction in connection with other operations, the amount of such insurance coverage on the date of the loss or damage for which the Government may be responsible under this contract.

(End of clause)

3052.228-93 Risk and indemnities (USCG).

As prescribed in USCG guidance at (HSAR) 48 CFR 3028.306-90(a) and (d), insert the following clause:

RISK AND INDEMNITIES
[DEC 2003]

The Contractor hereby agrees to indemnify and hold harmless the Government, its officers and employees from and against all claims, demands, damages, liabilities, losses, suits and judgments (including all costs and expenses incident thereto) which may be suffered by, accrue against, be charged to or recoverable from the Government, its officers and employees by reason of injury to or death of any person other than officers, agents, or employees of the Government or by reason of damage to property of others of whatsoever kind (other than the property of the Government, its officers, agents or employees) arising out of the operation of the aircraft. In the event the Contractor holds

or obtains insurance in support of this covenant, evidence of insurance shall be delivered to the Contracting Officer.

(End of clause)

3052.231-70 Precontract costs.

As prescribed in (HSAR) 48 CFR 3031.205-32, insert the following clause:

PRECONTRACT COSTS
[DEC 2003]

The Contractor shall be entitled to reimbursement for pre-contract costs incurred on or after _____ in an amount not to exceed $_____ that, if incurred after this contract had been entered into, would have been reimbursable under this contract.

(End of clause)

3052.236-70 Special precautions for work at operating airports.

As prescribed in (HSAR) 48 CFR 3036.570, insert the following clause:

SPECIAL PRECAUTIONS FOR WORK AT OPERATING AIRPORTS
[DEC 2003]

(a) When work is to be performed at an operating airport, the Contractor must arrange its work schedule so as not to interfere with flight operations. Such operations will take precedence over construction convenience. Any operations of the Contractor which would otherwise interfere with or endanger the operations of aircraft shall be performed only at times and in the manner directed by the Contracting Officer. The Government will make every effort to reduce the disruption of the Contractor's operation.

(b) Unless otherwise specified by local regulations, all areas in which construction operations are underway shall be marked by yellow flags during daylight hours and by red lights at other times. The red lights along the edge of the construction areas within the existing aprons shall be the electric type of not less than 100 watts intensity placed and supported as required. All other construction markings on roads and adjacent parking lots may be either electric or battery type lights. These lights and flags shall be placed so as to outline the construction areas and the distance between any two flags or lights shall not be greater than 25 feet. The Contractor shall provide adequate watch to maintain the lights in working condition at all times other than daylight hours. The hour of beginning and the hour of ending of daylight will be determined by the Contracting Officer.

(c) All equipment and material in the construction areas or when moved outside the construction area shall be marked with airport safety flags during the day and when directed by the Contracting Officer, with red obstruction lights at nights. All equipment operating on the apron, taxiway, runway, and intermediate areas after darkness hours

shall have clearance lights in conformance with instructions from the Contracting Officer. No construction equipment shall operate within 50 feet of aircraft undergoing fuel operations. Open flames are not allowed on the ramp except at times authorized by the Contracting Officer.

(d) Trucks and other motorized equipment entering the airport or construction area shall do so only over routes determined by the Contracting Officer. Use of runways, aprons, taxiways, or parking areas as truck or equipment routes will not be permitted unless specifically authorized for such use. Flag personnel shall be furnished by the Contractor at points on apron and taxiway for safe guidance of its equipment over these areas to assure right of way to aircraft. Areas and routes used during the contract must be returned to their original condition by the Contractor. Airport management shall establish the maximum speed allowed at the airport. Vehicles shall be operated so as to be under safe control at all times, weather and traffic conditions considered. Vehicles must be equipped with head and taillights during the hours of darkness.

(End of clause)

3052.237-70 Qualifications of contractor employees.

As prescribed in (HSAR) 48 CFR 3037.110-70(a), insert the following clause:

QUALIFICATIONS OF CONTRACTOR EMPLOYEES
[DEC 2003]

(a) "Sensitive Information" is any information or proprietary data which if subject to unauthorized access, modification, loss, or misuse could adversely affect the national interest, the conduct of Federal programs, or the privacy to which individuals are entitled under 5 U.S.C. 552a (The Privacy Act), but that has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

(b) Work under this contract may involve access to sensitive information. Therefore, the Contractor shall not disclose, orally or in writing, any sensitive information to any person unless authorized in writing by the Contracting Officer. For those contractor employees authorized access to sensitive information, the contractor shall ensure that these persons receive training concerning the protection and disclosure of sensitive information both during and after contract performance.

(c) Contractor employees working on this contract must complete such forms, as may be necessary for security or other reasons, including the conduct of background investigations to determine suitability. Completed forms shall be submitted as directed by the Contracting Officer. Upon the Contracting Officer's request, the Contractor's employees shall be fingerprinted, or subject to other investigations as required.

(d) The Contracting Officer may require dismissal from work those employees deemed incompetent, careless, insubordinate, or otherwise objectionable, or whose continued

employment is deemed contrary to the public interest or inconsistent with the best interest of national security.

(e) Each employee of the Contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by an Alien Registration Receipt Card Form I-151. An alien authorized to work shall present evidence from the Bureau of Citizenship and Immigration Services that employment will not affect his or her immigration status.
(f) The Contractor shall include the substance of this clause in all subcontracts at any tier where the subcontractor may have access to Government facilities, sensitive information, or resources.

(End of Clause)

3052.237-71 Information Technology Systems Access for Contractors.

As prescribed in (HSAR) 48 CFR 3037.110-70(a) and (b), insert a clause substantially as follows. The contracting officer may specify additional IT security requirements unique to an OE.

INFORMATION TECHNOLOGY SYSTEMS ACCESS FOR CONTRACTORS [DEC 2003]

(a) No contractor personnel shall start work under this contract that involves actual or potential access to sensitive information until (1) approved for access, (2) they have received a security briefing, or current refresher, about Information Technology (IT) security, from the appropriate Organizational Element (OE) Information Systems Security Officer (ISSO); and (3) have signed a non-disclosure agreement form. This user security agreement is provided as an Attachment to this solicitation. By signing the user security agreement,the individual will be acknowledging their responsibility to properly use and safeguard all DHS OE information technology resources and information related thereto. The Contracting Officer Technical Representative (COTR) for this contract shall arrange the aforementioned security briefing. The ISSO is responsible for retaining the non-disclosure documents signed and submitted by the contractor employees as well evidence of security training.

(b) The contractor shall have access only to those areas of DHS OE information technology resources explicitly stated in this contract or approved by the COTR in writing as necessary for performance of the work under this contract. Information technology assets includes computer equipment, networking equipment, telecommunications equipment, cabling, network drives, computer drives, network software, computer software, software programs, intranet sites, and Internet sites. Any attempts by contractor personnel to gain access to any information technology resources not expressly authorized by the statement of work, other terms and conditions in this contract, or as approved in writing by the COTR, is strictly prohibited. In the event of violation of this provision, DHS will take appropriate actions with regard to the contract.

(c) Contractor access to DHS networks from a remote location is a temporary privilege for mutual convenience while the contractor performs business for the DHS OE. It is not a right, a guarantee of access, a condition of the contract, nor is it Government Furnished Equipment (GFE).

(d) Contractor access will be terminated for unauthorized use. The contractor agrees to hold and save DHS harmless from any unauthorized use and agrees not to request additional time or money under the contract for any delays resulting from unauthorized use or access.

(End of clause)

3052.237-72 Contractor Personnel Screening for Unclassified Information Technology Access.

As prescribed in 3037.110-70(a) and (b), insert a clause substantially as follows:

CONTRACTOR PERSONNEL SCREENING FOR UNCLASSIFIED INFORMATION TECHNOLOGY ACCESS.
[DEC 2003]

(a) Contractor personnel requiring privileged access or limited
risk assessment level. Guidance for selecting the appropriate level of screening is based on the risk of adverse impact to DHS missions, as indicated in FIPS PUB 199, Standards for Security Categorization of Federal Information and Information Systems (Initial Public Draft).

(b) The Contractor shall afford DHS, including the Office of Inspector General, access to the Contractor's and subcontractors' facilities, installations, operations, documentation, databases and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection, investigation and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of DHS data or to the function of computer systems operated on behalf of DHS, and to preserve evidence of computer crime.

(c) The Contractor shall incorporate the substance of this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(End of clause)

3052.242-70 Dissemination of information - educational institutions

As prescribed in (HSAR) 48 CFR 3042.203-70(a), insert the following clause:

DISSEMINATION OF INFORMATION - EDUCATIONAL INSTITUTIONS
[DEC 2003]

(a) The Department of Homeland Security (DHS) desires widespread dissemination of

the results of funded non-sensitive research. The Contractor, therefore, may publish (subject to the provisions of the "Data Rights" and "Patent Rights" clauses of the contract) research results in professional journals, books, trade publications, or other appropriate media (a thesis or collection of theses should not be used to distribute results because dissemination will not be sufficiently widespread). All costs of publication pursuant to this clause shall be borne by the Contractor and shall not be charged to the Government under this or any other Federal contract.

(b) Any copy of material published under this clause shall contain acknowledgment of DHS's sponsorship of the research effort and a disclaimer stating that the published material represents the position of the author(s) and not necessarily that of DHS. Articles for publication or papers to be presented to professional societies do not require the authorization of the Contracting Officer prior to release. However, a printed or electronic copy of each article shall be transmitted to the Contracting Officer at least two weeks prior to release or publication.

(c) Press releases concerning the results or conclusions from the research under this contract shall not be made or otherwise distributed to the public without prior written approval of the Contracting Officer.

(d) Publication under the terms of this clause does not release the Contractor from the obligation of preparing and submitting to the Contracting Officer a final report containing the findings and results of research, as set forth in the schedule of the contract.

(End of clause)

3052.242-71 Dissemination of contract information.

As prescribed in (HSAR) 48 CFR 3042.203-70(b), insert the following clause:

DISSEMINATION OF CONTRACT INFORMATION
[DEC 2003]

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the results or conclusions made pursuant to the performance of this contract, without the prior written consent of the Contracting Officer. An electronic or printed copy of any material proposed to be published or distributed shall be submitted to the Contracting Officer.

(End of clause)

3052.242-72 Contracting officer's technical representative.

As prescribed in (HSAR) 48 CFR 3042.7000, insert the following clause:

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE
[DEC 2003]

(a) The Contracting Officer may designate Government personnel to act as the Contracting Officer's Technical Representative (COTR) to perform functions under the contract such as review or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the Contractor within five working days after contract award or for construction, not less than five working days prior to giving the contractor the notice to proceed. The designation letter will set forth the authorities and limitations of the COTR under the contract.

(b) The Contracting Officer cannot authorize the COTR or any other representative to sign documents, such as contracts, contract modifications, etc., that require the signature of the Contracting Officer.

(End of clause)

3052.245-70 Government property reports.

As prescribed in (HSAR) 48 CFR 3045.505-70, insert the following clause:

GOVERNMENT PROPERTY REPORTS
[DEC 2003]

(a) The Contractor shall prepare an annual report of Government property in its possession and the possession of its subcontractors.

(b) The report shall be submitted to the Contracting Officer not later than September 15 of each calendar year on Form DHS F 4220.43, Contractor Report of Government Property.

(End of clause)

3052.247-70 F.o.b. origin information.

As prescribed in (HSAR) 48 CFR 3047.305-70(a), insert the following provision:

F.O.B. ORIGIN INFORMATION
[DEC 2003]

The offeror shall furnish information with the offer:

(a) Location of the offeror's actual shipping point(s) (street address, city, state, and zip code) from which supplies will be delivered to the Government;

(b) Whether the offered shipping point has a private railroad siding, and the name of the rail carrier serving it;

(c) When the offered shipping point does not have a private siding, the names and addresses of the nearest public rail siding and of the carrier serving it; and

(d) The quantity of supplies to be shipped from each shipping point.

(End of provision)

ALTERNATE I
[DEC 2003]

If delivery is "f.o.b. origin, contractor's facility," and the designated facility is not covered by the line-haul transportation rate, add the following paragraph to the basic provision:

(e) The charges required to deliver the shipment to the point where the line-haul rate is applicable.

ALTERNATE II
[DEC 2003]

When delivery is "f.o.b. origin, freight allowed," add the following paragraph to the basic provision:

(e) The basis on which transportation charges will be allowed, including the origin and destination from and to which transportation charges will be allowed.

3052.247-71 F.o.b. origin only.

As prescribed in (HSAR) 48 CFR 3047.305-70(b), insert the following provision:

F.O.B. ORIGIN ONLY
[DEC 2003]

Offers are invited on the basis of f.o.b. origin only. Offers submitted on any other basis will be rejected as nonresponsive.

(End of provision)

3052.247-72 F.o.b. destination only.

As prescribed in (HSAR) 48 CFR 3047.305-70(c), insert the following provision:

F.O.B. DESTINATION ONLY
[DEC 2003]

Offers are invited on the basis of f.o.b. destination only. Offers submitted on any other basis will be rejected as nonresponsive.

PART 3053 FORMS

Subpart	**3053.1**	**General**
	3053.101	Requirements for use of forms.
	3053.103	Exceptions.
Subpart	**3053.2**	**Prescription of Forms**
	3053-204-70	Administrative matters.
	3053.222-70	Application of labor laws to Government acquisitions.
	3053.227-70	Conveyance of invention rights acquired by the Government.
	3052.245-70	Contractor report of government property
Subpart	**3053.3**	**Illustrations of Forms**
	3053.303	Agency forms.

Subpart 3053.1 General

3053.101 Requirements for use of forms.

Unless excepted, forms prescribed in (FAR) 48 CFR part 53 and (HSAR) 48 CFR part 3053 are required for use by all OEs.

3053.103 Exceptions.

Requests for exceptions to forms contained in (FAR) 48 CFR part 53 and to DHS forms in (HSAR) 48 CFR part 3053 shall be submitted, as prescribed in (FAR) 48 CFR 53.103, to the CPO.

Subpart 3053.2 Prescription of Forms

3053.204-70 Administrative matters.

The following forms are prescribed for use in the closeout of applicable contracts, as specified in (HSAR) 48 CFR 3004.804-570:

(a) DHS Form 0700-01, Cumulative Claim and Reconciliation Statement. (See (HSAR) 48 CFR 3004.804-570(a)(1).)

(b) DHS Form 0700-02, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts. (See (HSAR) 48 CFR 3004.570(a)(2).)

(c) DHS Form 0700-03, Contractor Release. (See (HSAR) 48 CFR 3004.804-570(a)(3).)

3053.222-70 Application of labor laws to Government acquisitions.

The following form is prescribed for use in connection with the application of labor laws, as specified in (HSAR) 48 CFR 3022.406-9:

DHS Form 0070-04, Employee's Claim for Wage Restitution.

3053.227-70 Conveyance of invention rights acquired by the Government.

The following form is prescribed for including a means for contractors to report inventions made in the course of contract performance, as specified in (HSAR) 48 CFR 3027.305-4:

DD Form 882, Report of Inventions and Subcontracts.

3053.245-70 Report of Government property.

The following form is prescribed for use by contractors to report Government property, as specified in (HSAR) 48 CFR 3045.505-14:

DHS Form 0070-05, Contractor's Report of Government Property.

Subpart 3053.3 Illustrations of Forms

3053.303 Agency forms.

This section illustrates agency-specified forms. To access these forms go to: http://www.dhs.gov/dhspublic/display?theme=37.

FORM NAME	FORM NUMBER
Cumulative Claim and Reconciliation Statement	DHS Form 0070-01
Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts	DHS Form 0070-02
Contractor Release	DHS Form 0070-03
Employee's Claim for Wage Restitution.	DHS Form 0070-04
Contractor's Report of Government Property	DHS Form 0070-05
Report of Inventions and Subcontract.	DD 882

U.S. DEPARTMENT OF HOMELAND SECURITY

CUMULATIVE CLAIM AND RECONCILIATION STATEMENT

OMB Control No:1600-0002
Expiration Date 05/31/2004

OMB STATEMENT: This collection of information is mandatory and will be used to fulfill the requirements of the Homeland Security Acquisition Regulation (HSAR). Public reporting burden is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Information and Regulatory Offices, 725 17th Street, NW, Washington, DC 20503. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1600-0002.

1. Name of Contractor

2. Address of Contractor	

3. Contract No.	4. Delivery/Task Order No.

5. The total amount claimed under the above numbered contract, delivery order, or task order is as follows:

a.	Direct Labor	$
b.	Direct Material	$
c.	Other Direct Costs	$
d.	Overhead	$
e.	G&A	$
f.	Subcontract Cost	$
g.	Total Costs (5a through 5 F)	$
h.	Fixed Fee	$
i.	Other Fee	$
j.	Total Amount Claimed	$

6. Total amount due under the above numbered contract, delivery order, task order is as follows:

a.	Total Amount Claimed	$
b.	Total Amount Paid by the Government under Voucher Nos. _____ thru _____	$
c.	Total Amount (if any) Withheld, Disallowed, etc. (as explained on the attached sheet)	$
d.	Total Amount Due	$

I, _____, as the_____
(Full Name) (Title)

of the above named contractor, declare that the above statements are correct in accordance with the records of

the contractor.

_____
(Signature)

U.S. DEPARTMENT OF HOMELAND SECURITY

CONTRACTOR'S ASSIGNMENT OF REFUNDS, REBATES, CREDITS, AND OTHER AMOUNTS

OMB Control No. 1600-0002
Expiration Date 05/31/2004

OMB STATEMENT: This collection of information is mandatory and will be used to fulfill the requirements of the Homeland Security Acquisition Regulation (HSAR). Public reporting burden is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Information and Regulatory Offices, 725 17th Street, NW, Washington, DC 20503. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1600-0002.

Pursuant to the terms of Contract No. _____ in consideration of the reimbursement of costs and payment of fee, as provided in the said contract and any assignment thereunder, _____ (hereinafter called the Contractor) does hereby:

1. Assign, transfer, set over the release to the UNITED STATES OF AMERICA (hereinafter called the Government), all rights, title, and interest to all refunds, rebates, credits, or other amounts (including any interest thereon) arising out of the performance of the said contract, together with all the rights of action accrued or which may hereafter accrue thereunder.

2. Agree to take whatever action may be necessary to effect prompt collection of all refunds, rebates, credits, or other amounts (including any interest thereon) due or which may become due, and to promptly forward to the UNITED STATES TREASURER checks (made payable to the Treasurer of the United States) for any proceeds so collected. The reasonable costs of any such action to effect collection shall constitute allowable costs when approved by the Contracting Officer as stated in the said contract and may be applied to reduce any amounts otherwise payable to the Government under the terms hereof.

3. Agree to cooperate fully with the Government as to any claim or suit in connection with refunds, rebates, credits, or other amounts due (including any interest thereon); to execute any protest, pleading, application, power of attorney, or other papers in connection with; and to permit the Government to represent it at any hearing, trial, or other proceeding arising out of such claim or suit.

IN WITNESS WHEREOF, this assignment has been executed this _____ day of _____

BY: _____
(Contractor)

By signature hereon, I, _____ declare that I am the

_____ of the corporation named as Contractor in the foregoing assignment; that
(Official Title)

_____ signed said assignment on behalf of the Contractor was then

_____ of said corporation by authority of its governing body and is within the scope of
(Official Title)

its corporate powers.

(CORPORATE SEAL)

_____
(Signature)

U.S. DEPARTMENT OF HOMELAND SECURITY

CONTRACTOR'S RELEASE

OMB Control No. 1600-0002
Expiration Date 05/31/2004

OMB STATEMENT: This collection of information is mandatory and will be used to fulfill the requirements of the Homeland Security Acquisition Regulation (HSAR). Public reporting burden is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Information and Regulatory Offices, 725 17th Street, NW, Washington, DC 20503. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1600-0002.

CONTRACTOR (Name and Address) CONTRACT NO.	ENTER SUM OF TOTAL OF AMOUNTS PAID AND PAYABLE $

Pursuant to the terms of the above numbered contract and in consideration of the sum stated above, which has been paid or is to be paid to the Contractor, or its assignees, the Contractor, upon payment of the said sum by the UNITED STATES OF AMERICA (hereinafter called the Government), does remise, release, and discharge the Government, its officers, agents, and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said contract, except:

1. Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible of exact statement by the Contractor, as follows: (or state "None")

2. Claims, together with reasonable expenses incidental thereto, based upon the liabilities of the Contractor to third parties arising out of the performance of this contract, which are not known to the Contractor on the date of the execution of this release and of which the Contractor gives notice in writing to the Contracting Officer within the period specified in the said contract; and

3. Claims for reimbursement of costs (other than expenses of the Contractor by reason of his indemnification of the Government against patent liability) including reasonable expenses incidental thereto, incurred by the Contractor under any provisions of the said contract relating to patents.

The Contractor agrees, in connection with patent matters and with claims which are not released as set forth above, that it will comply with all provisions of the said contract, including without limitation those provisions relating to notification to the Contracting Officer and relating to the defense or prosecution of litigation.

IN WITNESSES WHEREOF, this release has been executed this _____ day of _____

_____
(Contractor)

_____ BY _____

_____ TITLE _____

NOTE: In the case of a corporation, witnesses are not required but the statement below must be completed.

I, _____, am the _____ secretary of

the corporation named as Contractor in the foregoing release; that _____ who signed

said release on behalf of the Contractor was then _____ of said corporation; release was duly

signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(CORPORATE SEAL)

_____
(Signature)

U.S. DEPARTMENT OF HOMELAND SECURITY

EMPLOYEE CLAIM FOR WAGE RESTITUTION

OMB Control No. 1600-0002
Expiration Date 05/31/2004

OMB Statement: This collection of information is mandatory and will be used to fulfill the requirements of the Homeland Security Acquisition Regulation (HSAR). Public reporting burden is estimated to average 1 hour per response, including the time for reviewing Instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Information and Regulatory Offices, 725 17th Street, NW, Washington, DC 20503. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1600-0002.

TO: **The General Accounting Office** **Claims Division** **Washington, DC 20548**	Contract Number:
	Date of Claim:
	Employee's Full Name:

I hereby make claim for payment of unpaid wages due me in the amount of $ _____

as an employee of _____
(Name of Contractor and/or Subcontractor)

performing the work under the above number at _____
(Work Locations)

_____ ,I was employed

as _____ during the period from _____
(Job Title) (mm-dd-yyyy)

to _____ . This claim constitutes the total amount claimed due and unpaid
(mm-dd-yyyy)

for the period of employment indicated.

Employee's Address:

Employee's Signature:

U.S. DEPARTMENT OF HOMELAND SECURITY

CONTRACTOR REPORT OF GOVERNMENT PROPERTY

OMB Control No. 1600-0002
Expiration Date 05/31/2004

OMB STATEMENT: This collection of information is mandatory and will be used to fulfill the requirements of the Homeland Security Acquisition Regulation (HSAR). Public reporting burden is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Information and Regulatory Offices, 7251 7th Street, NW, Washington, DC 20503. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1600-0002.

1. Contract Number:	2. Report Period Ending:
3. Contractor (Name and Address)	4. Contracting Office (Name and Address)

5. Name and location of Government owned, Contractor-Operated Plant (if applicable)

6. Any Government property located at a subcontractor's plant? ☐ **YES** ☐ **NO** If yes, give the name and address of the subcontractor(s) on an attached sheet to this report.

7. Date contractor's property control system approved?	8. Approved by whom?

9.	Property Class (see Far 45.5)	Starting Balance		Items Added (in dollars)	Items Deleted (in dollars)	Ending Balance	
		Total Acquisition Cost (in dollars)	Total Quantity (in acres or units)			Total Acquisition Cost (in dollars)	Total Quantity (in acres or units)
a.	Land & Rights therein						
b,	Other Real Property						
c.	Plant Equipment						
d.	Special Test Equipment						
e.	Special Tooling						
f.	Materials in Stock (when total value exceeds $50,000)						

NOTE: This report shall include all Government Property (i.e. property furnished by the Government, or acquired or fabricated by the contractor or subcontractor). By signature hereon, the contractor's property administrator declares that the report was prepared from the contractor's records that are required by FAR 45.5.

10. Contractor Property Administrator (Type name)

11. Signature	Date

Authorized for Local Reproduction

HSAR MATRIX

Key:

P or C = Provision or Clause
IBR = Is Incorporation By Reference authorized?
UCF = Uniform Contract Format Section, when applicable

R = Required
A = Required-When-Applicable
O = Optional

Principle type of contract:

FP SUP = Fixed-Price Supply
CR SUP = Cost-Reimbursement Supply
FP R&D = Fixed-Price Research & Development
CR R&D = Cost-Reimbursement Research & Development
FP SVC = Fixed-Price Service
CR SVC = Cost Reimbursement Service
FP CON = Fixed-Price Construction
CR CON = Cost Reimbursement Construction
T&M LH = Time & Material/Labor Hours
LMV = Leasing of Motor Vehicles

Contract Purpose

COM SVC = Communication Services
DDR = Dismantling, Demolition, or Removal of Improvements
A-E = Architect-Engineering
FAC = Facilities
IND DEL = Indefinite Delivery
TRN = Transportation
SA = Simplified Acquisition
UTL SVC = Utility Services

													Principle Type and/or Purpose of Contract										
Provision or Clause	**Prescribed In**	P or C	IBR	UCF		FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M L&H	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SA	UTL SVC
3052.204-70 Security Requirements for Unclassified Information Technology Resources.	3004.470-4 & 3037.110-70 (a) & (b)	C	NO	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.209-70 Prohibition on Contracts with Corporate Expatriates	3009.104-75	C	NO	I		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
3052.209-71 Reserve Officer Training Corps and Military Recruiting on Campus. (USCG)	3009.470-4	P	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.209-72 Disclosure of Conflicts of Interest.	3009.507	P	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.211-70 Index for Specifications.	30011.204-70	C	YES	I		A	A	A				A	A				A		A	A		A	
3052.211-90 Bar Coding Requirement. (USCG)	USCG 3011.204-90(a) 3013.302-590	C	YES	I		A	A													A		A	
3052.213-90 Evaluation Factor for Coast Guard Performance of Bar Coding Requirement. (USCG)	3013.106-190	P	YES	M																		A	
3052.215-70 Key Personnel or Facilities.	3015.204-3	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Clause.	3016.203-470	P	YES	M		A		A		A		A		A	A	A	A	A	A	A	A		A
3052.216-71 Determination of Award Fee.	3016.406(e)(1)(i)	C	YES	I			A		A		A		A	A		A	A			A	A		
3052.216-72 Performance Evaluation Plan.	3016.406(e)(1)(ii)	C	YES	I			A		A		A		A	A		A	A			A	A		
3052.216-73 Distribution of Award Fee.	3016.406(e)(1)(iii)	C	YES	I			A		A		A		A	A		A	A			A	A		
3052.216-74 Settlement of Letter Contract.	3016.603-4	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.217-90 Delivery and Shifting of Vessel. (USCG)	3017.9000 (a) & (b)	C	YES	I						A													

HSAR MATRIX

													Principle Type and/or Purpose of Contract										
Provision or Clause	**Prescribed In**	P or C	IBR	UCF		FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M L&H	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SA	UTL SVC
3052.217-91 Performance. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-92 Inspection and Manner of Doing Work. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-93 Subcontracts. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-94 Lay Days. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-95 Liability and Insurance. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-96 Title. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-97 Discharge of Liens. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-98 Delays. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)	USCG 3017.9000 (a) & (b)	C	YES	I						A													
3052.217-100 Guarantee. (USCG)	USCG 3017.9000 (c)	C	YES	I						A													
3052.219-70 Small Business Program Subcontracting Reporting.	3019.219-70(a)	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.219-71 DHS Mentor-Protege Program.	3019.708-70(b)	C	YES			A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.219-72 Evaluation of Prime Contractor Participation in the Mentor-Protégé Program.	3019-708-70 (c)	P	YES	M		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.222-70 Strikes or Picketing Affecting Timely Completion of the Contract Work.	3022.101-71(a)	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.222-71 Strikes or Picketing Affecting Access to a DHS Facility.	3022.101-71(b)	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.222-90 Local Hire.(USCG)	3022.9001	C	YES	I						A	A	A	A			A		A		A			A
3052.223-70 Removal or Disposal of Hazardous Substance- Applicable Licenses and Permits.	3023.303	C	YES	I						A	A	A	A	A			A		A			A	

HSAR MATRIX

													Principle Type and/or Purpose of Contract										
Provision or Clause	**Prescribed In**	P or C	IBR	UCF		FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M L&H	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SA	UTL SVC
3052.223-90 Accident and Fire Reporting. (USCG)	USCG 3023.9000(a)	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.228-70 Insurance.	3028.310-70 3028.311-1	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.228-90 Notification of Miller Act Payment Bond Protection. (USCG)	USCG 3028.106-490	C	YES	I								A	A										
3052.228-91 Loss of or Damage to Leased Aircraft. (USCG)	USCG 3028.306-90(a) & (b)	C	YES	I						A	A			A								A	
3052.228-92 Fair Market Value of Aircraft. (USCG)	USCG 3028.306-90 (a) & (c)	C	YES	I						A	A			A								A	
3052.228-93 Risk and Indemnities. (USCG)	USCG 3028.306-90 (a) & (d)	C	YES	I						A	A			A								A	
3052.231-70 Precontract Costs	3031.205-32	C	YES	I			A		A		A		A										
3052.236-70 Special Provisions for Work at Operating Airports.	3036.570	C	YES	I								A	A	A			A	A	A			A	A
3052.237-70 Qualifications of Employees.	3037.110-70(a)	C	YES	I						A	A					A							A
3052.237-71 Information Technology Systems Access for Contractors.	3037.110-70 (a) & (b)	C	NO	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.237-72 Contractor Personnel Screening for Unclassified Information Technology.	3037.110-70 (a) & (b)	C	NO	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
3052.242.70 Dissemination of Information-Educational Institutions.	3042.203-70(a)	C	YES	I				A	A														
3052.242-71 Dissemination of Contract Information.	3042.203-70(b)	C	YES	I		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
3052.242-72 Contracting Officer's Technical Representative.	3042.7000	C	YES	I		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A		
3052.245.70 Government Property Reports	3045.505-70	C	YES	I		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A		
3052.247-70 F.O.B. Origin Information.	3047.247-70(a)	P	YES	L		A									A					A		A	
3052.247-71 F.O.B. Origin Only.	3047.247-70(b)	P	YES	L		A									A					A		A	
3052.247-72 F.O.B. Destination Only.	3047.247-70(c)	P	YES	L		A									A					A		A	