SECTION H – SPECIAL CONTRACT REQUIREMENTS - AMENDMENT # 0005

H.1 Transition Requirements

FAR 52.237-3 "Continuity of Services" (Jan 1991), as listed in Section I of this RFP and Section titled "Military OneSource Program Transition within the attached performance work statement. At contract award, the Government shall use a NTE 120 day transition period to transfer Military OneSource from the outgoing to the incoming Contractor.

H.2 Save Harmless and Indemnity

The Contractor shall save harmless and provide indemnity to the Government against any and all liability, claims, and costs of whatever kind and nature for injury or death of any person or persons and loss of damage to any property (Government or otherwise) occurring in connection with or in any incident to or arising out of the performance of work in connection with this contract, resulting in whole or in part from the negligent acts or omissions of the Contractor or subcontractor, or any employee, agent, or representative of the Contractor or subcontractor.

H.3 Clause Modifications

Due to potential unforeseen circumstances attributable to the requirements solicited under this contract, the Government reserves the right to add, delete or modify clauses to facilitate specific conditions.

H.4 Conflict of Interest

It is the Department of the Interior's policy to avoid situations in the procurement process where, by virtue of work or services performed for DOI or DoD, or as the result of data acquired from DOI, DoD, or from industry, a particular company:

a. Is given unfair competitive advantage over the companies in respect to future DOI or DoD business;

b. Is placed in a position to affect Government actions under circumstances in which there is danger that the company's judgment may be biased; or

c. Otherwise finds that a conflict exists between the performance of work or devices for Government in an impartial manner and the company's self-interest.

d. If the Contractor has reason to believe that a task assigned by the Contracting Officer or a task being performed by the Contractor violates this policy, the Contractor shall promptly notify the Contracting Officer and state the reasons why a conflict of interests exists, or may appear to exist. After receiving such notice the Contracting Officer shall promptly inform the Contractor whether it should begin, or continue, the assigned task.

e. Financial counselors shall provide service delivery that meets the standards in DODI 1342.27, and assist Service members and their families with personal financial readiness. Regular reviews of Activity Reports and quality assurance review of financial services shall indicate that all financial counselors are practicing within the authorized scope of care.

f. Further, the contractor shall ensure that all personnel maintain the highest degree of sensitivity, compassion, and respect for service members and their families. The offeror shall remain free of any political bias and shall ensure consistency of service regardless of installation, location, or any other factor.

H.5 Organizational and Consultant Conflicts of Interest

a. It is recognized by the parties hereto that the effort performed by the contractor under this contract is of a nature that it creates a potential organizational conflict of interest as contemplated under FAR Subpart 9.5.

b. In the performance of this contract, the contractor may have access to data which is procurement sensitive or is proprietary to other companies, Government consultants or advisors, or the Government. The contractor agrees that it will not utilize such procurement sensitive or proprietary data in performance of future competitive contracts, for studies in the same field. The contractor further agrees not to act as a subcontractor or consultant to any other prime contractor or subcontractor seeking to utilize such data.

c. The contractor will include the provisions of paragraphs a and b in every first tier subcontract for performance of any portion of this requirement.

d. The Contractor warrants that, to the best of its knowledge and belief, there are no relevant facts or circumstances, which would give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.

e. The Contractor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Contractor shall make a full disclosure in writing to the OCO. This disclosure shall include a description of actions which the Contractor has taken or proposes to take to avoid or mitigate the actual or potential conflict.

f. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to the OCO, the Government may terminate the Task Order.

g. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts.

H.6 Supervision of Contractor Employees

a. Personnel assigned to render services under this contract shall be at all times under the direction and control of the Contractor. Notwithstanding any other provisions of this contract, the Contractor shall at all times be responsible for the supervision of its employees in the performance of the services required under this contract.

b. If the Contractor finds clarification necessary with respect to the scope of the services to be performed hereunder, he/she shall request in writing such clarification from the Contracting Officer.

c. Contractor personnel shall not at any time during the contract period of performance be employees of the U.S. Government.

H.7 Removal of Contractor Personnel

It is understood that all personnel assigned by the Contractor to the performance of work hereunder must be acceptable to the Government in terms of personal and professional conduct and must successfully initiate a full background investigation before obtaining access to the premises. Any person in the Contractor's organization, or in any subcontractor's organization, who is deemed by the Contracting Officer or the COTR to conflict with the interest of the Government, shall be immediately removed from this contract. The reason for removal shall be fully documented in writing by the Contracting Officer. Any security violations, denials or revocations of security clearance may be construed as grounds for immediate removal from the premises and the contract.
Further, the Government shall have the right to cause the contractor to replace any individual who is determined by the Government to be a security risk, under the influence of alcohol or drugs, or is physically or mentally impaired to the extent that they cannot perform the tasks established by the contract. Such determination to be made within the sole discretion of the Military Service Headquarters Manager who will then report findings to OSD who will then subsequently report findings to the Contracting Officer. Such determination shall not relieve the contractor from meeting the performance requirements of this contract**.**

H.8 Notice To The Government of Delays

In the event the Contractor encounters difficulty in meeting performance requirements, or when it anticipates difficulty in complying with the contract delivery schedule or date, or whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately notify the Contracting Officer and the COTR, in writing, giving pertinent details, provided, however, that this data shall be informational only in character and that this provision shall not be construed as a waiver by the Government of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

H.9 Non-Payment for Additional Work

Any additional services or a change to the work specified which may be performed by the Contractor, either at his/her own volition or at the request of an individual other than a duly appointed Contracting Officer except as may be explicitly authorized in the contract, is not authorized and will not be paid for by the DOI. Only a duly appointed Contracting Officer is authorized to change the specifications, terms and conditions of this contract.

H.10 Key Personnel

(a) The contractor agrees to assign to the contract those key persons whose resumes were submitted as required to fill the requirements. No substitution or addition of personnel will be made except in accordance with this clause.
(b) The contractor agrees that to ensure continuity, personnel will remain on the project as long as they are employed with the company and performing satisfactorily. No personnel substitutions will be permitted, unless an individual's sudden illness, death, or termination of employment necessitates such substitutions. In any of these events, the contractor must promptly notify the contracting officer or COTR and provide the information required by paragraph (d) below. Contractor shall provide to the contracting officer, letters of commitment from the team members (including subcontractors) assigned to the project.
(c) If key personnel, for whatever reason, become unavailable to work under this contract for a continuous period exceeding 30 working days, or are expected to devote substantially less effort to the work than indicated in its proposal, the contractor must propose a substitution of such personnel, in accordance with paragraph (d) below.
(d) All proposed key personnel substitutions must be submitted, in writing, to the contracting officer/COTR at least 15 days prior to the proposed substitution. Each request must provide a detailed explanation of the circumstances necessitating the proposed substitution, a complete resume from the proposed substitute and any other information required by the contracting officer to approve or disapprove the proposed substitution(s). Resumes for key personnel substitutions must be submitted in contractor format. All proposed substitutes (no matter when they are proposed during the performance period) must have qualifications that are equal or higher than the qualifications of the person being replaced. No change in fixed unit prices may occur as a result of key personnel substitution.
(e) In the event the contractor designates additional key personnel as deemed appropriate for the requirement, the contractor must submit to the contracting officer for approval the information required in paragraph (d) above.
(f) The contracting officer will evaluate requests for substitutions and additions of personnel and promptly notify the contractor, in writing, whether a request is approved or disapproved.

H.11 Permits and Licenses

In performance of work under this contract, the contractor must, without additional expense to the Government, be responsible for obtaining any necessary license(s) and permits, and for complying with all Federal, State, and municipal laws, codes, and regulations applicable to the performance of work. The contractor shall verify all licensing, certification and/or compliance with industry accepted standards for the performance of non-medical counseling services.

H.12 Confidentiality

All information regarding the procedures developed under this contract must be regarded as sensitive information by the contractor and not to be disclosed to anyone outside the contractor's organization without the written authorization from the contracting officer. Contractor personnel must sign a non-disclosure agreement before the initial start of work.

H.13 Travel

The Government anticipates that travel may be required in the performance of this contract. The contractor is to include travel in the proposal, in sufficient detail for the Government to ensure that all requirements are included. Total travel costs will have a Not to Exceed (NTE) ceiling. No travel expenses submitted in excess of the NTE ceiling will be reimbursed without approval from the DOI contracting officer.

Travel by the Contractor's staff, including subcontractors, in support of this project will be reimbursed by DOI provided:

1) The specific travel is authorized in writing by the COTR. The contractor's staff and subcontractors shall provide the COTR adequate time to review and approve travel plans. Note, all travel that is not in direct support of providing counseling services for families must be approved in advance by the COTR. The Government will not pay for any travel that is not approved in advance.
2) All travel costs and per diem costs must conform to the current Federal Travel Regulations (FTR) in effect at the time of travel authorization, including but not limited to, daily per diem and lodging rates in effect for the area at the time of the travel. Expenses not in conformity with the FTR will not be reimbursed and should not be submitted.
3) Approval of Foreign Travel. The cost of foreign travel is allowable only when the specific written approval of the Contracting Officer is obtained prior to commencing the trip. Approval shall be requested at least 90 calendar days before the scheduled departure date in order that all necessary clearances may be processed. Each individual trip must be approved separately, even though it may have been included in a previously approved budget. Foreign travel under this contract is defined as any travel outside of the United States and its territories and possessions.
4) Costs incurred by contractor personnel on official company business, whether foreign travel and/or domestic/local travel, are allowable, subject to the limitations contained in the Federal Acquisition Regulations (FAR) 31.205-46 – Travel Costs Receipts and other written evidence to support submitted travel expenses shall be retained by the Contractor for the duration of the contract plus one year, and made available to the CO or COTR on request. Travel not supported by receipts or other evidenced will not be reimbursed and should not be submitted.

The contractor shall state on all invoices that include claims for travel reimbursement that those claims are fully supported by proper documents, that the documents are available for audit, and that the claims confirm to the FTR.

H.14 Security

U.S. Citizenship: Anyone working on the Military OneSource Program must be a U.S. Citizen.

As described in: http://edocket.access.gpo.gov/2008/E8-13358.htm

```
PART 22--APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS


22.102-1  Policy.

* * * * *
    (i) Eligibility for employment under United States immigration
laws.
    5. Add subpart 22.18 to read as follows:
```

Subpart 22.18--Employment Eligibility Verification

Sec.
22.1800 Scope.
22.1801 Definitions.
22.1802 Policy.
22.1803 Contract clause.

22.1800 Scope.

This subpart prescribes policies and procedures requiring contractors to utilize the United States Citizenship and Immigration Service's employment eligibility verification program (E-Verify) as the means for verifying employment eligibility of certain employees.

22.1801 Definitions.

As used in this subpart--

Assigned employee means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803.

Commercially available off-the-shelf (COTS) item--

(1) Means any item of supply that is--

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

22.1802 Policy.

(a) Statutes and executive orders require employers to abide by the immigration laws of the United States and to employ in the United States only individuals who are eligible to work in the United States. The E-Verify program provides an Internet-based means of verifying employment eligibility of workers employed in the United States, but is not a substitute for any other employment eligibility verification requirements.

(b) Contracting officers shall include in contracts, as prescribed at 22.1803, a requirement for contractors to--

[[Page 33381]]

(1)(i) Enroll in the E-Verify program within 30 calendar days of contract award, and use E-Verify within 30 calendar days thereafter to verify employment eligibility of their employees assigned to the contract at the time of enrollment in E-Verify; or

(ii) If the contractor is already enrolled in E-Verify, use E-Verify within 30 calendar days of contract award to verify employment eligibility of their employees assigned to the contract; and

(2) Following this initial period, initiate verification of all new hires of the contractor and of all employees newly assigned to the contract within three business days of their date of hire or date of assignment to the contract.

(c) Subcontractor flowdown. The contracting officer shall require contractors to flow down the requirement to use E-Verify to subcontracts that--

(1) Are for commercial or noncommercial services or construction;

(2) Exceed $3,000; and

(3) Include work performed in the United States.

(d) In exceptional cases, the head of the contracting activity may waive the requirement to insert the clause at 52.222-XX, Employment Eligibility Verification, for a contract or subcontract or a class of contracts or subcontracts. This waiver authority may not be delegated.

22.1803 Contract clause.

Insert the clause at 52.222-XX, Employment Eligibility Verification, in all solicitations and contracts, except those that--

(a) Are for commercially available off-the-shelf items or items that would be COTS items, but for minor modifications (as defined at paragraph (3)(ii) of the definition of ``commercial item'' at FAR 2.101);

(b) Are under the micro-purchase threshold; or

(c) Do not include any work that will be performed in the United States.

PART 52--SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Add section 52.222-XX to read as follows:

52.222-XX Employment Eligibility Verification.

As prescribed in 22.1803 and 12.301(d)(3), insert the following clause:

EMPLOYMENT ELIGIBILITY VERIFICATION ([DATE])

(a) Definitions. As used in this clause--

(1) Assigned employee means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803.

(2) United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) The Contractor shall--

(1) Enroll in the E-Verify program within 30 calendar days of contract award;

(2) Use E-Verify to verify the employment eligibility of all assigned employees; and

(3) Comply, for the period of performance of this contract, with the requirements of the E-Verify program, including, but not limited to, verifying the employment eligibility of all new employees of the Contractor.

(c) Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: http://www.dhs.gov/E-Verify.

(d) Initiation of verification. The Contractor shall initiate a verification query--

(1) Within 30 calendar days of its enrollment in the E-Verify program, for each assigned employee who is assigned to the contract at the time of enrollment in the E-Verify program;

(2) Within three business days of the date of assignment to this contract, or within 30 days of the award of the contract to which the employee is assigned, whichever is later, for each assigned employee who is assigned to the contract after the date of enrollment in the E-Verify program; and

(3) Within three business days of the date of employment, for all employees of the Contractor hired after the date of enrollment in the E-Verify program.

(e) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee whose employment eligibility was previously verified by the Contractor through the E-Verify program.

(f) Subcontractor flowdown. The Contractor shall flow down the requirements of this clause, including this paragraph (f) (appropriately modified for identification of the parties), to each subcontract that--

(1) Is for commercial or noncommercial services or construction;

(2) Exceeds $3,000; and

(3) Includes work performed in the United States.

(End of clause)

Security Clearance: A National Agency Clearance is required for the Counselors placed on military installations in performance of this contract.

Security Requirements: The offeror is responsible for safeguarding information of a confidential or sensitive nature. Failure to safeguard any classified/privileged information, which may involve the contractor's personnel or to which they may have access to, may subject the contractor's employees to criminal liability under Title 18, section 793 and 7908 of the United States Code. Provisions of the Privacy Act apply to all records and reports maintained by the contractor. All programs and materials developed at government expense during the course of this contract are the property of the government. As needed, contractor personnel shall be required to obtain and maintain security badges. Contractors will adhere to the security requirements of the different installation(s). The performance of this requirement will not require the contractor to have access to classified information.

The Common Access Card (CAC): The Common Access Card (CAC) will be issued only when appropriate, in accordance with current guidance, and approved or requested by OSD.

Section 508 Compliance Requirements: All electronic and information technology (EIT) procured through this effort must meet the applicable accessibility standards at 36 CFR 1194. 36 CFR 1194 implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at http://www.section508.gov.

Reference, National Industrial Security Program. The contractor shall not require access to national security information at the time of initial contract award; however, a future requirement may involve an operation that will require access to national security information. At that point, specific requirements shall be defined which will include but not be limited to, contractor personnel be U.S. Citizens and be eligible to obtain a SECRET Security Clearance.

Access to DoD Information Systems. Select individuals who require access to DoD/QOL information systems regardless of CLASSIFICATION level must be U.S. Citizens and be determined trustworthy as a result of a favorable completion of a National Agency Check (NAC). The contractor shall identify those individuals requiring a NAC to the Government within 10 days after contract award.

Maintaining Privacy of Individual Records/Information. The contractor will be required to maintain (maintain, collect, use or disseminate) records or information about an individual that includes, but is not limited to, education, financial transactions, and employment history that contain their name or an identification system. In maintaining the privacy of the individuals, the contractor shall comply with the Privacy Act of 1974, 5 U.S.C. 552a on maintaining records on individuals and the conditions of disclosure. Protect the records as "FOR OFFICAL USE ONLY". (See Attachment 12)

Operations Security (OPSEC). The contractor, to include their subcontractors, shall use the OPSEC process to protect FOR OFFICIAL USE ONLY and Privacy Act information under the Military OneSource program. This information is defined as controlled unclassified information obtained or generated as a result of Military OneSource business operations. The contractor/subcontractor shall not disclose controlled unclassified information to the public or any other organization outside of the Military OneSource framework of providers without the written approval from the COTR or the CO.

H.15 Standards

Services must adhere to standards of practice set forth by relevant Service/DoD policies, federal, state, and local laws.

The Contractor must demonstrate sound professional judgment and highest ethical standards in executing contract responsibilities.

The Contractor must be able to operate independently to assess a variety of family needs.

H.16 Representation

The Contractor will not represent the government at any state, federal, or military meeting or event.

H.17 Coordination and Communication

The Contractor will coordinate all program management, communication and service delivery through the COTR at OSD.

H.18 Contractor Attire

Contractor shall wear professional appropriate apparel, i.e., dresses, skirts, pants or slacks, shirt or blouse with collar and sleeves, shoes and socks. Tank-top shirts, cut-offs, shower shoes or similar items of apparel are prohibited. Clothing shall be clearly distinguishable from all U.S. Military Uniforms. Contractor shall maintain a neat well-groomed appearance at all times to facilitate credibility with clients, staff, and command.

H.19 Training

Contractor shall participate, as appropriate in locally available specialized training to maintain up-to-date knowledge and skills related to the military and civilian resources, database operation, and organizational structure. Attendance must be approved by the COTR and the Military Service HQ POC.

H.20 Small Business Participation Reporting and Compliance

It is the Government's expectation that the successful offeror will strive to meet or exceed the DOD's Ability One, Small Business, Woman Owned Small Business (WOSB), Historically Underutilized Business Zone (HubZone),

Veteran Owned Small Business (VOSB), Service Disabled Veteran Owned Small Business (SD-VOSB), Small Disadvantaged Business (SDB) and Historically Black Colleges and Universities/Minority Institutions (HBCI/MI) subcontracting goals proposed in response to this solicitation and throughout the period of performance of the resulting contract. The Government will audit compliance with the subcontracting goals proposed in response to this solicitation.

H.21 Subcontracting Compliance

The contractor understands and acknowledges that this requirement is a material part of the contract, and that failure to meet this requirement is a breach of contract, which can subject the contractor to a termination for cause action. Annually, on the anniversary date of the contract signing, the contractor will provide a letter report to the contracting officer showing how this requirement was met during the preceding 12 months

H.22 Electronic Transmission of Proprietary Data

The successful offeror shall be fully capable and willing to electronically transmit proprietary data to the Government. This data may consist of contract deliverables or pricing data required for proposal evaluation.

H.23 Non-Disclosure Agreement (NDA)

Reserved

H.24 Data Use, Disclosure of Information, and Handling of Sensitive Information: The contractor shall maintain, transmit, retain in strictest confidence, and prevent the unauthorized duplication, use, and disclosure of client information. The contractor shall provide information only to the government, employees, contractors, and subcontractors having a need to know such information in the performance of their duties.

24.1. The contractor shall establish appropriate administrative and physical safeguards to ensure the security and confidentiality of client records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to the client.

24.2 All employees, contractors, and subcontractors who will have access to client information will be advised of the confidential nature of the information, that the records are subject to the requirements of the Privacy Act of 1974, and that unauthorized disclosures of client information may result in the imposition of possible criminal penalties.

24.3 The contractor agrees to assume responsibility for protecting the confidentiality of Government records, clients or otherwise, which are not public information.

24.4 Information made available to the contractor by the Government for the performance or administration of this effort shall be used only for those purposes and shall not be used in any other way without the written agreement from the Contracting Officer.

24.5 If public information is provided to the contractor for use in performance or administration of this effort, the contractor except with the written permission from the Contracting Officer may not use such information for any other purpose. If the contractor is uncertain about the availability or proposed use of information provided for the performance or administration, the contractor will consult with the COTR regarding use of that information for other purposes.

24.6 The contractor agrees to assume responsibility for protecting the confidentiality of Government records which are not public information. Each employee of the contractor to whom information may be made available or disclosed shall be notified in writing by the contractor that such information may be disclosed only for a specific purpose and extent authorized herein.

24.7 Performance of this effort may require the contractor to access and use data/information proprietary to a Government agency or Government contractor which is of such a nature that its dissemination or use, other than in performance of this effort, would be adverse to the interests of the Government and/or others.

24.8 Contractor personnel shall not divulge or release data or information developed or obtained in performance of this effort, until made public by the Government, except to authorize Government personnel or upon written approval from the CO. The contractor shall not use, disclose, or reproduce proprietary data that bears a restrictive legend, other than as required in the performance of this effort. Nothing herein shall preclude the use of any data independently acquired by the contractor without such limitations or prohibit an agreement at not cost to the Government between the contractor and the data owner that provides for greater rights to the contractor.

24.9 All data received, processed, evaluated, loaded, and/or created shall remain the sole property of the Government unless specific exception is granted by the Contracting Officer.

H.25 Intellectual Property Rights: The Department of Defense shall receive *Unlimited Rights* in all intellectual property, including graphic and pictorial representations and text, created by the contractor during performance of this contract.

H.26 Ownership of Military OneSource (MOS) Logo, Web Address, 1-800 Telephone Number and Other MOS Related Materials: The MOS logo, web address, open source web interface, all materials developed at the direction of the government, the 1-800 telephone contact line and all MOS materials that are not used with the vendors' civilian clients are considered property of the government. However, the vendor may retain use of such products as long as it is clearly understood that such products will continue to be used by the government.

H.27 Services For This Agreement

Any function or responsibility not specifically described in this Agreement but nevertheless considered an inherent part of the services described and required for the proper performance and provision of Services shall be deemed included for the purposes on this Agreement.

H.28 Performance Award Incentive Option Plan

(a) General. The performance incentive option plan provides for the evaluation of performance as defined in the QASP and the utilization of military spouses to perform this requirement, and serves as the basis for decisions on whether the exercise of a monetary performance payment award may be considered by the Contracting Officer. Any changes to the performance incentive option plan will be made in writing and incorporated into the contract through a bilateral modification citing this clause. Achieving the requisite acceptable quality level(s) (AQL) as described in the QASP or the goals set forth below for the utilization of military spouses does not entitle the contractor to the exercise of an option period described in Section F.1 Period of Performance. Rather, achieving the requisite goals only permits the Contracting Officer to consider approving exercising a performance award option. Failure to receive a performance award is not subject to the Disputes Act.

(b) Evaluation Process. The performance incentive option plan provides for the evaluation of performance, and serves as the basis for decisions on whether the exercise of a monetary performance payment award may be considered by the Contracting Officer. The monetary performance payment award may be bilaterally revised at least sixty (60) days prior to the commencement of any option evaluation period. Any changes to the performance incentive option plan will be made in writing and incorporated into the contract through a bilateral modification citing this clause.

The Government shall monitor this effort according to the terms outlined in the QASP. At the end of each six-month period, within 30 days of receipt of the monthly reports, the Contracting Officer will determine if the contractor met the incentive goals for both the QASP quality levels and the utilization of military spouses for that period. The contractor must meet at least ninety percent (90%) of the acceptable quality level(s) (AQL) outlined in the Quality Assurance Surveillance Plan (QASP) during the payment period in order to receive the monetary performance award, and utilize military spouses on a continuous basis for at least 5% of the total effort for this

requirement. For every individual military spouse hired in excess of the 5% goal, the monetary incentive will increase by $5,000.00 The first payment (for performance of the Base Period and Option I) will be made at the end of Option Period I, and the second and final payment (for performance of Option Periods II through IV) will be made at the end of Option Period IV. There are no partial incentive awards. If the contractor fails to achieve at least ninety percent (90%) of the quality standards, the government will request consideration.

(c) For each period that the contractor meets at least ninety percent (90%) the AQLs outlined in the QASP and the goals for the utilization of military spouses, the Section B.1 Consideration and Payment clause will be amended to reflect increased fixed prices for each option period as follows:

Option Period I	One payment of $2,500,000.00 at the conclusion of the option period for 90% achievement of QASP goals
	One payment of $50,000.00 for utilizing military spouses for at least 5% of this total effort
	One payment of $5,000.00 for each individual military spouse greater than the 5% goal
Option Period IV	One payment of $5,000,000.00 at the conclusion of the option period for 90% achievement of QASP goals
	One payment of $50,000.00 for utilizing military spouses for at least 5% of this total effort
	One payment of $5,000.00 for each individual military spouse greater than the 5% goal

(d) Cancellation of the performance incentive award.

(1) The Government has the unilateral right to cancel the performance incentive award plan for such periods in this contract if -

(i) The Government no longer has a need or the funds for the performance award; or

(ii) The contractor has failed to achieve the performance goals as outlined in the QASP for an evaluation period.

(2) When a performance incentive award is cancelled, any

(i) Prior performance incentive awards for which the contractor remains otherwise eligible are unaffected.

(ii) Subsequent performance incentive awards are thereby also cancelled.

(e) Performance incentive option administration. The performance incentive option evaluation(s) will be completed every six months. The contractor will be notified of the results and their eligibility to be considered for the respective performance incentive award no later than 30 days after the evaluation.

(f) Review process. The contractor may request a review of a performance incentive option evaluation which has resulted in the contractor being ineligible for the performance incentive option. The request shall be submitted in writing to the Contracting Officer within 15 days after notification of the evaluation.

H.29 Post Award Evaluation of Contractor Performance

a) Contractor Performance Evaluations

Interim and final evaluations of contractor performance will be prepared on this effort in accordance with FAR Subpart 42.1500. A final performance evaluation will be prepared, by the COTR, at the time of completion of work. In addition to the final evaluation, interim evaluations may be prepared, by the COTR, annually to coincide with the anniversary date of this effort.

Interim and final evaluations will be provided to the Contractor as soon as practicable after completion of the evaluation. The Contractor will be permitted thirty (30) calendar days to review the document and to submit additional information or a rebutting statement. Any disagreement between the parties regarding an evaluation will be referred to an individual one level above the CO, whose decision will be final.

Copies of the evaluations, Contractor responses, and review comments, if any, will be retained as part of the contract file, and may be used to support future award decisions.

b) Electronic Access to Contractor Performance Evaluations

Contractors that have Internet capability may access evaluations through a secure Web site for review and comment by completing the registration form that can be obtained at the following address: http://cpscontractor.nih.gov.

The registration process requires the contractor to identify an individual that will serve as a primary contact and who will be authorized access to the evaluation for review and comment. In addition, the Contractor will be required to identify an alternate contact that will be responsible for notifying the contracting official in the event the primary contact is unavailable to process the evaluation within the required thirty (30) calendar day time frame.

H. 30Authorized Changes only by the Contracting Officer

(a) No order, statement, or conduct of Government personnel who visit the contractor's facilities or in any other manner communicates with contractor personnel during the performance of this contract shall constitute a change under the "Changes" clause of this contract.

(b) The contractor shall not comply with any order, direction or request of Government personnel unless it is issued in writing and signed by the CO, or is pursuant to specific authority otherwise included as a part of this contract.

(c) The CO is the only person authorized to approve changes in any of the requirements of this contract, not withstanding provisions contained elsewhere in this contract, the said authority remains solely the Contracting Officer's. In the event the contractor effects any change at the direction of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any increase in charges incurred as a result thereof.

The address and telephone number of the Contracting Officer is:

Sharon Hallinan
381 Elden St., Suite 4000
Herndon, VA 20170
Phone: 703-964-3698
Fax: 703-964-8440
E-mail: Sharon.Hallinan@aqd.nbc.gov

H.31 CONTRACTS TO BE PERFORMED IN THE FEDERAL REPUBLIC OF GERMANY

(a) In accordance with the exchange of notes (dated 27 Mar 98) implementing the Provisions of Articles 72 and 73 of the German Supplementary Agreement (SA) to the North Atlantic Treaty Organization (NATO) Status of Forces

Agreement (SOFA), non-German citizens of a NATO member country who perform services on US Government contracts shall not start work in Germany without meeting one of the following criteria:

(1) Technical Expert Status accreditation (TESA)
(2) Troop Care Status accreditation (TCSA)
(3) Analytical Support Status accreditation (ASSA)
(4) Military Exigency (ME) via TESA or ASSA
(5) TESA/ASSA TDY

(6) Exemption from German work permit ("fax back")
(7) German work permit or compliance with European Union member nation exchange laws and regulations
(8) Certificates of limited tax liability and a German work permit

(b)In order to request status under paragraph (a)(1) through (a)(5) above, immediately after contract award, the contractor shall submit to the contracting officer a Contract Notification package. The contractor shall submit Technical Expert Status (TES)/ Troop Care Status (TCS)/ Analytical Support Status (ASS) application packages for any employees for which TES/TCS/ASS accreditation is sought within three business days of the individual being hired.

(c) The packages/applications cited in paragraph (b) above shall be submitted through the contracting officer (or the contracting officer's appointed representative) to DOCPER. DOCPER's contact information is available at the DOCPER Internet site http://www.chrma.hqusareur.army.mil/

(d) A 10-week temporary TES or ASS may be granted by the US Government for purposes of Military Exigency (ME). ME is granted for time sensitive, mission critical positions for the purpose of permitting individual contract employees, who upon initial review of the application appear to meet the requirements of TES or ASS, to begin working in Germany prior to TES/ASS accreditation.

(e) The contractor shall notify the contracting officer within three days in writing of TES/TCS/ASS accreditation duties or when a TES/TCS/ASS employee is no longer assigned to the position for which TES/TCS/ASS accreditation was granted.

(1) The contractor shall ensure that identification cards and/or other logistics support documents pertinent to, or peculiar to, TES/TCS/ASS are turned over to the issuing office upon termination or transfer of individual contractor employees. Within three days of completion, the contractor shall provide written proof to the contracting officer that all identification cards and other logistics support documents have been returned to the government.

(f) The contractor shall allow German government authorities to visit the contractor's work areas for the purpose of verifying the status of positions and personnel as Technical Expert (TE)/Troop Care (TC)/Analytical Support (AS) employees. Such visits will not excuse the contractor from performance under this contract or result in increased costs to the Government.

(g) The contract price shall not be subject to an economic adjustment with regard to TES/TCS/ASS in the event that

(1) the contract and any or all positions identified in the contractor's proposal are disapproved for TES/TCS/ASS accreditation; or

(2) any or all positions submitted for TES/TCS/ASS consideration during the life of the contract are disapproved for TES/TCS/ASS accreditation; or

(3) any or all contractor employees are denied TES/TCS/ASS; or

(4) TES/TCS/ASS accreditation is rescinded during the life of the contract.

(h) If the contractor's employees will be performing in the Federal Republic of Germany under the conditions identified in paragraphs (a)(6) through (a)(8) of this clause, DOCPER is not involved in the process.

(End of Provision)

H.32 SOFA Contract Clause. INVITED CONTRACTOR OR TECHNICAL REPRESENTATIVE STATUS UNDER U.S. - REPUBLIC OF KOREA (ROK)

Invited Contractor (IC) and Technical Representative (TR) status shall be governed by the U.S.-ROK Status of Forces Agreement (SOFA) as implemented by United States Forces Korea (USFK) Reg 700-19, which can be found under the "publications" tab on the US Forces Korea homepage http://www.usfk.mil

(a) Definitions. As used in this clause—

"U.S. – ROK Status of Forces Agreement" (SOFA) means the Mutual Defense Treaty between the Republic of Korea and the U.S. of America, Regarding Facilities and Areas and the Status of U.S. Armed Forces in the Republic of Korea, as amended

"Combatant Commander" means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161. In Korea, the Combatant Commander is the Commander, United States Pacific Command.

"United States Forces Korea" (USFK) means the subordinate unified command through which US forces would be sent to the Combined Forces Command fighting components.

"Commander, United States Forces Korea" (COMUSK) means the commander of all U.S. forces present in Korea. In the Republic of Korea, COMUSK also serves as Commander, Combined Forces Command (CDR CFC) and Commander, United Nations Command (CDR UNC).

"USFK, Assistant Chief of Staff, Acquisition Management" (USFK/FKAQ) means the principal staff office to USFK for all acquisition matters and administrator of the U.S.-ROK SOFA as applied to US and Third Country contractors under the Invited Contractor (IC) and Technical Representative (TR) Program (USFK Reg 700-19).

"Responsible Officer (RO)" means a senior DOD employee (such as a military E5 and above or civilian GS-7 and above), appointed by the USFK Sponsoring Agency (SA), who is directly responsible for determining and administering appropriate logistics support for IC/TRs during contract performance in the ROK.

(b) IC or TR status under the SOFA is subject to the written approval of USFK, Assistant Chief of Staff, Acquisition Management (FKAQ), Unit #15237, APO AP 96205-5237.

(c) The contracting officer will coordinate with HQ USFK/FKAQ, IAW FAR 25.8, and USFK Reg 700-19. FKAQ will determine the appropriate contractor status under the SOFA and notify the contracting officer of that determination.

(d) Subject to the above determination, the contractor, including its employees and lawful dependents, may be accorded such privileges and exemptions under conditions and limitations as specified in the SOFA and USFK Reg 700-19. These privileges and exemptions may be furnished during the performance period of the contract, subject to their availability and continued SOFA status. Logistics support privileges are provided on an as-available basis to properly authorized individuals. Some logistics support may be issued as Government Furnished Property or transferred on a reimbursable basis.

(e) The contractor warrants and shall ensure that collectively, and individually, its officials and employees performing under this contract will not perform any contract, service, or other business activity in the ROK, except under U.S. Government contracts and that performance is IAW the SOFA.

(f) The contractor's direct employment of any Korean-National labor for performance of this contract shall be governed by ROK labor law and USFK regulation(s) pertaining to the direct employment and personnel administration of Korean National personnel.

(g) The authorities of the ROK have the right to exercise jurisdiction over invited contractors and technical representatives, including contractor officials, employees and their dependents, for offenses committed in the ROK and punishable by the laws of the ROK. In recognition of the role of such persons in the defense of the ROK, they will be subject to the provisions of Article XXII, SOFA, related Agreed Minutes and Understandings. In those cases in which the authorities of the ROK decide not to exercise jurisdiction, they shall notify the U.S. military authorities as soon as possible. Upon such notification, the military authorities will have the right to exercise jurisdiction as is conferred by the laws of the U.S.

(h) Invited contractors and technical representatives agree to cooperate fully with the USFK Sponsoring Agency (SA) and Responsible Officer (RO) on all matters pertaining to logistics support and theater training requirements. Contractors will provide the assigned SA prompt and accurate reports of changes in employee status as required by USFK Reg 700-19.

(i) Theater Specific Training. Training Requirements for IC/TR personnel shall be conducted in accordance with USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK. IC/TR personnel shall comply with requirements of USFK Reg 350-2.

(j) Except for contractor air crews flying Air Mobility Command missions, all U.S. contractors performing work on USAF classified contracts will report to the nearest Security Forces Information Security Section for the geographical area where the contract is to be performed to receive information concerning local security requirements.

(k) Invited Contractor and Technical Representative status may be withdrawn by USFK/FKAQ upon:

(1) Completion or termination of the contract.

(2) Determination that the contractor or its employees are engaged in business activities in the ROK other than those pertaining to U.S. armed forces.

(3) Determination that the contractor or its employees are engaged in practices in contravention to Korean law or USFK regulations.

(l) It is agreed that the withdrawal of invited contractor or technical representative status, or the withdrawal of, or failure to provide any of the privileges associated therewith by the U.S. and USFK, shall not constitute grounds for excusable delay by the contractor in the performance of the contract and will not justify or excuse the contractor defaulting in the performance of this contract. Furthermore, it is agreed that withdrawal of SOFA status for reasons outlined in USFK Reg 700-19, Section II, paragraph 6 shall not serve as a basis for the contractor filing any claims against the U.S. or USFK. Under no circumstance shall the withdrawal of SOFA Status or privileges be considered or construed as a breach of contract by the U.S. Government.

(m) Support.

(1) Unless the terms and conditions of this contract place the responsibility with another party, the COMUSK will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations when sufficient or legitimate civilian authority does not exist.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where

loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical or emergency dental treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(n) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel supporting U.S Armed Forces in the Republic of Korea as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Orders, directives, and instructions issued by the COMUSK relating to force protection, security, health, safety, or relations and interaction with local nationals. Included in this list are force protection advisories, health advisories, area (i.e. “off-limits”), prostitution and human trafficking and curfew restrictions.

(o) Vehicle or equipment licenses. IAW USFK Regulation 190-1, Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations. All contractor employees/dependents must have either a Korean driver’s license or a valid international driver’s license to legally drive on Korean roads, and must have a USFK driver’s license to legally drive on USFK installations. Contractor employees/dependents will first obtain a Korean driver’s license or a valid international driver’s license then obtain a USFK driver’s license.

(p) Evacuation.

(1) If the COMUSK orders a non-mandatory or mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national contractor personnel.

(2) Non-combatant Evacuation Operations (NEO).

(i) The contractor shall designate a representative to provide contractor personnel and dependents information to the servicing NEO warden as required by direction of the Responsible Officer.

(ii) If contract period of performance in the Republic of Korea is greater than six months, non emergency essential contractor personnel and all IC/TR dependents shall participate in at least one USFK sponsored NEO exercise per year.

(q) Next of kin notification and personnel recovery.

(1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is missing, captured, or abducted.

(2) In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DOD Directive 2310.2, Personnel Recovery.

(3) IC/TR personnel shall accomplish Personnel Recovery/Survival, Evasion, Resistance and Escape (PR/SERE) training in accordance with USFK Reg 525-40, Personnel Recovery

Procedures and USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK.

(r) Mortuary affairs. Mortuary affairs for contractor personnel who die while providing support in the theater of operations to U.S. Armed Forces will be handled in accordance with DOD Directive 1300.22, Mortuary Affairs Policy and Army Regulation 638-2, Care and Disposition of Remains and Disposition of Personal Effects.

(s) USFK Responsible Officer (RO). The USFK appointed RO will ensure all IC/TR personnel complete all applicable training as outlined in this clause.

(End of Provision)

H. 33 CONTRACT PERFORMANCE IN JAPAN – (In accordance with the "Agreement Under the Treaty of Mutual Cooperation and Security Between the United States of America and Japan, Regarding Facilities and Areas and the Status of United States Armed Forces in Japan")

I. GENERAL: The Status of Forces Agreement between the U.S. and Japan (SOFA) governs the rights and obligations of the U.S. armed forces in Japan. Contractor employees and their dependents accorded privileges under SOFA Article I(b) remain subject to all the laws and regulations of Japan unless expressly exempted by the SOFA. Commander, United States Forces Japan is primarily responsible for interpreting the SOFA and local law for U.S. Forces in Japan, to include determining the applicability of Article I(b) to a specific U.S. forces requirement in Japan.

II. SOFA ARTICLE I(b):

a. SOFA Article I(b) status. Individuals including, but not limited to, technical advisors, consultants, entertainers serving under contracts with the United States for the provision of services in support of U.S. armed forces in Japan, and whose presence is required in Japan to provide such services, may acquire SOFA status in Japan as part of the civilian component under Article I(b) of the SOFA. Note SOFA Article I(b) does not create a lawful status in Japan for any entity other than individuals (e.g., the corporation employing the individual). To qualify for SOFA status under SOFA Article I(b), such individuals must be:

1. U.S. nationals;
2. not ordinarily resident in Japan;
3. present in Japan at the invitation of, and solely for the purpose of executing contracts with the United States for the benefit of the United States armed forces (including Foreign Military Sales contracts); and
4. not contractors, employees of a contractor whose presence in Japan is solely for the purpose of executing contracts within the definition of SOFA Article XIV, or dependents of such contractors or contractor employees.

b. SOFA Article I(b) procedures. Contractor personnel must obtain authority to enter Japan under SOFA Article I(b) through their employer and the KO. After determining that the personnel meet the requirements for SOFA Article I(b) status, the KO may issue a Letter of Identification. The Letter of Identification should include a statement that the individual is entering Japan under SOFA Article I(b).

c. SOFA Article I(b) privileges and benefits. Persons granted authority to enter Japan under SOFA Article I(b) and their dependents (defined as spouse, children under 21, and, if dependent for over half their support upon

an individual having SOFA Article I(b) status, parents and children over 21) shall be accorded the following benefits of the SOFA. These privileges are personal to the employee/dependent and do not inure to the employer.

1. Access to and movement between facilities and areas in use by the United States armed forces and between such facilities and areas and the ports or airports of Japan as provided for in SOFA Article V, paragraph 2;
2. Entry into Japan and exemption from Japanese laws and regulations on the registration and control of aliens as provided for in SOFA Article IX;
3. Acceptance as valid by Japan, without a driving test or fee, a U.S. Forces, Japan Operator's Permit for Civilian Vehicle as provided for in SOFA Article X. Issuance of such permit shall be subject to applicable military regulation;
4. Exemption from customs duties and other such charges on materials, supplies, and equipment which are to be incorporated into articles or facilities used by the U.S. armed forces furniture, household goods for private use imported by person when they first arrive to work in Japan, vehicles and parts imported for private use, and reasonable quantities of clothing and household goods for everyday private use which are mailed into Japan through U.S. military post offices as provided for in SOFA Article XI, paragraphs 2 and 3;
5. Exemption from the laws and regulations of Japan with respect to terms and conditions of employment as provided for in SOFA Article XII, paragraph 7, except that such exemption shall not apply to the employment of local nationals in Japan;
6. Exemption from Japanese taxes to the Government of Japan or to any other taxing agency in Japan on income received as a result of their service with the U.S. armed forces as provided for in SOFA Article XIII. The provisions of Article XIII do not exempt such persons from payment of Japanese taxes on income derived from Japanese sources;
7. If authorized by the installation commander or designee, the right to use Navy exchanges, post exchanges, base exchanges, commissaries, messes, social clubs, theaters, newspapers and other non-appropriated fund organizations regulated by U.S. military authorities as provided for in SOFA Article XV;
8. The transmission into or outside of Japan of U.S. dollar or dollar instruments realized as a result of contract performance as provided for in SOFA Article XIX, paragraph 2;
9. The use of postal facilities as provided for in SOFA Article XXI;
10. Exemption from taxation in Japan on the holding, use transfer by death, or transfer to person or agencies entitled to tax exemption under the SOFA, of movable property, tangible or intangible, the presence of which in Japan is due solely to the temporary presence of these persons in Japan, provided such exemption shall not apply to property held for the purpose of investment or the conduct of other business in Japan or to any intangible property registered in Japan.
11. Japan authorities have the right to exercise jurisdiction over SOFA personnel in relation to offenses committed in Japan and punishable by the law of Japan. In those cases in which the Japanese authorities have the primary right to exercise jurisdiction but decide not to do so, the U.S. shall have the right to exercise such jurisdiction as is conferred on it by the law of the U.S.

III. Logistic Support:

Logistic support, including but not limited to, the items below shall be provided to contractor employees and their dependents granted SOFA Article I(b) status under this contract, subject to availability as determined by the installation commander or designee.

1. Navy, Base or Post Exchange, exchange service stations, theaters, and commissary;
2. Laundry and dry cleaning;
3. Military banking facilities;
4. Transient billeting facilities;

5. Open mess (club) membership, as determined by each respective club;
6. Casualty assistance (mortuary services) on a reimbursable basis;

7. Routine medical care on a reimbursable basis for U.S. citizens and emergency medical care on a reimbursable basis for non-U.S. citizens;
8. Dental care, limited to relief of emergencies on a reimbursable basis;
9. DoD Dependent Schools on a space-available and tuition-paying basis;
10. Postal support, as authorized by military postal regulations;
11. Local recreation services on a space-available basis;
12. Issuance of U.S. Forces, Japan Operator's Permit;
13. Issuance of vehicle license plates.

(End of Provision)