

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. Contract ID Code **12** Page **1** Pages **2**

2. AMENDMENT/MODIFICATION NO. **74** 3. EFFECTIVE DATE **See Block 16C** 4. REQUISITION/PURCHASE REQ. NO. **See page 2** 5. PROJECT NO. (if applicable)

6. ISSUED BY CODE **PS52/MMC** 7. ADMINISTERED BY (if other than Item 6) CODE **PS52/MMC**

Procurement Office
George C. Marshall Space Flight Center
National Aeronautics and Space Administration
Marshall Space Flight Center, AL 35812

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AUTOMATED INVOICE PAYMENT INFORMATION: (256) 544-5566

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State, and Zip Code)

Bastion Technologies, Inc.
17625 El Camino Real, Suite 330
Houston, TX 77058

(x) 9A. AMENDMENT OF SOLICITATION NO.

9B. DATED (SEE ITEM 11)

X 10A. MODIFICATION OF CONTRACT/ORDER NO.

NNM07AA74C

10B. DATED (SEE ITEM 13)

01/12/07

CODE **SAP ID# 100289** FACILITY CODE **CAGE 1PM71**

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

- (a) By completing items 8 and 15, and returning 1 copies of the amendment;
- (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or
- (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (if required)

See page 2

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

(x) A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.

X B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). LIMITATION OF FUNDS

C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return 3 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

MAXIMUM QUANTITY (ref. Clause B-1, Table B-1)

	Total Potential Estimated	Total Potential	Total Potential Contract Value	Funding Allotted
Previous	(b)(4)	(b)(4)	\$250,112,030	\$89,610,900
This Mod	(b)(4)	(b)(4)	0	\$ 2,806,720
New Total	(b)(4)	(b)(4)	\$250,112,030	\$92,417,620

15A. NAME AND TITLE OF SIGNER (Type or print)
Russell S Reed, Bastion Program Manager

16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)
Glen Alexander Contracting Officer

15B. CONTRACTOR/OFFEROR
[Signature]
(Signature of person authorized to sign)

15C. DATE SIGNED
6/30/11

16B. UNITED STATES OF AMERICA
BY *[Signature]*
(Signature of Contracting Officer)

16C. DATE SIGNED
6/30/11

A. This modification provides additional funding as specified below.

Marshall PRs:

<u>4200394490:</u>	
62CS30/6100.2511/62/FC000000/736466.01.08.08.05/000/2510/62/CASX12011D/361N/1/2	\$ 5,000
<u>4200395944:</u>	
62QD30/6100.2511/62/FC000000/411011.03.01.01/000/2510/62/EXCX22011D/538A/1/2	\$600,000
62QD30/6100.2511/62/FC000000/411011.03.02.01/000/2510/62/EXCX22011D/538A/2/3	\$ 70,000
62QD30/6100.2511/62/FC000000/411011.03.03.01/000/2510/62/EXCX22011D/538A/3/4	\$ 40,000
62QD20/6100.2511/62/FC000000/401769.06.02.02.02.01/000/2510/62/EXCX22011D/733B/4/5	\$ 14,467
62QD20/6100.2511/62/FC000000/401769.06.08.02.04.05/000/2510/62/EXCX22011D/733B/5/6	\$357,000
62QD20/6100.2511/62/FC000000/401769.06.03.03.02.07/000/2510/62/EXCX22011D/733B/6/7	\$ 74,500
62QD10/6100.2511/62/FC000000/736466.05.01.08/000/2510/62/CASX12011D/361N/7/8	\$148,000
62QD10/6100.2511/62/FC000000/432938.10.02.08/000/2510/62/CASX12011D/361N/8/9	\$150,000
62QD20/6100.2511/62/FC000000/724297.20.29.08/000/2510/62/CASX12011D/512F/9/10	\$154,000
62QD30/6100.2511/62/FC000000/136905.03.01.08/000/2510/62/EXPX22011D/234A/10/11	\$695,000
62QD30/6100.2511/62/FC000000/604746.03.02.01.08/000/2510/62/EXPX22011D/234A/11/12	\$ 54,000
62QD30/6100.2511/62/FC000000/604746.03.09.01.08/000/2510/62/EXPX22011D/234A/12/13	\$ 16,000
62QD30/6100.2511/62/FC000000/122711.03.06.08.01/000/2510/62/AERX22011D/028A/13/14	\$ 5,000

Stennis PRs

<u>4200394867:</u>	
64PA00/6100.2511/64/FC000000/750271.03.09/000/2510/64/EXCX22011D/734A/1/2	\$250,000
<u>4200397182:</u>	
64QA00/6100.2511/64/FC000000/736466.05.01.09/000/2510/64/CASX12011D/361N/1/2	\$ 73,753
<u>4200397242:</u>	
64PA00/6100.2511/64/FC000000/804911.02.09.8998.11000/2510/64/CASX12011R/CASP/1/2	\$ 25,000
64PA00/6100.2511/64/FC000000/136905.08.04.02.09.04.53/000/2510/64/EXPX22011D/234A/2/3	\$ 50,000
64PA00/6100.2511/64/FC000000/136905.08.04.02.09.04.23/000/2510/64/EXPX22011D/234A/3/4	<u>\$ 25,000</u>

TOTAL **\$ 2,806,720**

B. The modifications made above are reflected in total on the change pages enclosed herein. In order to reflect the changes made, the pages listed below are hereby deleted from, or added to, Contract NNM07AA74C. A vertical change bar is included in the right margin to indicate the specific area(s) of change.

Page(s) Deleted
B-7(Mod 73)
Section H(mod 18)

Page(s) Added
B-7(Mod 74)
Section H(mod 74)

CONTRACT NNM07AA74C

B.6 CONTRACT FUNDING (1852.232-81) (JUN 1990)

(a) For purposes of payment of cost, exclusive of fee, in accordance with the Limitation of Funds clause, the total amount allotted by the Government to this contract is (b)(4). This allotment is for Safety and Mission Assurance (S&MA) Services and covers the following estimated period of performance: February 1, 2007 through September 13, 2011.

(b) An additional amount of (b)(4) is obligated under this contract for payment of fees.

(c) Recapitulation of funding is as follows:

	<u>Previous</u>	<u>This Action</u>	<u>Total</u>
Estimated Cost:	(b)(4)		
Provisional Award Fee:	(b)(4)		
Award Term Fee	(b)(4)		
Award Fee Earned	(b)(4)		
Total Sum Allotted:	\$89,610,900	\$2,806,720	\$92,417,620

B.7 PREMIUM FOR SCHEDULED OVERTIME (MSFC 52.222-90) (FEB 2001)

Pursuant to the clause entitled "Payment for Overtime Premiums," the amount of overtime premium authorized shall not exceed the amount specified below for the indicated period.

Amount
(b)(4)

Contract Periods
Base Year 1/Year 1
Base Year 2/Year 2
Option 1/Year 3
Option 2/Year 4
Option 3/Year 5
Award Term 1/Year 6
Award Term 1/Year 7
Award Term 2/Year 8
Award Term 2/Year 9
Award Term 3/ Year 10

(End of clause)

B-7 (Modification 74)

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 LISTING OF CLAUSES INCORPORATED BY REFERENCE

I. FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

<u>Clause Number</u>	<u>Title</u>	<u>Date</u>
None included by reference.		

II. NASA FAR SUPPLEMENT (48 CFR CHAPTER 18) CLAUSES

<u>Clause Number</u>	<u>Title</u>	<u>Date</u>
1852.208-81	Restrictions On Printing And Duplicating	Nov 2004
1852.223-76	Federal Automotive Statistical Tool Reporting	Jul 2003
1852.228-72	Cross Waiver of Liability for Space Shuttle Services	Sep 1993
1852.228-76	Cross Waiver of Liability for Space Station Activities	Dec 1994
1852.228-78	Cross Waiver of Liability for NASA Expendable Launch Vehicle (ELV) Launches	Sep 1993
1852.242-72	Observance Of Legal Holidays (Alternate II)	Oct 2000
1852.246-70	Mission Critical Space System Personnel Reliability Program	Mar 1997

(End of Clause)

H.2 ORGANIZATIONAL CONFLICTS OF INTEREST (OCI)

(a) Pursuant to FAR Part 9.504, the Contracting Officer is responsible for identifying and evaluating potential Organizational Conflicts of Interest during the acquisition process and either avoiding, neutralizing, or mitigating such conflicts before contract award. The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest. Accordingly, the Contractor shall review FAR Subpart 9.5 – Organizational Conflicts of Interest, Clause H.3 “1852.209-71 Limitation of Future Contracting (Dec 1988),” and Clause K.3 “Certification Regarding Organizational Conflicts of Interest (OCI)”.

(b) The nature of this conflict is the following:

The S&MA Contractor, acting in a support role to the S&MA office, will be a primary source of safety, reliability, maintainability, and quality assurance

(SRM&QA) analyses and will assist MSFC in the evaluation of the performance of MSFC program prime Contractors and major subcontractors. The S&MA Contractor will develop SRM&QA plans and procedures; analyze MSFC program Contractors' plans, procedures and practices; and perform assessments of those prime Contractor and major subcontractor plans, procedures and practices to assure that acceptable SRM&QA requirements exist on all MSFC programs. Therefore, the S&MA Contractor will occupy a highly influential and responsible position and must not be in a position to make decisions favoring its own capabilities at the prime or major subcontractor level. With the exception of subject matter experts in a subcontracting role, the S&MA Contractor (including S&MA teaming partners), subcontractor(s), or their respective parent, subsidiary or other affiliated or successor entity shall not have any connection with a prime contract or subcontract for the design, development, and/or delivery of space flight hardware, software, mission integration services or other critical systems related to MSFC.

- (c) With respect to the use of subject matter experts in a subcontracting role, within two working days of receipt of a Task Order Request causing such a conflict to arise, the Contractor shall notify the Contracting Officer and provide a report detailing (in accordance DRD 1107MA-006):
 - (1) The nature of the conflict;
 - (2) Plan for avoiding, neutralizing, or mitigating the conflict; and
 - (3) The benefits and risks associated with acceptance of the plan.
- (d) The Contracting Officer shall review the report and determine which of the following is in the best interest of the Government and shall so advise the Contractor:
 - (1) The subject matter expert shall perform consistent with the task order;
 - (2) The subject matter expert shall not perform the task order;
 - (3) The task order shall be cancelled or modified to remove the conflict, and/or work identified in the task order;
 - (4) The effort may be performed by other Government personnel, and/or the work may be obtained by the Government from another source not possessing a similar conflict of interest; or
 - (5) The Contractor may identify an alternative subject matter expert who can provide services consistent with the task order. Upon identification of an alternative subject matter expert, the Contractor must comply with the requirements of paragraph (c) herein and DRD 1107MA-006, if applicable.
- (e) Any limitations on future contracting resulting from the Contractors or its subcontractor(s) in preparation of specifications/statements of work or access to proprietary, business confidential, or financial data of another company are identified in Clause H.3 "1852.209-71 Limitation of Future Contracting (Dec 1988)."
- (f) The terms of this clause and application of this FAR Subpart to the contract are not subject to negotiation.
- (g) The Contractor shall include this clause in all subcontract(s).

(End of clause)

H.3 1852.209-71 LIMITATION OF FUTURE CONTRACTING (DEC 1988)

- (a) The Contracting Officer has determined that this acquisition may give rise to a potential organizational conflict of interest in regard to future contracts. Accordingly, the Contractor shall review FAR Subpart 9.5 -- Organizational Conflicts of Interest, Clause H.2 "Organizational Conflicts of Interest (OCI)," and Clause K.3 "Certification Regarding Organizational Conflicts of Interest (OCI)."
- (b) The S&MA Contractor, acting in a support role to the S&MA office, will be a primary source of safety, reliability, maintainability, and quality assurance (SRM&QA) analyses and will assist MSFC in the evaluation of the performance of MSFC program prime contractors and major subcontractors. The S&MA Contractor will develop SRM&QA plans and procedures; analyze MSFC program Contractors' plans, procedures and practices; and perform assessments of those prime contractor and major subcontractor plans, procedures and practices to assure that acceptable SRM&QA requirements exist on all MSFC programs. In addition, the S&MA Contractor may develop requirements for other competitive procurements; therefore, the S&MA Contractor will occupy a highly influential and responsible position and must not be in a position to make decisions favoring its own capabilities at the prime or subcontractor level.
- (c) The restrictions upon future contracting are as follows:
 - (1) To the extent that work under this contract requires the Contractor to perform safety and mission assurance services and/or other related technical services on the design, development, and/or delivery of space flight hardware, software, mission integration services, or other critical systems related to MSFC, the S&MA Contractor and its related entities (including but not limited to teaming partners, subcontractors, their respective parents, subsidiaries, affiliates, or successor entities) shall be ineligible to participate on the prime contracts and subcontracts for the above-cited efforts related to MSFC for the duration of the initial contract. In addition, S&MA Contractor and its related entities shall not engage an entity, with the exception of subject matter experts in a subcontracting role, that has a prime contract or subcontract for the design, development, and/or delivery of space flight hardware, software, mission integration services or other critical systems related to MSFC for the life of the S&MA mission services contract.
 - (2) If the Contractor, under the terms of this contract or through the performance of tasks pursuant to this contract, is required to develop specifications or statements of work that are to be incorporated into a solicitation, the Contractor and its related entities shall be ineligible to perform the work described in that solicitation as a prime contractor or subcontractor under an ensuing MSFC contract. This restriction shall remain in effect for a reasonable time, as agreed to by the Contracting Officer and the Contractor, sufficient to avoid unfair competitive advantage or potential bias; however, this length of time shall in no case be less than the duration of the initial production contract. NASA shall not unilaterally require the Contractor to prepare such specifications or statements of work under this contract.

- (3) To the extent that the work under this contract requires access to proprietary, business confidential, or financial data of other companies, and as long as these data remain proprietary or confidential, the Contractor and its related entities shall protect these data from unauthorized use and disclosure and agrees not to use them to compete with those other companies.
- (d) This clause shall be read in accordance with Clauses H.2 “Organizational Conflicts of Interest (OCI)” and K.3 “Certification Regarding Organizational Conflicts of Interest (OCI).”

(End of clause)

H.4 1852.216-80 TASK ORDERING PROCEDURE (OCT 1996)

- (a) Only the Contracting Officer may issue task orders to the Contractor (See Attachment J-10, Task Flow Process), providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of task orders and task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.
- (b) Prior to issuing a task order, the Contracting Officer shall provide the Contractor with the following data:
 - (1) A functional description of the work identifying the objectives or results desired from the contemplated task order.
 - (2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.
 - (3) A request for a task plan from the Contractor to include the technical approach, period of performance, appropriate cost information, and any other information required to determine the reasonableness of the Contractor's proposal.
- (c) Within 5 calendar days after receipt of the Contracting Officer's request, the Contractor shall submit a task plan conforming to the request.
- (d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, as a minimum, the following:
 - (1) Date of the order.
 - (2) Contract number and order number.

- (3) Functional description of the work identifying the objectives or results desired from the task order, including special instructions or other information necessary for performance of the task.
 - (4) Performance standards, and where appropriate, quality assurance standards.
 - (5) Maximum dollar amount authorized (cost and fee or price). This includes allocation of award fee among award fee periods, if applicable.
 - (6) Any other resources (travel, materials, equipment, facilities, etc.) authorized.
 - (7) Delivery/performance schedule including start and end dates.
 - (8) If contract funding is by individual task order, accounting and appropriation data.
- (e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 3 calendar days after receipt of the task order.
 - (f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.
 - (g) The Contracting Officer may amend tasks in the same manner in which they were issued.
 - (h) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the task order shall prevail.

(End of clause)

H.5 SUPPLEMENTAL TASK ORDERING PROCEDURES

- (a) This clause supplements the Task Ordering Procedure defined in H.4.
- (b) All work [including Section J-1, Performance Work Statement (PWS), Paragraph 2.0] to be performed under this contract will be within the broad parameters of the PWS and more clearly defined in Task Orders (TOs) approved and issued at the PWS elements Level 3 or lower. An overview and flowchart of this process is provided at Attachment J-10.
- (c) When the Government issues a Task Order Request (TOR) in accordance with paragraph (d) of Clause H.4, the Contractor shall prepare, as part of the Task Order Plan, the Contractor's estimate of the labor hours, labor categories, indirect cost, and other direct costs required to perform the Task Order requirements. In preparing the estimate, it is mutually agreed and understood that the Contractor or its Subcontractor(s) shall use the labor categories and the lower of the Contractor's/Subcontractor's actual rates or the Not-to-Exceed (NTE) rates set forth in Attachment J-9. It is further agreed and understood that the maximum available

award fee and award term fee, equating to a percentage, set forth in Attachment J-9 shall be used by the Contractor to calculate the Maximum Potential Award Fee or Award Term Fee dollars for each Task Order.

- (d) Each TO will include the period covered, estimated cost and maximum potential fees. At the end of each semi-annual award fee or award term fee evaluation period, the current evaluation period values (estimated cost and maximum potential fees) of all task orders that were active during that evaluation period will be summed and the resulting total value summation will be used as the maximum potential award fee or award term fee values for that evaluation period. A reconciling unilateral modification to the contract will be issued semiannually revising Clause B.2, Estimated Cost, and Award Fee, Award Term Fee to reflect the summation of the current total task order values.
- (e) A summation of estimated and actual TO costs for each WBS element Level 3 shall be tracked by the Contractor in accordance with J-1, Paragraph 2.0, Management.
- (f) The assigned CO and COTR will review and approve each TO and any revision thereto. The Government will provide a list of personnel to be included in the routing of TOs. The Government retains the right to disapprove any Task Order Plans (TOPs) at the sole discretion of the Government.
- (g) The Contractor shall not begin work until the approved TO is received; however, in extreme emergency situations, the Contractor may be authorized by the CO to begin work immediately. The Contractor shall process the applicable TO within 5 calendar days of being notified of an emergency, and shall not incur costs exceeding \$10,000 during the 5 day period, unless an advance waiver is granted by the Contracting Officer. The Government and Contractor shall finalize the TO within 10 calendar days.
- (h) Approval of TOs does not relieve the Contractor of its obligation under the "Limitation of Funds" clause and the "Availability of Funds" clauses of the contract.

(End of Clause)

H.6 TASK ORDER COST INCREASE NOTIFICATION REQUIREMENTS

- (a) The requirements of this clause are in conjunction with the Limitation of Cost clause or the Limitation of Funds clause of this contract.
- (b) The Contractor shall notify the Contracting Officer in writing when the Contractor has reason to believe that the total cost for performance of any individual task order, exclusive of any fee, will be either greater or substantially less than the total estimated cost stated in the task order. Notification shall not be delayed pending preparation of a revised estimate.
- (c) A revised estimate is required to support a request for an increase in the estimated cost of a task order. The revised estimate should be submitted as soon as possible

after the above notification but no later than 30 calendar days before the incurred costs are expected to exceed the estimated cost. This will allow adequate time for the Government to evaluate the revised estimate and to mutually establish any increase or decrease in estimated cost with the Contractor.

(d) (1) The revised estimate shall be submitted in the following format unless some other format is directed or approved by the Contracting Officer:

- Incurred costs to date
- Projected cost to completion
- Total cost at completion
- Current negotiated estimated cost
- Requested increase or decrease in estimated cost

(2) The “projected cost to completion” shall consist of the following “other than cost or pricing data” unless the Contracting Officer requests or approves the submittal of a greater or lesser amount of information:

- (i) Elements of cost with supporting detail for estimated direct labor hours, direct and indirect rates, materials and subcontracts, and other elements.
- (ii) Supporting explanation for the increases and projections, sufficient for the Government to understand the reasons for the increased estimated cost.

(End of clause)

H.7 1852.223-70 SAFETY AND HEALTH (APR 2002)

- (a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA’s safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.
- (b) The Contractor shall take all reasonable safety and occupational health measures in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any other relevant requirements of this contract.
- (c) The Contractor shall take, or cause to be taken, any other safety, and occupational health-measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other clause of the contract.

- (d) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule; or property loss of \$25,000 or more, or Close Call (a situation or occurrence with no injury, no damage or only minor damage (less than \$1,000) but possesses the potential to cause any type mishap, or any injury, damage, or negative mission impact) that may be of immediate interest to NASA, arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule.
- (e) The Contractor shall investigate all work-related incidents, accidents, and Close Calls, to the extent necessary to determine their causes and furnish the Contracting Officer a report, in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.
- (f) (1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. When the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action.
- (2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (f)(1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.
- (g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable Schedule provisions and clauses, with appropriate changes of designations of the parties, in all solicitations and subcontracts of every tier, when one or more of the following conditions exist:
1. The work will be conducted completely or partly on premises owned or controlled by the Government.
 2. The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.
 3. The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).

4. When the Contractor (or subcontractor or supplier) determines that the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the clause.
 - (h) The Contractor (or subcontractor or supplier) may exclude the provisions of paragraph (g) from its solicitation(s) and subcontract(s) of every tier when it determines that the clause is not necessary because the application of the OSHA and DOT (if applicable) regulations constitute adequate safety and occupational health protection. When a determination is made to exclude the provisions of paragraph (g) from a solicitation and subcontract, the Contractor must notify and provide the basis for the determination to the Contracting Officer. In subcontracts of every tier above the micro-purchase threshold for which paragraph (g) does not apply, the Contractor (or subcontractor or supplier) shall insert the substance of paragraphs (a), (b), (c), and (f) of this clause.
 - (i) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and occupational health measures under this clause.
 - (j) The contractor shall continually update the safety and health plan when necessary. In particular, the Contractor shall furnish a list of all hazardous operations to be performed, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence –
 - (1) Written hazardous operating procedures for all hazardous operations; and/or
 - (2) Qualification standards for personnel involved in hazardous operations.

(End of Clause)

H.8 1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY (FEB 2002)

- (a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to NASA and is a material part of this contract. NASA's safety priority is to protect: (1) the public; (2) astronauts and pilots; (3) the NASA workforce (including contractor employees working on NASA contracts); and (4) high-value equipment and property. A major breach of safety may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination for default. A major breach of safety must be related directly to the work on the contract. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than \$1 million; or in any "willful" or

"repeat" violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.

- (b) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination for default. A major breach of security may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of security is an act or omission by the Contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.
- (c) In the event of a major breach of safety or security, the Contractor shall report the breach to the Contracting Officer. If directed by the Contracting Officer, the Contractor shall conduct its own investigation and report the results to the Government. The Contractor shall cooperate with the Government investigation, if conducted.

(End of Clause)

H.9 1852.225-70 EXPORT LICENSES (FEB 2000)

- (a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.
- (b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at MSFC, AL where the foreign person will have access to export-controlled technical data or software.
- (c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.
- (d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

(ALTERNATE I) (FEB 2000)

- (e) The Contractor may request, in writing, that the Contracting Officer authorize it to export ITAR-controlled technical data (including software) pursuant to the exemption at 22 CFR 125.4(b)(3). The Contracting Officer or designated representative may

authorize or direct the use of the exemption where the data does not disclose details of the design, development, production, or manufacture of any defense article.

(End of Clause)

H.10 Reserved

H.11 1852.235-71 KEY PERSONNEL AND FACILITIES (MAR 1989)

(a) The personnel and/or facilities listed below (or specified in the contract Schedule) are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel or facilities, the Contractor shall (1) notify the Contracting Officer reasonably in advance and (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract.

(b) The Contractor shall make no diversion without the Contracting Officer's written consent; provided, that the Contracting Officer may ratify in writing the proposed change, and that ratification shall constitute the Contracting Officer's consent required by this clause.

(c) The list of personnel and/or facilities (shown below or as specified in the contract Schedule) may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel and/or facilities.

(b)(4)



(End of Clause)

H.12 MSFC 52.223-90 ASBESTOS MATERIAL (JUN 2002)

During performance of this contract, Contractor personnel performing work in MSFC buildings may come in contact with materials containing asbestos. MSFC Buildings 4200, 4201, 4202, 4663 and 4666 are of special concern since they are known to contain a sprayed on fire insulation on or above the ceiling, usually located on the metal or concrete structure of the buildings. These buildings and all other MSFC buildings may contain asbestos in floor tile, pipe and lagging insulation, exterior siding, roofing felt, and many other building materials. Prior to disturbing suspected asbestos material in any manner, the Contractor shall notify MSFC's Occupational Medicine and Environmental Health Services, for guidance. Contractor shall be responsible for ensuring that all Contractor personnel working onsite are made aware of and comply with this clause.

(End of Clause)

H-11(mod 74)

H.13 MSFC 52.223-91 HAZARDOUS MATERIAL REPORTING (AUG 2005)

- (a) If during the performance of this contract, the Contractor transports or accepts delivery of any hazardous materials (hazardous as defined under the latest version of Federal Standard No. 313, including revisions adopted during the term of the contract) on-site to Marshall Space Flight Center, the hazardous material shall be processed through MSFC Central Receiving to be bar-coded for inventory. Chemical containers shall be managed in accordance with the provisions of MWI 8550.5, "Hazardous Material Management." The Contractor shall be responsible for ensuring that all Contractor/subcontractor personnel are made aware of and comply with this clause.
- (b) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material; or with clauses regarding hazardous materials, which may be contained in the order.

(End of clause)

H.14 1852.237-72 ACCESS TO SENSITIVE INFORMATION (JUN 2005)

- (a) As used in this clause, "sensitive information" refers to information that a contractor has developed at private expense, or that the Government has generated that qualifies for an exception to the Freedom of Information Act, which is not currently in the public domain, and which may embody trade secrets or commercial or financial information, and which may be sensitive or privileged.
- (b) To assist NASA in accomplishing management activities and administrative functions, the Contractor shall provide the services specified elsewhere in this contract.
- (c) If performing this contract entails access to sensitive information, as defined above, the Contractor agrees to -
 - (1) Utilize any sensitive information coming into its possession only for the purposes of performing the services specified in this contract, and not to improve its own competitive position in another procurement.
 - (2) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.
 - (3) Allow access to sensitive information only to those employees that need it to perform services under this contract.
 - (4) Preclude access and disclosure of sensitive information to persons and entities outside of the Contractor's organization.
 - (5) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in this contract and to safeguard it from unauthorized use and disclosure.
 - (6) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.
 - (7) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.

- (d) The Contractor will comply with all procedures and obligations specified in its Organizational Conflicts of Interest Avoidance Plan, which this contract incorporates as a compliance document.
- (e) The nature of the work on this contract may subject the Contractor and its employees to a variety of laws and regulations relating to ethics, conflicts of interest, corruption, and other criminal or civil matters relating to the award and administration of government contracts. Recognizing that this contract establishes a high standard of accountability and trust, the Government will carefully review the Contractor's performance in relation to the mandates and restrictions found in these laws and regulations. Unauthorized uses or disclosures of sensitive information may result in termination of this contract for default, or in debarment of the Contractor for serious misconduct affecting present responsibility as a government contractor.
- (f) The Contractor shall include the substance of this clause, including this paragraph (f), suitably modified to reflect the relationship of the parties, in all subcontracts that may involve access to sensitive information

(End of clause)

H.15 1852.237-73 RELEASE OF SENSITIVE INFORMATION (JUN 2005)

- (a) As used in this clause, "sensitive information" refers to information, not currently in the public domain, that the Contractor has developed at private expense, that may embody trade secrets or commercial or financial information, and that may be sensitive or privileged.
- (b) In accomplishing management activities and administrative functions, NASA relies heavily on the support of various service providers. To support NASA activities and functions, these service providers, as well as their subcontractors and their individual employees, may need access to sensitive information submitted by the Contractor under this contract. By submitting this proposal or performing this contract, the Contractor agrees that NASA may release to its service providers, their subcontractors, and their individual employees, sensitive information submitted during the course of this procurement, subject to the enumerated protections mandated by the clause at 1852.237-72, Access to Sensitive Information.
- (c)(1) The Contractor shall identify any sensitive information submitted in support of this proposal or in performing this contract. For purposes of identifying sensitive information, the Contractor may, in addition to any other notice or legend otherwise required, use a notice similar to the following:

Mark the title page with the following legend:

This proposal or document includes sensitive information that NASA shall not disclose outside the Agency and its service providers that support management activities and administrative functions. To gain access to this sensitive information, a service provider's contract must contain the clause at NFS 1852.237-72, Access to Sensitive Information. Consistent with this clause, the service provider shall not duplicate, use, or disclose the information in whole or in part for any purpose other than to perform the services specified in its contract. This restriction does not limit the Government's right to use this information if it is obtained from another source

without restriction. The information subject to this restriction is contained in pages [insert page numbers or other identification of pages].

Mark each page of sensitive information the Contractor wishes to restrict with the following legend:

Use or disclosure of sensitive information contained on this page is subject to the restriction on the title page of this proposal or document.

- (2) The Contracting Officer shall evaluate the facts supporting any claim that particular information is "sensitive." This evaluation shall consider the time and resources necessary to protect the information in accordance with the detailed safeguards mandated by the clause at 1852.237-72, Access to Sensitive Information. However, unless the Contracting Officer decides, with the advice of Center counsel, that reasonable grounds exist to challenge the Contractor's claim that particular information is sensitive, NASA and its service providers and their employees shall comply with all of the safeguards contained in paragraph (d) of this clause.
- (d) To receive access to sensitive information needed to assist NASA in accomplishing management activities and administrative functions, the service provider must be operating under a contract that contains the clause at 1852.237-72, Access to Sensitive Information. This clause obligates the service provider to do the following:
- (1) Comply with all specified procedures and obligations, including the Organizational Conflicts of Interest Avoidance Plan, which the contract has incorporated as a compliance document.
 - (2) Utilize any sensitive information coming into its possession only for the purpose of performing the services specified in its contract.
 - (3) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.
 - (4) Allow access to sensitive information only to those employees that need it to perform services under its contract.
 - (5) Preclude access and disclosure of sensitive information to persons and entities outside of the service provider's organization.
 - (6) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure.
 - (7) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.
 - (8) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.
- (e) When the service provider will have primary responsibility for operating an information technology system for NASA that contains sensitive information, the service provider's contract shall include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the service provider to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Service provider personnel requiring privileged access or limited privileged access to these information

technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to NASA missions. The Contracting Officer may allow the service provider to conduct its own screening, provided the service provider employs substantially equivalent screening procedures.

- (f) This clause does not affect NASA's responsibilities under the Freedom of Information Act.
- (g) The Contractor shall insert this clause, including this paragraph (g), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the furnishing of sensitive information.

(End of clause)

H.16 SECURITY/BADGING REQUIREMENTS FOR FOREIGN NATIONAL VISITORS AND EMPLOYEES OF FOREIGN CONTRACTORS

- (a) An employee of a domestic Marshall Space Flight Center (MSFC) contractor or its subcontractor who is not a U.S. citizen (foreign national) may not be admitted to the MSFC site for purposes of performing work without special arrangements. In addition, all employees or representatives of a foreign MSFC contractor/subcontractor may not be admitted to the MSFC site without special arrangements. For employees as described above, advance notice must be given to the MSFC Protective Services Office at least 3 weeks prior to the scheduled need for access to the site so that instructions on obtaining access may be provided.
- (b) All visit/badge requests for persons described in (a) above must be entered in the NASA Request for Request (RFR) and Foreign National Management System (NFMMS) for acceptance, review, concurrence and approval purposes. When an authorized company official requests a MSFC badge for site access, he/she is certifying that steps have been taken to ensure that its contractor or subcontractor employees, visitors, or representatives will not be given access to export-controlled or classified information for which they are not authorized. The authorized company officials shall serve as the contractor's representative(s) in certifying that all visit/badge request forms are processed in accordance with MSFC security and export control procedures. No foreign national, representative, or resident alien contractor/subcontractor employee shall be granted access into MSFC until a completed RFR has been approved and processed through the NFMMS. Unescorted access will not be granted unless the MSFC Protective Services Office has completed a favorable National Agency Check (NAC).
- (c) The contractor agrees that it will not employ for the performance of work onsite at the MSFC any individuals who are not legally authorized to work in the United States. If the MSFC Industrial Security Specialist or the contracting officer has reason to believe that any employee of the contractor may not be legally authorized to work in the United States and/or on the contract, the contractor may be required to furnish copies of Form I-9 (Employment Eligibility Verification), U.S. Department of Labor Application for Alien Employment Certification, and any other type of employment authorization document.

The contractor agrees to provide the information requested by the MSFC Protective Services Office in order to comply with NASA policy directives and guidelines related to foreign visits to NASA facilities so that (1) the visitor/employee/representative may be allowed access to MSFC or other NASA Centers for performance of this contract, (2) required investigations can be conducted, and (3) required annual or revalidation reports can be submitted to NASA Headquarters. All requested information must be submitted in a timely manner in accordance with instructions provided by MSFC or any other Center to be visited.

(End of Clause)

MSFC 52.223-94 SAFETY PERFORMANCE EVALUATION, EVALUATION CRITERIA, AND PERFORMANCE RECOGNITION (JUNE 2011)

SAFETY PERFORMANCE EVALUATION

1. CONTRACTOR RESPONSIBILITY. The Contractor is responsible for maintaining an effective safety program during the course of the contract with a goal to achieve a world-class program within the term of the contract. The Contractor will ensure that the requirements of the MSFC approved Safety, Health and Environment (SHE) Plan and applicable Data Requirement Documents (DRD) are met. Contractor safety performance evaluation will be based on the MSFC safety and health program elements identified in MPR 8715.1, MSFC Safety, Health and Environmental (SHE) Program. The Contractor shall conduct an annual self-evaluation of their safety and health program based on these criteria. The Contractor shall submit an annual self-evaluation to the Contracting Officer (CO) no later than 30 days after each anniversary of the contract. The CO/Contracting Officer Technical Representative (COTR), in coordination with the MSFC Industrial Safety Branch, will validate the Contractor's self-evaluation.

Annually, the agreed score will be used to assess the Contractor's safety and health performance appropriately—positive or negative.

For the purpose of validating the annual score, the Contractor and the CO/COTR, in coordination with the MSFC Industrial Safety Branch, will reach a mutually agreeable determination based on the metrics reflected in the Attachment 1 of this clause. In cases where the Contractor and CO/COTR cannot reach agreement, the MSFC Ombudsman will hear arguments from both sides and make a final decision. This process shall not preclude the CO from taking immediate action for any serious, willful, blatant, or continued violations of MSFC safety, health and environmental policy or procedures.

2. EVALUATION CRITERIA. Contractor self-evaluation and Government validation will be based on the applicable elements and sub-elements of the MSFC safety and health program shown below. Specific criteria are shown on Attachment 1 entitled "Safety & Health Management Implementation Guide and Assessment Matrix." Deviations from the matrix criteria may be made, for cause, and must be approved by the COTR, CO and Government Safety Representative. It should be noted that Element 1 has a management and an employee component. These are simply averaged to obtain the score for Element 1. The result should be carried to the second decimal point.

MSFC SAFETY AND HEALTH CORE PROGRAM REQUIREMENTS

(ELEMENT 1)	(ELEMENT 3)
Management and Employee Involvement	Hazard Prevention and Control
Management Commitment	Hazard Elimination and Control Process (Engineering/Administrative/Safety Devices/Work Practices/Personal Protective Equipment)
Documented Safety Policy and Goals	Preventative Maintenance for Facility and Equipment
Employee Involvement/Engagement	Emergency Preparedness and Drills
Safety Committees	Emergency Medical Care Program
Safety Meetings	Hazard Control Programs
Subcontractor Safety	Occupational Health Program
Resources	Tracking Hazard Correction
Accountability	Access to Professional Safety Staff
Annual Safety and Health Program Evaluation	Disciplinary Program

(ELEMENT 2)	(ELEMENT 4)
Worksite Hazard Analysis	Safety and Health Training
Baseline Surveys and Analyses for the Worksite	Employee Knowledge of Hazards in the Workplace, Recognize Hazards, Signs and Symptoms of Workplace-Related Illnesses, and Safe Work Procedures
Perform Analysis Of New Work and When Significant Changes Occur	Supervisor and Managers Understand Their Safety and Health Responsibilities
Job Hazard Analysis/ Process Review for Routine Jobs	Training Documentation
Routine Self-Inspections	Training Curriculum Specific to the Worksite Operations
Hazard Reporting by Employees	
Investigation Of Mishap/Close Calls	
Injury/Illness Rates	

3. PERFORMANCE RECOGNITION.

In accordance with MPR 8715.1, "Marshall Safety, Health, and Environmental (SHE) Program", Contractor performance that is validated and recognized to have achieved a world-class program within the term of the contract will be recognized with the following:

<p>Superior Safety Performance level- Annual rating score of ≥ 36 and a Lost Time Case Rate (LTC) $\leq 50\%$ of the LTC National average for the applicable North American Industry Classification System (NAICS) average.</p>	<p><i>Plaque Presentation by the Center Director at the Marshall Team Meeting.</i> <i>Appropriate contractor past performance referrals may be provided.</i></p>
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Exception: Contractors with less than 100 employees located onsite at MSFC and/or MAF. To be rated at Superior Safety Performance level, the Contractor shall have no lost time injuries during the past year.

The following will result in cases where a Contractor's performance is rated as being below the accepted safety performance level:

<p>Below Accepted Safety Performance level - Annual rating score of ≤ 16 or a LTC that is $<10\%$ of the LTC National average for the applicable NAICS average.</p>	<p>Formal letter from S&MA Director and the Director of the Office of Procurement expressing concern. <i>Corrective Action Plan requested.</i> <i>Data may be placed in contractor past performance database.</i></p>
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Failure to improve could result in contract options not being exercised.

Exception: Contractors with less than 100 employees located onsite at MSFC and/or MAF. A *Below Accepted Safety Performance level will be given to a contractor having more than one lost time injuries during the past year.*

<p>If Contractor's Safety and Health Performance evaluation rating falls within the range (>16, but <34) and the Contractor achieves a LTC between $\pm 10\%$ of the LTC National average for the applicable NAICS, the Contractor's performance is recognized as acceptable.</p>	<p><i>No recognition</i></p>
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NOTE: The most current Department of Labor NAICS average, effective at the beginning of the annual evaluation period, will be utilized for LTC evaluation. Lost Time Incidents shall be recorded in accordance with NASA requirements specified in MWI 8621.1, "Mishap and Close Call Reporting and Investigation Program." Final decisions on any disputed lost time injury determinations will be handled by established Government regulatory procedures.

4. CONTRACTOR ACCOUNTABILITY FOR MISHAPS.

The Contractor shall not be held accountable for injuries to their personnel or damage to the property they control that is caused by individuals or situations clearly outside the control of their contract.

5. EVALUATION PROCESS.

The evaluation process will be based on the major elements and their sub-elements cited in Paragraph 2.

The evaluation process will include these steps:

- Contractor to conduct an annual self-assessment of their safety and health program and assign a numerical score to each element (4) using the Safety and Health Management Implementation Guide and Assessment Matrix at Attachment 1.
- Contractor self assessments will address compliance with their approved Safety, Health and Environmental (SHE) Plan and MPR 8715.1, "Marshall Safety, Health, and Environmental (SHE) Program."
- Contractor to have their self-assessment validated by CO/COTR and Industrial Safety Branch.
- On an annual basis, the CO will apply incentives/recognition or consequences based on the validated yearly score. The CO will make a determination annually for items requested in paragraph 6 that are not reported. *(Also, see paragraph 7 below.)*
- Contractor will provide their self-assessment as shown in Attachment 2 or an equivalent format.

6. SAFETY METRIC REPORTING.

The Contractor shall report safety metrics using MSFC Form 4371 to the extent specified in the contract. Refer to MWI 8715.1, "Marshall Safety, Health, and Environmental (SHE) Program."

Service and Support contracts - DRD for Mishap and Safety Statistics Report

Construction contracts - MSFC Technical Specification for Repair and Construction (TSRC), Specs and Techs, or Master Specs.

7. FAILURE TO REPORT

If the Contractor fails to timely and accurately report to the CO, COTR and the MSFC Industrial Safety Branch, pursuant to the requirements of the relevant contract, all the information on all personnel and property mishaps that meet the criteria of NPR 8621.1, "NASA Procedural Requirements for Mishap and Close Call Reporting, Investigating, and Recordkeeping", MWI 8621.1, "Mishap and Close Call Reporting and Investigation Program", and the items in paragraph 6 of this clause, the CO may reduce the profit/fee/price/cost otherwise payable under the relevant contract in an amount of up to \$1,000 for each occurrence of failure to report. Any reduction amount shall be determined by and left to the sole discretion of the CO. This reduction does not apply to award fee type contracts where the award fee payable is based on the award fee criteria and is determined by the Fee Determination Official.

Management Commitment and Employee Involvement (ELEMENT 1)	Hazard Prevention and Control (ELEMENT 3)
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Documented Safety Policy and Goals	Hazard Identification Process
Safety Committees	Facility and Equipment Maintenance
Safety Meetings	Emergency Program and Drills
Subcontractor Safety	Emergency Medical Care Program
Resources	Personal Protective Equipment
Access to Professional Safety Staff	Health Program
Accountability (Disciplinary Program)	
Annual Evaluation	

System and Worksite Hazard Analysis (ELEMENT 2)	Safety and Health Training (ELEMENT 4)
Complete and Update Baseline Surveys	Employee
Performance Analysis of New Work	Supervisor
Job Hazard Analysis/Process Review	Manager
Self-Inspection	
Employee Hazard Reporting	
Mishap/Close Call Investigation	
Injury/Illness Rates	

3. Performance Recognition. Contractor performance will be recognized as follows:

- Level I** – Annual rating score of ≥ 36 based on the average of the quarterly assessment scores, and a lost-Time Incident Rate (LTIR) $\leq 50\%$ of the LTIR for the applicable North American Industrial Classification System (NAICS) rate.

Formal award with public recognition

Appropriate past performance referral provided.

Exception: *Contractors with less than 100 employees located onsite MSFC. To be rated in Level I, the Contractor shall have no lost time injuries during the past year.*

- Level II** – Annual rating score of ≥ 28 based on the average quarterly assessment score, and a Lost-Time Incident Rate (LTIR) $<$ the applicable North American Industrial Classification System (NAICS) rate and the scores remain the same, or reflect improved performance, from the previous period. If scores reflect a decrease in performance, no letter of commendation will be issued.

Formal Letter of Commendation

Will impact contract evaluation and past performance referrals.

Exception: *Contractors with less than 100 employees located onsite MSFC. To be rated in Level II, the Contractor shall have no more than one lost time injury during the past year.*

- **Level III** – Quarterly rating score of ≤ 16 or a Lost Time Incident Rate (LTIR) \geq than the North American Industrial Classification System (NAICS) rate.

Formal letter expressing concern. Corrective Action Plan Requested. Data Placed in Past Performance Database. Failure to improve could result in contract options not being exercised.

Exception: *Contractors with less than 100 employees located onsite MSFC. A Level III rating will be given to a contractor having greater than two lost time injuries during the past year.*

- If contractor's Safety Performance evaluation does not fall within the above categories.

No recognition.

NOTE: The most current Department of Labor NAICS rate, effective at the beginning of the annual evaluation period, will be utilized for LTIR evaluation. Lost Time Incidents shall be recorded in accordance with NASA requirements specified in MWI 8621.1, "Close Call and Mishap Reporting and Investigation Program." Final decisions on any disputed lost time injury determinations will be handled by established Government regulatory procedures.

4. **Contractor Accountability for Mishaps.** The Contractor shall not be held accountable for injuries to their personnel or damage to the property they control that is caused by individuals or situations clearly outside the control of their contract.
5. **Evaluation Process.** The evaluation process will be based on the major elements and their sub-elements cited in Paragraph 2. The evaluation process will include these steps:
 - Contractor to conduct quarterly self-assessment and assign numerical score to each element.
 - Contractor self-assessments will address compliance with their approved Safety, Health, and Environmental (SHE) Plan.
 - Contractor to have self-assessment validated by CO/ COTR and S&MA Directorate.
 - On an annual basis, the Contracting Officer will apply contract incentives/recognition or consequences based on the average quarterly scores.
 - The Contracting Officer will make a determination on a quarterly basis for items requested in paragraph 6 that are not reported. (Also, see paragraph 7 below.)

The evaluation process will use the Safety Health Management Implementation Guide and Assessment Matrix at Attachment J-14.

6. **Safety Metric Reporting.** The Contractor shall utilize MSFC Form 4371 to submit, on a monthly basis, information on all personnel and property mishaps that meet the criteria of a NASA Recordable Mishap (NPG 8621.1). Close calls and minor cases, including first aid and non-injury cases, shall be reported when there is a potential lessons learned or when action needs to be taken to prevent more serious damage, loss, or personal injury, (including communication of the incident to promote employee awareness). The report shall also include total hours worked and the number of safety inspections and safety meetings conducted during the month.

The Contractor shall also utilize NASA Form 1627 to include details of any mishap, results of the investigation, and the corrective action plan.

7. **Failure to Report.** If the Contractor fails to report the items in paragraph 6 above in accordance with this contract, an amount of \$1,000 will be deducted for each occurrence of failure to report the required data.

(End of Clause)

H.18 AWARD TERM (JAN 2006)

- (a) **Period of Performance (PoP):** The basic contract period of performance will be one two (2) year base period plus three (3) one (1) year options for a total of five (5) years, which may be increased in accordance with the contract's approved Award Fee/Award Term (AF/AT) Performance Evaluation Plan (AF/AT PEP). The PoP may be increased up to an additional five years, to a maximum of (10) ten years from the date of contract award. These increases to the basic contract period will be made by the Government based upon the Contractor's performance evaluated in accordance with the AF/AT PEP.
- (b) **AF/AT PEP:** The AF/AT PEP will be finalized by NASA and provided to the Contractor during the phase-in period. The AF/AT PEP will serve as the basis for any award term decisions. The AF/AT PEP may be unilaterally revised by the Government and re-issued by the CO to the Contractor prior to the commencement of any 6-month evaluation period. An Award Fee/Award Term Determination Official (FTDO) shall be appointed by the Government and is responsible for the overall award fee and award term evaluations.
- (a) **Award Term Administration:** During award term decision years (CYs 3, 6, and 8), the award term evaluation will be completed on an annual basis. The annual evaluation will consist of two successive 6-month "interim" evaluations that will be combined (averaged) to obtain the "final" annual adjective rating. The first two (2) years of the contract will be evaluated on a "shadow" basis where the performance results will not be used in making an award term decision. Award term decisions that affect the period of performance beyond the basic contract will commence in the third contract year and will conclude at the end of contract year eight, if all award term periods have been awarded.
- (b) **Award Term Decisions:** For the evaluation periods at the conclusion of contract years 3, 6 and 8, the final annual adjectival rating must be an "Excellent" for the Contractor to receive additional contract term. For the evaluation periods at the end years 4, 5, and 7,

annual adjective rating must also be an "Excellent" for the Contractor to maintain all previously earned contract term.

- (c) Cancellation: The Government may cancel any unearned award term periods by providing written notice to the contractor not less than 60 days before the start of an annual contract year, this cancellation will not entitle the Contractor to any termination settlement or any other compensation.
- (d) Re-competition Decision: If the average Award Term rating during any yearly evaluation period is determined to be "very good" (an average numerical score of 90, or below), the contract goes into a re-competition mode per the AF/AT PEP. This clause does not apply to the shadow year period(s) (year one (1) and year two (2)).
- (e) Award Term Extension. If the annual award term evaluations result in an increase or decrease to the period of performance, a unilateral modification will be executed by the Government to reflect the increase or decrease in total contract value. Any increase or decrease to the contract value will be in accordance with the priced periods stated in Section B. In no event will the contract be extended beyond the 10-year period of performance via the award term process.

(End of Clause)

H.19

**MSFC 52.223-93 ADVANCED NOTIFICATION OF CONTRACTOR
EMPLOYEE DISCIPLINE OR INVOLUNTARY TERMINATION (FEB 2008)**

The Contractor agrees to coordinate with the Investigations Unit Lead Investigator in the MSFC Protective Services Office before taking any action to discipline or involuntarily terminate any of its onsite employees. In addition, the Contractor agrees to immediately notify the Investigations Unit Lead Investigator in the MSFC Protective Services Office if any of its onsite employees exhibit any established indicators of potentially violent behavior.

(End of clause)

[END OF SECTION]

H-23 – Modification 74