

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE		PAGE OF PAGES 1 4	
2. AMENDMENT/MODIFICATION NO. P00044		3. EFFECTIVE DATE SEE BLOCK 16C		4. REQUISITION/PURCHASE REQ. NO.	
5. PROJECT NO. (If applicable)		6. ISSUED BY COMMANDER, 02-21C SPACE AND NAVAL WARFARE SYSTEMS COMMAND 4301 PACIFIC HIGHWAY SAN DIEGO, CA 92110-3127 M. Radi, 02-21J (619)524-7163, radim@spawar.navy.mil		7. ADMINISTERED BY (If other than Item 6) DCM-ATLANTA 805 WALKER STREET, SUITE 1 MARIETTA, GA 30060-2789	
6. ISSUED BY CODE N00039		7. ADMINISTERED BY CODE S1103A		8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State, and ZIP Code) AVAYA INC. 5440 MILLSTREAM ROAD McLEANSVILLE, NC 27301	
9A. AMENDMENT OF SOLICITATION NO.		9B. DATED (SEE ITEM 11)		10A. MODIFICATION OF CONTRACT/ORDER NO. N68939-97-D-0040	
10B. DATED (SEE ITEM 13) 29 July 1997		11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS		12. ACCOUNTING AND APPROPRIATION DATA (If required) To Be Specified on the Individual Delivery Orders	

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 _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter of 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)

To Be Specified on the Individual Delivery Orders

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

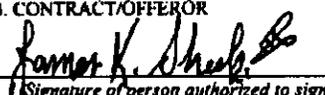
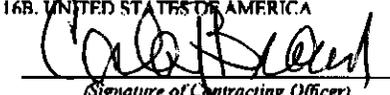
(a)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. (Specify authority) THE CHANGES
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)
X	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Mutual Agreement of the Parties, Section H.3, Clause "Technology Improvements" and the Clause at I 9 FAR 52.217-9 Option to Extend the Term of the Contract (MAR 1989)
	D. OTHER

E. IMPORTANT: Contractor is not **X** is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

The purposes of this modification are to: Update the AVAYA Catalog; Add several TIMEPLEX SubCLINS to Schedule B; Replace Section G; Revise Section H; Temporarily halt the award of new Classified Orders due to the removal of the security classification from the Contractor's Facility at McLeansville, NC; and Exercise the Option for Contract Year 5 (CY5) for the period of 29 July 2001 through 28 July 2002 as indicated on the following pages:

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15A. NAME AND TITLE OF SIGNER (Type or Print): James K. Sheek, III, Regional Contracts Mgr		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or Print) CARLA J. BROWN	
15B. CONTRACT/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 3 August 2001	16B. UNITED STATES OF AMERICA  (Signature of Contracting Officer)	16C. DATE SIGNED 8-3-01

1. The following CLINs/SCLINs are added to Schedule B (Exhibit Pricing Table) as indicated below.
 - a. SCLIN 4750AB, miniLINK/2 with 2 I/O modules manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - b. SCLIN 4750AD, REDUNDANCY OPTION – SOFTLOAD MINILINK manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - c. SCLIN 4750AF, P/S MOUNTING CHASSIS manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - d. SCLIN 4750AH, 4-PORT SYNC POLLING MODULE manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - e. SCLIN 4750AJ, 4-PORT Voice Module manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - f. SCLIN 4750AR, 48V. DC POWER SUPPLY FOR VOICE TYPE manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - g. SCLIN 4750AS, ILC to ILC manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - h. SCLIN 4750AT, 3 SLOT CHASSIS WITH INT. ESF CSU, AC POWER AND A 15' RJ48/RJ48 NETWORK manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - i. SCLIN 4750AU, 2 EIA530 I/O PORT Unit manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - j. SCLIN 4750AV, 6 PORT, 2 WIRE FXS, LS OR GS manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - k. SCLIN 4750AW, TERMINAL BLOCK R66 E SERIES manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - l. SCLIN 4750AX, PIN AMPHENOL M/M CABLE manufactured by TIMEPLEX which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - m. SCLIN 4750AA TIMEPLEX LINK/2+ Mainframe Unit with Redundant NCL+/SL and PS/L1 Power Supplies, Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - n. SCLIN 4750AC TIMEPLEX Interlink Module for T1 Termination, Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).

- o. SCLIN 4750AE TIMEPLEX LINK Digital Voice Module supports 24 digital voice channels, Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - p. SCLIN 4750AG TIMEPLEX 4-port ADPCM/PCM voice module, Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - q. SCLIN 4750AK TIMEPLEX 4-port Asynchronous Data Module (RS-232), Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - r. SCLIN 4750AL TIMEPLEX 4-port Synchronous Data Module (RS-232), Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
 - s. SCLIN 4750AM TIMEPLEX Link Management Agent, Link 2+; which is available on the World Wide Web at (<http://www.timeplexfederal.com/federal/gsa.htm>).
2. This modification also updates the AVAYA Product Catalog.
3. Delete SECTION G – CONTRACT ADMINISTRATION DATA in its entirety and replace it with the attached PART G, attachment 1.
4. This modification revises SECTION H – SPECIAL CONTRACT REQUIREMENTS by deleting Paragraph H.32 “Price Indexation” in its entirety from the contract. The revised SECTION H is attachment 2 to this modification.
5. As a result of exercising the option for Contract Year 5, all the pricing exhibits (B tables, See Below) are replaced in their entirety and are available on the World Wide Web at:
(<http://www.lucent.com/vivid/products/catalog.html#clins> and <http://www.it-umbrella.navy.mil>)

Exhibit P44A1A Digital Switching Systems

Exhibit P44A1B Modernization of GOE Switching Systems

Exhibit P44A1C End User Equipment Part B3

Exhibit P44A1D Sonet Multiplexers

Exhibit P44A1E Enterprise Connectivity, Interoperability, Communications and Management

Exhibit P44A1F Hardware and Software

Exhibit P44A1G Ship to Shore Connectivity

Exhibit P44A1H Local Access
Exhibit P44A3 – Cabling
Exhibit P44B1 – SPCM
Exhibit P44B2 – RRPCM
Exhibit P44C – Tng
Exhibit P44D1A – Labor
Exhibit P44D1B – Manuals
Exhibit P44D1C – Install Req Anal Survey
Exhibit P44D2 – Custom Outsource
Exhibit P44E1 – ODC's

6. The security clearance granted for AVAYA's Facility at 5440 Millstream Road, McLeansville, NC has been temporarily removed. No new classified orders can be awarded under N68939-97-D-0040 until the Defense Security Service reinstates the Top Secret security classification at AVAYA's facility. Only orders involving non-classified material can be awarded during this interim period.

7. Except as provided herein, all other terms and conditions of contract N68939-97-D-0040 remain unchanged and in full force and effect.

PART G - ADDENDA FOR CONTRACT ADMINISTRATION DATA

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G24. Information on RENEWING SkyTel Paging Orders Against Avaya ViViD Contract

G25. Avaya as the Prime Contractor

PART G - ADDENDA FOR CONTRACT ADMINISTRATION DATA

G1. APPLICABILITY OF PART G ADDENDA

Notwithstanding the terms and conditions specified in FAR 52.212-4 "Contract Terms and Conditions—Commercial Items" contained in part I of this solicitation, the addenda contained in Part G apply to contract administration. Any and all items in FAR 52.212-4 that are not specifically tailored or supplemented remain in full force and effect as specified in FAR 52.212-4.

G2. CONTRACTING OFFICER'S AUTHORITY

G2.1.1 The Contracting Officer identified in paragraph G2.4 or any other Contracting Officer assigned to the same office in the absence of the Contracting Officer named herein, is the only person authorized to issue amendments or approve changes in any of the requirements under this solicitation.

G2.1.2 The Contracting Officer identified in either paragraph G2.4 or G2.5, or any other Contracting Officer assigned to the same office in the absence of the Contracting Officer named herein, are the only persons authorized to issue modifications or approve changes in any of the requirements under this contract.

G2.1.3 Notwithstanding any clause/provision contained elsewhere in this contract, the authority to modify the contract remains solely with the Contracting Officer. If the Contractor makes any contract change(s) at the direction of any person other than the Contracting Officer, the change(s) will be considered to have been made without authority and no adjustment will be made in the contract or delivery order price to cover any increased charges incurred as a result of the change(s).

G2.2 The Contracting Officer is the only person who can legally modify any resulting contract or obligate the Government for the expenditure of public funds. The Contractor shall submit requests for modification of the contract to the Contracting Officer with a copy of the request to any appointed Contracting Officer's Representative (COR).

G2.3 Contractual problems that may arise during the life of this contract shall be resolved in accordance with this contract. Only the Contracting Officer is authorized to formally resolve such problems. Therefore, users, ordering officers and the Contractor shall bring all such unresolved contractual problems to the immediate attention of the Contracting Officer and the Government PMO.

G2.4 RESERVED

G2.5 If a SCO is designated herein, the requests described in Clause G2.4 shall be directed there, accordingly. Successor Contracting Officer functions have been assigned to the following:

Carla Brown
Space and Naval Warfare Systems Command

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4301 Pacific Highway
San Diego CA 92110-3127
Phone: (619) 524-7204 (DSN 524-7204)
Fax: (619) 524-3180
Internet e-mail: browncar@spawar.navy.mil

G2.6 Administrative Contracting Officer (ACO) duties (with the exception of Coast Guard and GSA Delivery Orders) have been assigned to:

S1103A
DCMC Atlanta
GREENSBORO AREA OFFICE, AVAYA RESIDENCY
P.O. Box 20046, Guilford Center
Greensboro NC 27420-0046

G2.7 The ACO for Coast Guard and GSA Delivery Orders will be identified on each delivery order.

G3. SUBCONTRACTING REPORTS

The Contractor shall submit a copy of Standard Form (SF) 294-Subcontracting Report for Individual Contracts and/or a copy of SF 295-Summary Contract Report as required.

G4. ADMINISTRATIVE MATTERS

For DoD activities other than the Department of the Navy, all questions and information regarding this contract should be directed to the appropriate persons identified in Part G12. Other administrative information is provided below.

G4.1 All contractual and administrative questions and information must be directed through the Contracting Officer identified in Part G2.4 or G2.5 above.

G4.2 The Contractor shall provide a copy of any correspondence received from any of the Government activities involved with this contract, which is related or might be related to a contractual matter, to the appropriate Contracting Officer noted above.

G4.3 Questions and information regarding post-award management of the program should be directed to:

Space and Naval Warfare Systems Center, San Diego
VIVID Program Manager
Barbara Johnson
Code D829
53560 Hull Street
San Diego CA 92152

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Phone: (619) 524-9607
 Fax: (619) 524-9678
 e-mail: barbaraj@spawar.navy.mil

G4.4 The designated Technical Lead for this contract is:

Space and Naval Warfare Systems Center, San Diego
 DoN IT Umbrella Program Office
 Ted. G. Wolken
 Code D829
 53560 Hull Street
 San Diego CA 92152
 Phone: (619) 524-9601
 Fax: (619) 524-9678
 e-mail: wolkent@spawar.navy.mil

G4.5 The following information is provided for the use of ordering agencies in preparation of Individual Procurement Action Reports (DD Forms 350):

Block	Entry	Block	Entry	Block	Entry
A1	As Required	C1	B	E1	Leave Blank
A2	Local Entry	C2	Leave Blank	E2-E3	Leave Blank
A3	Local Entry	C3	A		
A4	Local Entry	C4	U	F1-F4	Local Entry
		C5	K		
B1A	N68939-97-D-0040	C6	2	G1	Local Entry
B1B	A	C7	4	G2	Local Entry
B2	Local Entry	C8	B	G3	Local Entry
B3	Local Entry	C9	Leave Blank	G4	00
B4	Local Entry	C10	D	G5	P
B5A	003592602	C11	N	G6	N
B5B	N	C12	Z	G7	Leave Blank
B5C	1SBH3	C13A	Leave Blank	G8	Leave Blank
B5D	Avaya, Inc.	C13B	Leave Blank		
B5E	5440 Millstream Road McLeansville, NC 27301	C14	Y	G9	Leave Blank
B5F	223713430	D1	C	G10	Y
B5G	Leave Blank	D2	Z	G11A	J
B5H	Leave Blank	D3	Z	G11B	A
B6A	28000	D4A	A	G12	Y
B6B	37	D4B	A	G13	K
B6C	Greensboro NC	D4C	A	G14	A
B7	Local Entry			G15	D
B8	Local Entry	D4E	Leave Blank	G16	D
B9	Local Entry	D5	Leave Blank	G17	Leave Blank
B10	N	D6	N	G18	A
B11	Leave Blank	D7	A	G21A	N
B12A	Local Entry	D8	D		
B12B	Local Entry	D9	N		
B12C	0002	D10	Leave Blank		
B12D	4822	D11	Leave Blank		
B12E	Local Entry				

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B13A	5				
B13B	B				
B13C	M				
B13D	Local Entry				

G5. AUTHORIZED ORDERING OFFICERS

G5.1 Authorized ordering officers for this contract are warranted Contracting Officers whose warrant authorizes purchase of this type and dollar magnitude. The ordering officer(s) is (are) the only individual(s) who have the authority to issue delivery orders for any CLIN's/SCLIN's on this contract.

G5.2 The authorized ordering officer(s) is/are responsible for issuing and administering any orders placed hereunder. Ordering officers may negotiate revisions/modifications to delivery orders only, and the revisions/modifications to the delivery orders must be within the scope of this contract. **Ordering officers have no authority to modify any provision of the basic contract, nor do ordering officers have the authority to terminate a delivery order under the provision at Part I2., FAR 52.212-4(m) "Termination for cause."** Any changes necessary to the basic contract must be addressed to the contracting officer identified above. Ordering officers may enter into mutual no-cost cancellations of orders under this contract and may reduce the scope of orders, but terminations for convenience or terminations for cause shall be issued only by the PCO or the successor PCO.

G6. DELIVERY ORDERS

G6.1 For all DOD activities, all delivery orders prepared and issued under this contract shall use a Standard Form (SF) 1449, GSA Form 300, or DD Form 1155 and shall be forwarded per the distribution instructions provided in G22. GSA is only allowed to place orders for DOD activities.

G6.2 Delivery orders shall not conflict with the contract (See FAR Clause 52.216-18 entitled "Ordering" incorporated by reference in Part I.)

G6.3 Delivery orders (which shall be issued on a Standard Form 1449, GSA Form 300 or DD Form 1155) will be prepared as follows:

G6.3.1 Reserved;

G6.3.2 Reserved;

G6.3.3 If installation is ordered separately, a copy of the hardware/software order shall be attached to the installation order.

G6.3.4 Ordering officers are authorized to reduce, but are not authorized to increase, the liquidated damages applicable to supplies or services to be ordered when they determine that the charges described in paragraph F2.8 exceed the damages reasonably anticipated

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to be incurred because of late delivery. Ordering officers shall specify, on the SF 1449, GSA Form 300 or DD Form 1155 for the delivery order, the revised liquidated damages that are determined to be applicable; otherwise, the charges described in paragraph F2.8 shall apply to the supplies and services identified in the delivery order.

G6.3.5 Leases and/or lease-to-own shall be ordered separately (See CLIN 0900 Customized Leasing). The "remit to" address for lease orders will be provided by the Contractor and shall be identified on the Delivery Order (for SF1449s and GSA Form's 300 in Block 20 and for DD1155s in Block 19). The "remit to" address will also be included on the Contractor's invoice.

G6.4 Blanket delivery orders may be used for ordering maintenance, spare parts and other recurring requirements.

G6.5 Written Delivery Orders, issued via a Standard Form 1449, GSA Form 300 or DD Form 1155, will contain the following information, as applicable:

- (a) The date of the order;
- (b) The contract number and the order number;
- (c) Accounting and appropriation data;
- (d) CLIN number, item description including model number and serial number (if assigned), quantity ordered, and contract price for the item;
- (e) Delivery, installation or performance date(s);
- (f) Place of delivery or performance;
- (g) Requisition number;
- (h) Packaging, packing, and shipping instructions;
- (i) Approving and accepting authority and location(s);
- (j) Site inspection requirements;
- (k) Scheduled idle time;
- (l) reserved
- (m) Any other pertinent information (e.g., for maintenance equipment; make, model and serial number); and
- (n) Ordering Per-call Maintenance. When per-call maintenance is applicable, each delivery order will specify separate "not to exceed" amounts to reimburse the Contractor for

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1) maintenance services (labor), and 2) parts. The Government may unilaterally issue or modify delivery orders to authorize or increase the "not to exceed" amounts for services and/or parts. The Contractor is not obligated to perform, and the Government is not obligated to pay, for these services and/or parts to the extent that the total charges for these services will be greater than the "not to exceed" amount specified. Charges for maintenance service and/or parts shall be invoiced separately on a monthly basis identifying the date(s) performed, the service performed, the number of hours and the reasons for the service. Funds for maintenance service must be obligated on a delivery order prior to the commencement of the services.

(o) A statement indicating that Life Cycle Management Documentation has been completed and is on file.

(p) A statement indicating whether partial shipments are acceptable.

(q) When straight leasing line items, the term of the lease shall be identified. The term of the lease shall not exceed the ten-year ordering period of the contract when the lease has been carried out to its full term.

(r) The name, address, telephone number and e-mail address of the ordering officer.

G6.6 Rejection of Orders. The Contractor shall administratively and technically review and accept or reject delivery orders within three (3) working days of receipt using the procedures described in Paragraph G22. The Contracting Officer will make the final determination of whether the rejection of the delivery order by the Contractor is justified. The Contracting Officer's determination is not subject to the Disputes clause (FAR 52.233-1) dated MAR 1994.

G7. PREPARATION AND SUBMISSION OF INVOICES

The Contractor shall prepare invoices in accordance with the instructions in Part I clause 52.212-4(g) "Invoice." IAW FAR 32.102(d), the Ordering Officer may authorize partial payments on the individual delivery orders. By authorizing partial payments the Government does not relinquish its right to formal acceptance of all goods and services under the delivery orders. The Contractor shall submit invoices to:

******The DFAS payment offices identified in paragraph G21******

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G8 CONTRACTING OFFICER'S REPRESENTATIVE

G8.1 The Contracting Officer hereby designates the following individual as the Contracting Officer's Representative (COR):

Space and Naval Warfare Systems Center, San Diego
Ted G. Wolken
Code D829
53560 Hull Street
San Diego CA 92152
Phone: (619) 524-9601
Fax: (619) 524-9678
e-mail: wolkent@spawar.navy.mil

G8.2. A Technical Point of Contact (TPOC) will be identified on each delivery order.

G8.3. The COR/TPOC is designated by the Contracting Officer to perform technical liaison between the Contractor's management and the Contracting Officer in routine technical matters constituting general program direction within the scope of the contract. Under no circumstances is the COR /TPOC authorized to effect any changes in the work required under this contract whatsoever, or enter into any agreement that has the effect of changing the terms and conditions of this contract, or that causes the Contractor to incur any costs. In addition, the COR/TPOC will not supervise, direct or control Contractor employees. Notwithstanding this provision, to the extent the Contractor accepts any direction that constitutes a change to this contract without prior written authorization of the Contracting Officer, costs incurred in connection therewith are incurred at the sole risk of the Contractor, and if invoiced under this contract will be disallowed.

G8.4. On all matters that pertain to the contract terms, the Contractor must communicate with the Contracting Officer. Whenever, in the opinion of the Contractor the COR/TPOC requests efforts beyond the terms of the contract, the Contractor shall so advise the Contracting Officer. If the COR/TPOC persists and there still exists a disagreement as to proper contractual coverage, the Contracting Officer shall be notified immediately, preferably in writing. Proceeding with work without proper contractual coverage may result in nonpayment or necessitate submittal of a contract claim.

G9 ACCOUNTING AND APPROPRIATION DATA

Accounting and appropriation data will be provided at time of issuance of Delivery Orders.

G10 CONTRACTOR ADMINISTRATIVE INFORMATION

G10.1 Contractor's office which will receive payment, supervise and administer the resulting contract:

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Contract Administration:

AVAYA Inc.
5440 Millstream Road
McLeansville, NC 27301
Phone: (336) 574-7552
FAX: (336) 574-7552
POC: Jim Sheek – ViViD Contracts Manager

Contractor Payment for Delivery Orders other than leases:

Mail to:

AVAYA Inc.
ViViD Contract
c/o Chase Manhattan Bank
P. O. Box 5332
New York, NY 10087-5332

or Wire Transfer to:

Chase Manhattan Bank
Telegraphic Abbreviation (Chase Manhattan Bank NA)
ABA Routing Number 021000021
Account Number 323094724
Phone: 1 800 242-7324

Contractor Payment for Delivery Orders for leases:

The remit to address for leases shall be identified on the first page of the SF1449 (Block 20), GSA Form 300 or the DD1155 (Block 19) as well as on the Contractor's invoice.

G10.2 Administration of this contract will be performed by:

AVAYA Inc.
5440 Millstream Road
McLeansville, NC 27301
Phone: (336) 574-7552
FAX: (336) 574-7552
POC: Jim Sheek – ViViD Contracts Manager
POC: Glenn Thaller – ViViD Program Manager

G11 OCONUS TRANSPORTATION

G11.1 The Contractor shall ship directly to consolidation points (if stated on the delivery order) for all Services.

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G11.1.1 NAVY consolidation points for surface/air shipments for NAVY ships and overseas activities are:

EAST COAST

VREP Contractor - Facility Code N45750
8349 Air Cargo Rd Bldg LP-117
NAS
Norfolk VA 23511-4496
NAVMTO Norfolk: 757-444-8201/8207, FAX 7383, DSN 564

WEST COAST

DDRW San Joaquin Site - Facility Code W62N2A
RFC OCONUS
Central Receiving
Bldg 330
Lathrop CA 95331-5340
209-982-2128/3140, FAX 3652, DSN 462

G11.1.2 OCONUS AIR FORCE deliveries contact:

AFDCO/LGTA
Wright-Patterson AFB, OH 45433-5000
513-257-4946; DSN 787

G11.1.3 OCONUS ARMY deliveries contact:

USAMC
Logistics Support Activity (Army Air Clearance Authority)
Bldg 3434
Honest John Road
Red Stone Arsenal AL 35898
(205)955-9763/9764/9785/9809/9817

G11.2 Consignment Instructions

G11.2.1 Consignment instructions shall include, as a minimum, the clear text and coded MILSTRIP data as follows:

G11.2.1.1 Code of consignee and clear text identification of consignee and destination as published in the following:

G11.2.1.1.1 Department of Defense Activity Address Directory (DoDAAD), DoD 4000.25-6-M,

G11.2.1.1.2 Military Assistance Program Address Directory (MAPAD), DoD 4000.25-8-M, or

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G11.2.1.1.3 Commercial and Government Entity (CAGE) Handbook H4/H8;

G11.2.1.2 Project code, when applicable;

G11.2.1.3 Transportation Priority (TP);

G11.2.1.4 Required Delivery Date (RDD); and

G11.2.1.5 Coded MILSTRIP document number, demand/ suffix code, a supplementary address and signal code. Non-MILSTRIP shipments shall include data similar to (i) through (iv) above and the applicable portion of (v) above, together with the notation "NON-MILSTRIP".

G11.2.2 In addition to the data requirements of (i) through (v) of (1) above, amended shipping instructions shall include the following when appropriate:

G11.2.2.1 Name of the activity originally designated, from which the stated quantities are to be deducted; and

G11.2.2.2 Any other features of the amended instructions not contained in the basic contract.

G11.2.3 For contracts assigned for any contract administration function listed in FAR Subpart 42.3 to any office listed in the "DoD Directory of Contract Administration Services Components" dated June 1996 (located on the world wide web at <http://www.dcmc.dcrb.dla.mil>), such instructions shall include the modification serial number and, if a new line item is created by the issuance of shipping instructions, the new line item number and the existing line item number if affected.

G11.2.4 See DFARS 247.371 for amendment or confirmation of consignment instructions.

G12. POINTS OF CONTACT FOR DoD AND COAST GUARD ACTIVITIES

For information concerning the contract, contact the following:

G12.1 NAVY

Order Issues:

Space and Naval Warfare Systems Center, San Diego
DoN IT Umbrella Program Office
53560 Hull Street
San Diego CA 92152
Fax: (619) 524-9678
Ted G. Wolken
Phone: (619) 524-9601
e-mail: wolkent@spawar.navy.mil

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G12.2 Coast Guard
See paragraph G12.1.

G13. MULTIPLE AWARD ORDERING PROCEDURES

G13.1 General.

G13.1.1 The ordering officer shall ensure that individual delivery orders clearly describe all services to be performed or supplies to be delivered. The ordering officer shall also ensure that delivery orders are within the scope, term, and maximum value of the contract. All orders shall be prepared in accordance with paragraph G6.

G13.1.2 No protest under FAR Subpart 33.1 is authorized in connection with the issuance or proposed issuance of a delivery order under this contract except for a protest on the grounds that the delivery order increases the scope, term, or maximum value of the contract.

G13.2 Orders Under Multiple Award Contracts.

G13.2.1 Any proposal submitted for a delivery order shall include alternative solutions for satisfying the requirement, with the advantages and disadvantages of each alternative described. The Contracting Officer/ordering officer, in broad discretion, will select that alternative that represents the best value to the agency.

G13.2.2 The procedures for selecting awardees of delivery orders need not comply with the competition requirements of FAR 16.505(b). See paragraph B2 for Consideration Criteria for Delivery Orders. The Contracting Officer/ordering officer shall not use any method (e.g., allocation) that would result in an undue or unfair consideration being given to all ViViD Contractors. Formal evaluation plans or scoring of delivery order proposals will not be performed. In addition, the Contracting Officer/ordering officer will not be required to contact each of the ViViD Contractors before selecting the delivery order awardee.

G13.2.2.1 When two or more ViViD Contractors submit proposals for the same delivery order requirement, the Ordering Officer shall exercise broad discretion and shall employ sound business judgment in selecting an awardee for a delivery order. Factors that the Contracting Officer may consider in selecting an awardee for a delivery order include, but are not limited to, the following: whether the product or service offered by the ViViD Contractor has special features, functions and/or capabilities which are required for effective performance and which are not provided by the other ViViD Contractor's supplies or services; past performance of the ViViD Contractor; quality of the supplies or services; price of the supplies or services; overall cost; trade-in considerations; probable life of supplies; warranty; spare parts availability; and maintenance availability.

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G14. GOVERNMENT CREDIT CARD ORDERING PROCEDURES

“IMPAC” Government credit card orders may be placed by the Government for purchases of supplies or services up to the card holders credit card purchase limit.

G15. TASK REQUIREMENTS NOTICE (TRN)

G15.1 When the Government contemplates issuing delivery orders for Contractor support services (including but not limited to repair parts for per-call maintenance), OJT, or spare parts for Government-provided maintenance (including ODC's), the Government may issue TRN's to define specific Contractor tasks within the scope of those requirements set forth in Part C. Upon request of the ordering officer, The Contractor shall provide a firm-fixed-price proposal to include the following:

- a. the number of labor hours
- b. delineation of labor category CLIN's/SCLIN's required to perform the task
- c. estimated travel costs (if any)
- d. the number of calendar days required to perform the specified effort
- e. alternatives analysis of at least a lease and a purchase option of equipment, when applicable
- f. identification of other direct costs, if any
- g. resumes for personnel provided under paragraph C11 (applies only when support services are ordered)
- h. parts list with associated prices (reconditioned parts shall be clearly identified as such)

The requirement will then be negotiated by the ordering officer and the Contractor's duly authorized representative. After completion of negotiations, a delivery order would be issued by the ordering officer. The TRN process may also be used for specifying details regarding access arrangements (not price) as described in paragraph C9.1.5.

G15.2 No TRN or revision thereto shall become effective until it has been approved and a delivery order has been executed by the ordering officer. All TRN's must be presented, processed, and executed by issuance of a delivery order prior to the required start date.

G15.3 It is understood and agreed that, in the performance of the proposal, the Contractor shall use the CLIN's/SCLIN's and prices that appear in the contract price exhibits.

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G15.4 If the ordering officer and the Contractor fail to agree on a firm-fixed-price proposal, the Contracting Officer may order performance of the task. Disputes may be settled in accordance with the "Disputes" clause in the contract.

G15.5 Notwithstanding any other contract provision, the Contractor shall maintain sufficient accounting records for verification of the hours incurred and CLIN's/SCLIN's used in the performance of the delivery orders associated with the TRN's. In the event that subcontract labor is included in the labor effort described in paragraph G15.3, the foregoing records provisions shall be included in all applicable subcontracts.

G15.6 If, in the process of complying with the TRN's, the Contractor perceives substantial savings and/or benefits by changing the tasks, the Contractor will advise and obtain approval from the ordering officer and a revision shall be presented, processed and executed in accordance with paragraphs G15.2 and G15.8.

G15.7 Upon completion of an assigned TRN, the output by the Contractor will be evaluated by the Government for compliance with the requirements.

G15.8 It is understood and agreed that, in the event that the Government elects to modify a delivery order issued pursuant to a TRN, such modification shall not be construed as a partial termination for the Government's convenience or partial termination for cause in accordance with paragraphs I2(l) and I2(m).

G15.9 Reserved.

G16. CUSTOMIZED OUTSOURCING PACKAGES

G16.1 Contracting Officer approval is required for any TRN, negotiation of responses to TRN's, and any resulting delivery orders for outsourcing services. In addition to the requirements of paragraph G15, the following must clearly be identified in the Contractor's proposal in response to the TRN and any resulting delivery order as appropriate:

G16.1.1 Any minimum guarantee or termination liability schedule, and terms and conditions affecting same.

G16.1.2 A breakdown of pricing that will identify the basis of the total price to be paid by the Government for the service including, but not limited to, the Contractor's cost, G&A, profit, cost of capital, and amortization rate and schedule. Identification of equipment, services, and Contractor-provided and Government-furnished assets, and the build-up, or how the price is based, from the CLIN's and SCLIN's under contract.

G16.1.3 A delivery schedule clearly identifying the service deliverables and associated pricing.

G16.1.4 Identification of terms, conditions, and/or provisions applicable to subsequent execution of future follow-on delivery orders.

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G16.1.5 Ownership of CP equipment/materials upon completion of performance for the delivery order. An amortization schedule for all classes of equipment and components shall be negotiated prior to issuance of the delivery order. For all equipment and components that are internal to Government real estate (including inside and outside cabling): Title shall pass to the Government at the Government's option if fully amortized; items not fully amortized shall be offered to the Government for the unamortized amount and may be purchased under this contract by separate delivery order. The Contractor shall list below those classes of equipment and components, which cannot comply with the foregoing and explain why it cannot comply.

G16.1.6 Delineation of asset control and management during the performance of the delivery order.

G16.1.7 Identification of any Government property/personnel required to provide the service.

G17. CERTIFICATION OF COMPLIANCE WITH PARAGRAPH C6 "CABLE AND RELATED MATERIALS" TABLE C-1

G17.1 Regardless of inconsistent part numbers, misreferenced or incorrect Technical Literature and descriptions of salient characteristics in various sections of the Contractor proposal submitted in response to RFP N68939-96-R-0006 concerning Table C-1, the Contractor hereby certifies that it will deliver all items identified in paragraph C6 "Cable and Related Materials" Table C-1 (i.e., CLIN's 0001-0500) in accordance with the specified requirements listed in paragraph C6 "Cable and Related Materials" of the solicitation except for those items identified below.

See Volume I - Contractual Information of Contractor's Proposal

G17.2. This certification shall be signed by an executive official of the company/corporation who is responsible for satisfying the specification and has first hand knowledge of the content of the letter. The letter shall state same. A certification letter must be provided which adheres to these instructions. In any event, letters from salesmen and marketing individuals shall not be accepted.

Name of Contractor's Executive Official

Signature of Contractor's Executive Official

Date of Signature

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G18. MINIMUM GUARANTEE ACCOUNTING and APPROPRIATION DATA

G18.1 In reference to the minimum guarantee as stated in paragraph B2.1, the following lines of accounting to be used for modernization of voice, video and data are provided; see Part B, paragraph B2.2 for the maximum ceiling amount.

AA	1771810	52D6	252	EA152	0	068342	2D	000000	D60050000000	\$335,500.00
AB	1771810	52D6	252	EA152	0	068342	2D	000000	D67760000000	\$164,500.00
AC	97X4930	NF1A	000	68057	0	068142	2F	000000	S73WR00070AG	\$500,000.00

G19. CUSTOMIZED DELIVERY ORDER

G19.1 The purpose of the "Customized Delivery Order" is to offer the ability for customers to order a solution, or group of products that may include products that are not currently on the contract (ODCs), all of which can be ordered on a single Delivery Order. ODCs shall be incidental to items on the contract and required for efficient compatible use of the basic contract supplies and services. Additionally, the contractor may offer bottom-line discounts based upon the type and quantity of products or services being ordered.

G19.2 Customers should contact the contractor and request a combined quote for items (products and services) that they need. The contractor will offer a Firm Fixed Price (FFP) quote (including contract usage fee).

G19.3 The CLIN to be used is:

CLIN 0700 Customized Delivery Order
(Note: CLIN 0502, Travel, can be added as a separate line item, if needed).
CLIN 0900 Customized Leasing Order

G19.4 For the contract items, the prime contract terms and conditions will apply, unless modified. The contractor's quote will include modified terms and conditions, which may include, but are not limited to: warranty length and type, warranty response time, delivery time, and interoperability capabilities.

G19.5 Quotes using the Solution CLIN shall include the following:

- 1) For each product or service either the contract CLIN/SCLIN or vendor part number for ODCs.
- 2) Contract CLIN/SCLIN description, or for ODCs, the vendor catalog description, and
- 3) The contract price, or for ODCs, the vendor catalog price.

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Copies of the quotes provided to customers will have been approved by the Contracting Officer identified in Section G2.5. A copy of the approved quote shall be attached to the delivery order when it is issued.

G19.6 The total of both the contract CLINs and the ODC items would be calculated to insure that the 40% rule (see G19.8 below) is met. Separate totals for products and services will be provided. Any discounts would be applied to these totals.

G19.7 The following example is provided to assist customers in using the Customized Delivery Order:

Customized Delivery Order Quote Number: P-001

ViViD Contract CLINs

SCLIN	Description	Qty	Unit	Unit Price	Extended Price
4710AA	7507 Modular Multi-Protoco Router with RSP, Cisco Systems, 7507, CISCO7507	110	EA	\$18,534.29	\$185,342.90
4731AU	XYPLEX Network 9000 Hub 15 Slot Chassis, XYPLEX, 9000, N9-9015-022	20	EA	\$ 3,885.06	\$ 77,701.23
4710AH	FIP-MM FDDI Interface Processor Card, Cisco Systems, 7500, CX-FIP-MM	10	EA	\$14,755.37	\$147,553.67
				Subtotal Hardware	\$410,597.80
6810AA	Project Manager	100	HR	\$ 87.68	\$ 8,768.00
7010AA	Drafter 1	200	HR	\$ 25.93	\$ 5,186.00
7092AA	Cable Splicer	200	HR	\$ 18.43	\$ 3,686.00
				Subtotal Services	\$ 17,640.00
0502AA or AB	Travel and Living	1	lot		\$2000.00
				Total ViViD:	\$430,237.80
ODCs					
MED-IM-16	Xyplex Flash Memory Card, 4MMB fro 9000 series router	10	EA	\$ 525.00	\$5,250.00
				Total ODCs	\$5,250.00
				Total Catalog Price	\$435,487.80
				Discount	17,200.00
				Product CLIN Price	\$418,287.80

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This quote would appear as follows on the Delivery Order:

0700	Product Solution (P-001) (Product List Attached and any modified terms and conditions)	1	Lot	\$418,287.80
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G19.8 Products or Services that are not currently available on the contract (ODCs) can be included in the Solution CLIN 0700, but the total value of the ODCs ordered under CLIN 0504 shall not exceed 40 % of the value of the effort without approval of the Contracting Officer (see H27.5). ODCs shall be incidental to items on the contract and required for efficient compatible use of the basic contract supplies and services.

G20 CONTRACT USAGE FEE

G20.1 All CLIN/SCLIN prices in this contract include the fee where applicable, which supports the Navy Umbrella Contracts Program and other working capital fund agencies with which a fee sharing agreement is in place. This fee allows the contract sponsors, to recover the expenses of awarding and managing this and other contracts under the Navy Umbrella Contracts Program. The application and amount of this fee, as included in contract unit prices, are at the sole discretion of the Navy, and are not subject to dispute. The Navy agrees to share equally the Contract Usage Fee with HQ, SSC/ITP for all Air Force orders, excluding orders placed in support of the Air Force CITS-ITS program.

G20.2 By the 10th calendar day after the completion of each month, SPAWAR Systems Center (SSC) Charleston Norfolk Office will provide Avaya with a notice that lists all of the ViViD Delivery Orders issued to Avaya by Government Ordering Offices during the previous month, the value of the Delivery Orders, and their Government Tracking Numbers. In response to this notice and by the 15th calendar day after the completion of each month, Avaya will provide a notice to SPAWAR Systems Center (SSC) Charleston Norfolk Office that either confirms or disputes that Avaya received all of the orders identified by SPAWAR Systems Center (SSC) Charleston Norfolk Office during the previous month. By the 30th calendar day after the completion of each quarter, Avaya will provide to SPAWAR Systems Center (SSC) Charleston Norfolk Office a file indicating the following for each of the Delivery Orders that Avaya received during the previous quarter:

ViViD Delivery Order Number

Government Tracking Number

Customer Name

Delivery Order Status:

Open – (more invoices will be issued against this DO after the current report period)

Closed – (no more invoices will be issued against this DO after the current report period)

Date DO Received by Avaya

\$ Amount of the DO

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Act Fee % for the DO

\$ Amount Invoiced

Date Invoiced **Note: Multiple invoices rendered against a DO will have a line for each invoice occurrence.**

\$ Amount invoiced against the DO to date

Act Fee Paid Navy for the invoice

Date Act Fee paid Navy

Remaining \$ amount to be invoiced against the DO

Remaining Act fee Navy to be paid against the DO

Act Fee Paid Air Force for the invoice

Date Act Fee paid Air Force

Remaining Act fee Air Force to be paid against the DO

G20.3 By the 30th calendar day after the completion of each quarter, the Contractor shall remit applicable Contract Usage Fees associated with the delivery orders that the Contractor invoiced to the Government during the previous quarter to SPAWAR Systems Center (SSC) Charleston Norfolk Office. The Contract Usage Fee amount due Navy shall be paid by check made payable to "Treasurer of the United States," and forwarded to:

Regular US Post Office:

Financial Management Office(FMO)
SSC Charleston Norfolk Office
ViViD Program – Avaya, Inc. Contract
PO Box 1376
Ste 233-Code 6411.2 (J Rightmeyer)
Norfolk, VA 23501-1376

Overnight services:

Financial Management Office(FMO)
SSC Charleston Norfolk Office
ViViD Program – Avaya, Inc. Contract
9456 Fourth Avenue
Ste 233-Code 6411.2 (J. Rightmeyer)
Norfolk, VA 23511-2130

To ensure that the payment is credited properly, the Contractor shall identify the check as "Contract Usage Fee - Avaya ViViD Contract."

G20.4 Also by the 30th calendar day after the completion of each quarter, the Contractor shall remit applicable Contract Usage Fees associated with the Air Force delivery orders, excluding CITS-ITS orders, that the Contractor invoiced to the Government during the previous quarter to DFAS OPLOC/PE. The Contract Usage Fee amount due Air Force shall be paid by check made payable to "DFAS OPLOC/PE" and forwarded to:

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DFAS OPLOC/PE
130 West Ave., Suite A
Bldg 603-2, Code FDA-SSG
Pensacola, FL 32508-5120

To ensure that the payment is credited properly, the Contractor shall attach a company cover letter in the following format:

Date: (current)

MEMORANDUM FOR DFAS OPLOC/PE
130 West Ave., Suite A
Bldg 603-2, Code FDA-SSG
Pensacola, FL 32508-5120

From: (company name)
(company address)

SUBJECT: Collection of Checks for ViViD Contract Usage Fees – FY xx (current fiscal year)

1. Line of accounting to collect this check into is: AA 97X4930.FF12 016 G2291 0 068142 3F 000000 913111 VIVID.JON IYXH2QW700
2. Direct questions to (company poc and phone number).

(signature)

1 Attachment: Check # (check number)

Also provide copies of the above letter and the check via mail and fax to:
HQ SSG/ITP
501 East Moore Drive
MAFG-Gunter Annex, AL 36114

Fax: (334) 416-1351 Attn Glen Denner

G20.5 If the Contractor fails to remit the Contract Usage Fee in the manner and amount specified in G20.3, the amount shall be considered a debt to the United States Government under the terms of FAR 32.6. The Government may exercise all its rights under the contract, including withholding or setting off payments and interest on the debt (see contract FAR Clause 52.232-17, Interest.)

G20.6 Failure by the Contractor to pay the Contract Usage Fee in a timely manner may result in termination of the contract. Willful failure or refusal to make timely payment of the Contract Usage Fee constitutes a cause for terminating the contract for default under FAR 52.249-8 Default (Fixed Price Supply and Service).

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G21. PAYMENT OFFICES FOR DoD / COAST GUARD ACTIVITIES and GSA

G21.1 Payment office for DoD Activities:
DFAS - Columbus Center
South Entitlement Operations
P.O. Box 182264
Columbus OH 43218-2264
Code HQ0338

G21.2 Payment office for Coast Guard:
Commanding Officer
USCG Finance Center
1430A Kristina Way
Chesapeake VA 23326

G21.3 Payment offices for orders placed for DoD activities by GSA will be specified on the individual delivery orders.

G22. DISTRIBUTION OF DELIVERY ORDERS

G22.1 All delivery orders prepared and issued under this contract shall use a Standard Form 1449, DD Form 1155, GSA Form 300 or other form approved for use by the Contracting Officer identified in Paragraph G2.5. All delivery Orders shall be forwarded to the addresses listed below. Any assistance required in completing the Standard Form 1449, DD Form 1155, or GSA Form 300 should be directed to the Contracting Officer designated in paragraph G2.5 or to the DoN IT Umbrella Program Office Technical Lead designated in paragraph G4.4.

G22.1.1 The Ordering Officer shall make distribution on all orders to the address below. Electronic Distribution is allowable.

For All Delivery Orders - Original-Contractor Address as shown on the order:

AVAYA Inc.
5440 Millstream Road
McLeansville, NC 27301

Mail to: AVAYA Inc.
P.O. Box 26052
Greensboro, NC 27420-6052

E-Mail: jsheek@avaya.com
thaller@avaya.com

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For DoD and Coast Guard Delivery Orders - 1 copy to:

DCMC-Atlanta
Greensboro Area Office, Avaya Residency
P.O. Box 20046, Guilford Center
Greensboro NC 27301
Code S1103A

For GSA Delivery Orders – 1 copy to:

The GSA Administrative Office as specified on each delivery order.

For DoD Delivery Orders – 1 copy to:

DFAS – Columbus Center
South Entitlement Operations
P.O. Box 182264
Columbus OH 43218-2264
Code HQ0338

For Coast Guard Delivery Orders – 1 copy to:

Commanding Officer
USCG Finance Center
1430A Kristina Way
Chesapeake VA 23326

For Air Force Delivery Orders (other than CITS-ITS orders)– 1 copy to:

HQ SSG/ITP
501 East Moore Drive
MAFG-Gunter Annex, AL 36114

For GSA Delivery Orders – 1 copy to:

The GSA Payment Office as specified on each delivery order.

For ALL Delivery Orders - 1 copy to:

Space and Naval Warfare Systems Center, San Diego
DoN IT Umbrella Program Office
Code D829
53560 Hull Street
San Diego CA 92152
Fax: (619) 524-9678
e-mail: wolkent@spawar.navy.mil

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For ALL Delivery Orders - 1 copy to:

SPAWAR Systems Center (SSC) Charleston, Norfolk Office
ViViD Program COMO - Avaya Contract
9456 Fourth Ave
Suite 233, Code 6411.2
Norfolk VA 23511-2130
e-mail: smithjac@spawar.navy.mil

For ALL Delivery Orders - 1 copy to:

“Ship To Addressee” as shown on the order

G22.2 All incoming orders will be reviewed by the ViViD Contractor to determine if they are technically and administratively correct and complete and shall accept or reject all delivery orders within three (3) working days of receipt. In addition, one or more of the following government offices will review all incoming orders to determine if they are technically and administratively correct and complete and to verify the accuracy of the pricing: the ViViD Program Office Technical Lead and/or the Vivid Program (COMO).

G22.2.1 If the Government determines an order is not correct and requires modification, the Government office making the determination that a modification is needed will notify the other offices identified in Paragraph G22.2 above, the office issuing the order and the “ship to addressee” within 3 working days of receipt of the order. This notification will provide a full description of why the delivery order requires modification. If a modification has not been received after 15 days, a second notice will be sent. After 30 days, if the required modification has not been received, the responsible office will notify the ViViD Program Office Technical Lead for further instructions. If there is a dispute regarding the validity of the need for a modification, the Contracting Officer will make the final determination whether to reject the delivery order pending receipt of a modification issued by the Ordering Officer. The Contracting Officer’s determination is not subject to the Disputes clause (FAR 52.233-1) dated MAR 1994.

G22.2.2 In the event the Contractor determines an order is not correct and requires modification, the Contractor will notify the Government offices identified in Paragraph G22.2 above, the office issuing the order and the “ship to addressee” within 3 working days of receipt of the order. This notification will provide a full description of why the delivery order requires modification. If a modification has not been received after 15 days, a second notice will be sent. After 30 days, if the required modification has not been received, the responsible office will notify the ViViD Program Office Technical Lead for further instructions. If there is a dispute regarding the validity of the need for a modification, the Contracting Officer will make the final determination whether to reject the delivery order pending receipt of a modification issued by the Ordering Officer. The Contracting Officer’s determination is not subject to the Disputes clause (FAR 52.233-1) dated MAR 1994.

G22.2.3 In the event the Contractor determines an order is not correct and rejects a delivery order, the Contractor shall send one copy of the delivery order being rejected, along

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with appropriate justification for rejection of the delivery order to the Contracting Officer identified in paragraph 2.5 and the ViViD Technical Lead identified in paragraph G4.4. If the ViViD Technical Lead agrees with the Contractor, the Contractor shall notify the office issuing the order, the "ship to addressee" and the ViViD Program COMO identified in G22.1.1 within 3 working days of the rejection. This notification will provide a full description of why the delivery order is rejected and whether a modification will correct the deficiencies that lead to the rejection. If a modification is requested and has not been received after 15 days, a second notice will be sent. After 30 days, if the required modification has not been received, the Contractor will notify the ViViD Program Office Technical Lead for further instructions. If there is a dispute regarding the validity of the rejection, the Contracting Officer will make the final determination as to whether there is a need for a modification, whether the order can be outright rejected, or whether the Contractor must accept the order as written. The Contracting Officer's determination is not subject to the Disputes clause (FAR 52.233-1) dated MAR 1994.

G22.3 A Government PMO Customer Service Representative will be allowed access to the contractor order receipt/processing location for review and inspection of the contractor receipt/processing procedures and files. Space and office assets shall be made available for this individual.

G22.4 The contractor will send copies of all accepted delivery orders and modifications to the ViViD Program COMO and the ViViD Technical Lead daily (normal working days).

G22.5 The Contractor will establish a database to include (but not limited to) the following information:

- Contract Number
- Delivery Order Number
- Date of Order
- Requisition Number ((SF) 1449 – Block 1, or DD Form 1155 – Block 4)
- Issuing Address (including UIC)
- Delivery date
- Line of acctg
- CLIN description
- CLINs, prices, quantities
- Total Amount of the Order
- Ship To Address (including UIC)
- Credit Card Order
- Current status of the Order

The information will be made available to the government upon request. The database shall be capable of queries in third normal form and shall be FIP 127-2 compliant. The contractor, the ViViD Program COMO and the ViViD Technical Lead shall reconcile this database as determined necessary by the Government.

G22.6 There may be occasions where the Government may suspend ordering (either by CLIN/SCLIN up to and including the entire contract.) If a suspension is announced, the

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Contractor will adhere to this suspension by not accepting/processing delivery orders for the suspended item(s).

G22.7 The Government has the right to change these procedures unilaterally at any time.

G23 INFORMATION ON PLACING NEW SKYTEL PAGING ORDERS AGAINST AVAYA VIVID CONTRACT

G23.1 Pricing/Service Questions: 1-888-472-7591, SkyTel Government, Natl. Sales Ctr
Contract Issues, Call: (336) 574-7552, Jim Sheek, ViViD Contracts Manager
e-mail: jsheek@avaya.com and thaller@avaya.com

G23.2 Send Orders to: Avaya Inc.
C/O SkyTel Government Sales, Avaya ViViD Contract
1350 I St. NW, Ste 1100
Washington, DC 20005
Phone: 1-202-336-5360

G23.3 Ordering Fax #: (202) 336-5360

G23.4 To Order, Submit either Delivery Order or Authorization Letter.
(If Submitting Delivery Order, Include the Following:)

- Avaya ViViD Contract number
- SkyTel CLIN items, quantities, and prices from Contract Pricing list (Schedule B)
- List of pager user's names and work addresses
- Coordinator contact name, address, phone & fax numbers
- Shipping address and phone number
- Ordering office address and phone number
- Billing address and phone number

G23.5 If Submitting Authorization Letter, Include the Following:

- Use Agency letterhead stationary
- All the above that would be included on a Delivery Order
- Government IMPAC or any other Government credit card number
- IMPAC or any other Government credit cardholder's name as it appears on the card
- IMPAC or any other Government credit card expiration date
- Your IMPAC or any other Government credit card will be automatically debited monthly.

G23.6 SkyTel Remittance Address : Attn.: Accounts Receivable
Avaya Inc.
C/O SkyTel Corporation
P.O. Box 3887
Jackson, MS 39207-3887
Cage Code: "ON4T5"

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G23.7 Important Information: All Orders must be Administered by Issuer. This information goes in block 16 of the SF 1449 form. All payments must be made by either local payment offices or DFAS payment offices other than DFAS Columbus. This information goes in block 18a of the SF 1449.

G23.8 Ask for the Following Helpful Documents or View from the Avaya Webpage:

- 1) Glossary/Service Descriptions document (defines SkyTel terminology & services)
- 2) Sample Delivery Order- SF 1449 (to assist contracting offices in ordering)
- 3) Sample Credit Card Authorization Letter (to assist contracting offices in ordering)
- 4) Operational Procedures

G23.9 Shipping: SkyTel shall bear the shipping costs for all Devices shipped to the Government standard delivery (i.e., two day express delivery service) by SkyTel unless SkyTel is notified otherwise by the Government. The Government shall pay shipping costs for any Device shipped by SkyTel to the Government under non-standard delivery methods requested by the Government in an Order.

G23.10 Renewals: The Term of an Order shall be as specified in the Order. The term of an Order shall not automatically renew at the expiration of the Order. The Government must submit a new order to renew this service. Those Orders whose period of performance expire at the end of a Government fiscal year and are not subsequently renewed are deemed to have given the required notice.

G24 Information on RENEWING SkyTel Paging Orders Against Avaya Inc ViViD Contract

G24.1 Contract Issues, Call: (336) 574-7552; Jim Sheek, ViViD Contracts Manager
e-mail: jsheek@avaya.com

G24.2 Send Renewals to: Renewal Fax# 1-202-289-5833, SkyTel Government Sales

G24.3 Renewal Questions, Call: Renewals Hotline# 1-888-759-0319
SkyTel Government Sales,

G24.4 To Renew, Submit either Delivery Order or Authorization Letter.
(If Submitting Delivery Order, Include the Following):

- Existing SkyTel account number, and appropriate pin numbers
- Avaya ViViD Contract number
- SkyTel clin items, quantities, and new prices from Contract Pricing list (Schedule B)
- Coordinator contact name, address, phone & fax numbers
- Ordering office address and phone number
- Billing address and phone number

G24.5 If Submitting Authorization Letter, Include the Following:

PART G - ADDENDA FOR CONTRACT ADMINISTRATION DATA

(If any new units are being ordered with renewal, refer to "Information on Placing *NEW* SkyTel Paging Orders against Avaya ViViD Contract".

New orders must be on a separate delivery order and cannot be combined with a renewal.

- Use Agency letterhead stationary
- All the above that would be included on a Delivery Order
- Government IMPAC or any other Government credit card number
- IMPAC or any other Government credit cardholder's name as it appears on the card
- IMPAC or any other Government credit card expiration date
- Your IMPAC card will be automatically debited monthly

G24.6 SkyTel Remittance Address : Attn.: Accounts Receivable
Avaya Inc
C/O SkyTel Corporation
P.O. Box 3887
Jackson, MS 39207-3887
Cage Code: "ON4T5"

G24.7 Important Information: All Orders must be Administered by Issuer. This information goes in block 16 or the SF 1449. All payments must be made by either local payment offices or DFAS payment offices other than DFAS Columbus. This information goes in block 18a of the SF 1449.

G24.8 Ask for the Following Helpful Documents or view from the Avaya Webpage:

- 1) Glossary/Service Descriptions document (defines SkyTel terminology & services)
- 2) Sample Delivery Order - SF 1449 (to assist contracting offices in ordering)
- 3) Sample Authorization Letter (to assist contracting offices in ordering)
- 4) Operational Procedures

G24.9 Shipping: SkyTel shall bear the shipping costs for all Devices shipped to the Government standard delivery (i.e., two day express delivery service) by SkyTel unless SkyTel is notified otherwise by the Government. The Government shall pay shipping costs for any Device shipped by SkyTel to the Government under non-standard delivery methods requested by the Government in an Order.

G24.10 Renewals: The Term of an Order shall be as specified in the Order. The term of an Order shall not automatically renew at the expiration of the Order. The Government must submit a new order to renew this service. Those Orders whose period of performance expire at the end of a Government fiscal year and are not subsequently renewed are deemed to have given the required notice.

G25 Avaya, Inc as the Prime Contractor

Notwithstanding any of the provisions in G23 and G24, SKYTEL is a subcontractor to Avaya, Inc. under the ViViD contract. No privity of contract is created between the Government and SKYTEL when Government ordering offices place an order for SKYTEL services. Avaya, Inc.

PART G - ADDENDA FOR CONTRACT ADMINISTRATION DATA

is responsible and liable under the terms of this contract to the Government for the SKYTEL services ordered by the Government. Payment of SKYTEL's invoices to the Government for SKYTEL's performance under the contract satisfies the Government's contractual obligation to pay Avaya, Inc. for such performance. If SKYTEL has any dispute regarding the Government's payment of SKYTEL's invoices, Avaya, Inc., as the prime contractor, shall remain responsible for settling the matter with the Government under the terms and conditions of the contract. This provision shall take precedence over any conflict arising between the Pricing Addendum and this provision.

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PART H - ADDENDA FOR SPECIAL TERMS AND CONDITIONS

H1 APPLICABILITY OF PART H ADDENDA

Notwithstanding the terms and conditions specified in FAR 52.212-4 "Contract Terms and Conditions—Commercial Items" contained in part I of this solicitation, the addenda contained in Part H apply. Any and all items in FAR 52.212-4 that are not specifically tailored or supplemented remain in full force and effect as specified in FAR 52.212-4.

H2 DEPARTMENT OF DEFENSE AND COAST GUARD UTILIZATION OF THIS CONTRACT

Other Department of Defense (DoD) agencies and the U. S. Coast Guard will be permitted to use this contract to satisfy requirements for products and/or services on a limited basis, which will be at the discretion of the Program Manager and Contracting Officer.

H3 DISCOUNTS

The Government expects and strongly encourages volume discounts, limited time offers, or other types of discounts for items on this contract. Part B of the contract shall include any such discounts which are available under this contract giving all users the opportunity to take advantage of these discounts.

H4 SUBSTITUTION OF EQUIPMENT

H4.1 If, during the life of this contract, the manufacture of equipment listed in the schedule is discontinued, the Contractor shall provide to the Contracting Officer, at the time the Contracting Officer is advised of the intent to discontinue, a description of the equipment to be considered by the Contracting Officer as a substitute for the discontinued equipment.

H4.2 For each item of equipment offered as a substitute, the Contractor shall certify and provide documentation in accordance with FAR 15.8 to support:

H4.2.1 that the functionality for the substitute equipment is equal to or greater than the equipment for which the substitute is offered;

H4.2.2 that the unit price for the substitute equipment is no greater than the unit price of the equipment for which the substitute is offered;

H4.2.3 that the maintenance cost to the Government will be no greater than the maintenance cost for the equipment for which the substitute is offered;

H4.2.4 that all support costs which are borne by the Government will be no greater than the support costs for which the substitute equipment is offered.

H4.3 The Government shall at its sole discretion determine the technical acceptability of any equipment offered as a substitution. If a substitute is offered which fails to meet all of the above criteria, the substitution will be subject to mutual agreement. Disapproval of a substitution

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shall not give rise to or in any way entitle the Contractor to any extension of time, equitable adjustment, or suspension of liquidated damages or other credit provided under this contract.

H4.4 Prior to opening the contract for ordering, all equipment shall be evaluated by the Contractor to determine if any substitutions are required.

H5 TECHNOLOGY IMPROVEMENTS

H5.1 After contract award, the Government may solicit, and the Contractor is encouraged to propose independently, technology improvements to the equipment, software specifications, or other requirements of the contract. These improvements may be proposed to save money, to improve performance, to save energy or for any other purpose which presents a technological advantage to the Government. As part of the proposed changes, the Contractor shall submit a price proposal to the Contracting Officer for evaluation. Those proposed technology improvements that are acceptable to the Government will be processed as modifications to the contract.

H5.2 As a minimum, the following information shall be submitted by the Contractor with each proposal:

H5.2.1 A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each;

H5.2.2 Itemized requirements of the contract which must be changed if the proposal is adopted, and the proposed revision to the contract for each such change;

H5.2.3 An estimate of the changes in performance and cost, if any, that will result from adoption of the proposal;

H5.2.4 An evaluation of the effects the proposed changes would have on collateral costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance, operation and conversion (including Government application software); and

H5.2.5 A statement of the time by which the contract modification adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract including supporting rationale; and

H5.2.6 Any effect on the contract completion time or delivery schedule shall be identified.

H5.2.7 The Government reserves the right to require a rerun of performance testing as described in Part E to verify the proposed improvement, at no additional charge to the Government.

H5.3 The Government will not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any proposal not accepted by the Government within the period

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specified in the proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract is final and not subject to the "Disputes" clause referenced in paragraph (d) of Part I, FAR 52.212-4 "Contract Terms and Conditions—Commercial Items."

H5.4 The Contracting Officer may accept any proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice will be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a proposal under this contract, the Contractor shall remain obligated to perform in accordance with the requirements, terms and conditions of the existing contract.

H6 TECHNOLOGY ENHANCEMENTS

H6.1 The Contractor shall provide technology enhancements for newly emerging technologies, including but not limited to those identified in Part B and Part C, that will position the DoD and the Coast Guard to support their mission well into the 21st century. After contract award, the Government may solicit, and the Contractor shall propose independently, newly emerging technologies to be included into the contract. The technology enhancements may be proposed to enhance performance, to enhance energy usage or for any other purpose which presents a technological enhancement to the Government. As part of proposed changes, the Contractor shall submit a price proposal to the Contracting Officer for evaluation. Those proposed technology enhancements that are acceptable to the Government will be processed as modifications to the contract.

H6.1.1 As a minimum, the following information shall be submitted by the Contractor with each proposal:

H6.1.1.1 A description of the proposed technology enhancement(s) and the advantages and disadvantages of each;

H6.1.1.2 Itemized requirements of the contract which must be changed if the proposal is adopted, and the proposed technology enhancement(s) provision to the contract for each such change(s);

H6.1.1.3 An estimate of the enhancement(s) in performance and cost, if any, that will result from adoption of the proposal:

H6.1.1.4 An evaluation of the effects the proposed enhancement(s) would have on collateral costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance, operation and conversion (including Government application software); and

H6.1.1.5 A statement of the time by which the contract modification adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract including supporting rationale; and

H6.1.1.6 Any effect on the contract completion time or delivery schedule shall be identified.

PART H - ADDENDA FOR SPECIAL TERMS AND CONDITIONS

H6.1.1.7 The Government reserves the right to require performance testing as described in Part E to verify the proposed enhancement(s), at no additional charge to the Government.

H6.2 The Government will not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any proposal not accepted by the Government within the period specified in the proposal. The decision of the Contracting Officer concerning acceptance of any such proposal under this contract is final and not subject to the "Disputes" clause of this contract.

H6.3 The Contracting Officer may accept any proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice will be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a proposal under this contract, the Contractor shall remain obligated to perform in accordance with the requirements, terms and conditions of the existing contract.

H6.4 Solicited technology enhancement proposals may be requested by the Government and/or may be proposed by the Contractor.

H7 CONTRACTOR/OEM SPONSORED MODIFICATIONS

H7.1 The Government shall have the option to have all Contractor/OEM sponsored Engineering Change Authorizations (ECA's), which are available at the time of installation or are later offered, incorporated into the equipment acquired by this contract.

H7.2 The Contractor shall notify the Government of all such changes prior to commencing any modifications. All Contractor/OEM sponsored modifications, except changes required to correct safety hazards, which may impact on system performance or the performance of any attached devices not supplied under this contract, shall be subject to approval by the Government prior to commencing the modifications. In the event a modification is made to correct a safety hazard and such a modification results in degraded system performance, the Contractor shall provide any additional equipment or software necessary to bring the system up to its former performance level at no cost to the Government or otherwise compensate the Government for lost of system performance capability. The Government shall choose which alternative to require.

H7.3 The Government shall provide time for Contractor sponsored modifications after being notified by the Contractor that the modification is ready to be made.

H7.4 All modifications which are approved by the Government shall be accomplished at the site unless otherwise authorized by the contracting officer.

H8 CONTRACTOR COMMITMENTS, WARRANTIES, AND REPRESENTATIONS

H8.1 Any written commitment by the Contractor within the scope of this contract shall be binding upon the Contractor. For the purpose of this contract, a written commitment includes:

PART H - ADDENDA FOR SPECIAL TERMS AND CONDITIONS

H8.1.1 Proposals submitted by the Contractor to include amendments and proposal updates.

H8.1.2 Warranties and representations made by the Contractor in a proposal to include literature, drawings and specifications as to:

H8.1.2.1 Hardware or software performance

H8.1.2.2 Total systems performance

H8.1.2.3 Physical design or functional characteristics of components, software packages or systems

H8.1.2.4 Training

H8.1.2.5 Services

H8.1.2.6 Installation dates

H8.1.3 Contractor's proposal, submitted in response to solicitation number N68939-96-R-0006 dated (see block 6 of Standard Form 1449), as revised and supplemented through date of receipt of Best and Final Offer, if any, is incorporated into this contract by reference.

H8.2 The Contractor shall fully perform in accordance with the terms of the Government's specifications.

H8.3 The Contractor shall also fully perform in accordance with its technical proposal when the technical proposal offers more than the Government's specifications.

H8.4 The order of precedence identified in paragraph I2 "FAR 52.212-4 Contract Terms and Conditions—Commercial Items (AUG 1996)" shall be followed, except that the schedule shall include Sections 1 and 2 of the RFP/Contract.

H9 REPAIR PARTS AVAILABILITY

H9.1 The Contractor guarantees that repair parts for each component listed in this contract shall be available for the duration of this contract. In addition, repair parts for fielded Government Equipment, including but is not limited to equipment listed in Table C-4, Attachment 5 and Attachment 7 shall be available through this contract provided the part is manufactured by the OEM or available as refurbished.

H9.2 Reserved.

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H10 PERMITS

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any applicable Federal, state, and municipal laws, codes, and regulations, in connection with the performance of the contract.

H11 INSURANCE

H11.1 For purposes of the clause of this contract entitled "Insurance—Work on a Government Installation" (FAR 52.228-5) in Part I, the minimum coverage required during the term of this contract shall be as follows:

H11.1.1 Workers' Compensation and Employer's Liability. Contractors are required to comply with applicable Federal and State workers' compensation and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operations are so commingled with a Contractor's commercial operations that it would not be practical to require this coverage. Employer's liability coverage of at least \$100,000 shall be required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.

H11.1.2 General Liability. Bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence is required.

H11.1.3 Automobile Liability. Automobile liability insurance written on the comprehensive form of policy is required. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

H11.1.4 Other insurance as required by state or local law shall be provided.

H11.1.5 Prior to the commencement of work under this contract, the Contractor shall furnish to the COR, with a copy to the Contracting Officer, a certificate or written statement of compliance with the above insurance requirements. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such periods as may be prescribed by the laws of the jurisdiction in which the contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer.

H11.1.6 The Contractor agrees to insert the substance of this clause, including this paragraph, in any subcontract under this contract that requires work on a

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Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. At least five (5) days before entry of each such subcontractor's personnel on the Government installation, the Contractor shall furnish or ensure that there has been furnished to the COR, with a copy to the Contracting Officer, a current certificate of insurance, meeting all the above insurance requirements, for each such subcontractor.

H12 CERTIFICATE OF MAINTAINABILITY

A certification of equipment maintainability, which certifies that the equipment maintained under a Lease-to-Own option of this contract is operating in accordance with the manufacturer's specifications, shall be furnished by the Contractor upon the expiration of the term of the contract.

H13 ASBESTOS MATERIALS

If a delivery order does not contain provisions for asbestos removal, and during the performance of work under the delivery order at a Government site, material is encountered which might contain asbestos, the Contractor and his employees shall avoid coming in contact with the material. Instead, the Contractor shall immediately notify the COR. The Government will not be liable if the Contractor and his employees continue to perform under such condition. The Government will perform tests to determine if asbestos is present. If there is no asbestos, or, if the asbestos poses no danger, the COR will notify the Contractor to proceed. If the asbestos must be removed or contained, the ordering officer shall have the option to make provisions for the asbestos removal by modification of the delivery order or through other means. The COR will inform the Contractor when work at the site shall be resumed, and the Contractor shall be entitled to a commensurate delay in delivery or performance.

H14 CONTRACTOR PERSONNEL

H14.1 Considerations. As required in Part C, the Contractor shall provide the skilled personnel and the supervision, management, and administrative services necessary to successfully meet the Government requirements. The supervision of Contractor employees shall be the sole responsibility of the Contractor.

H14.2 Standards of Conduct. The Contractor and its employees shall only conduct business covered by this contract during periods paid for by the Government, and will not conduct any other business on Government premises. Contractor personnel will abide by all rules and regulations applicable to the Government premises on which they work, including any applicable safety and security regulations. Contractor employees assigned to this contract shall not solicit business while performing within the scope of this contract.

H14.3 Work Hours. The Contractor shall schedule work hours of all personnel in a manner that will provide maximum responsiveness to the Government's requirements.

H14.4 Other Considerations. Personnel assigned by the Contractor to the performance of work hereunder must be acceptable to the Government in terms of personal and professional conduct. Should the continued assignment of any person in the Contractor's organization to this

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contract be deemed by the Contracting Officer to conflict with the interests of the Government, that person shall be immediately removed from the assignment, and the reason for removal shall be fully documented in writing. Employment and staffing difficulties will not be justification for failure to meet established delivery schedule and/or performance levels. The Contractor further agrees to include the substance of this clause in any subcontract which may be awarded under this contract.

H15 DISCLOSURE OF INFORMATION

H15.1 Neither the Contractor nor any of its employees will disclose or cause to be disseminated any information concerning the operations of the base which could result in or increase likelihood of the possibility of a breach of the base security or interrupt the continuity of its operation.

H15.2 Disclosure of information relating to the services hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Contractor or any person under his control in connection with work under this contract, may subject to the Contractor, his agents or employees to criminal liability under Title 18 U.S.C. Sections 793 and 798.

H15.3 All inquiries, comments, or complaints arising from any matter observed, experienced, or learned as a result of or in connection with the performance of this contract, the resolution of which may require the dissemination of official information, will be directed to the COR.

H15.4 Deviations from or violations of any of the provisions of this paragraph will, in addition to all other criminal and civil remedies provided by law subject the Contractor to immediate termination for cause and/or the individuals involved to a withdrawal of the Government's acceptance and approval of employment.

H16 FACILITY ACCESS

H16.1 Authorized Government personnel shall be allowed access to the Contractor's work locations utilized under this contract. Note that Government personnel representing safety, security, COR, property and contract administration may make unannounced inspections as necessary to review contract compliance. The following constraints apply and shall be included in all subcontracts:

H16.2 Access to the base is a privilege granted by the base. Exercise of this privilege requires adherence to base Check-in/Check-out procedures and other base regulations.

H16.3 Base Regulations. The Contractor and his employees and subcontractors shall become familiar with and obey all base regulations including fire, traffic, and security regulations. All Contractor personnel employed on the base shall keep within the limits of the work (and avenues of ingress), and shall not enter any restricted areas unless required to do so and are cleared for such entry. The Contractor's equipment shall be conspicuously marked for identification.

PART H - ADDENDA FOR SPECIAL TERMS AND CONDITIONS

H17 CUTOVER OF NEW EQUIPMENT OR SERVICES

H17.1 The Contractor understands that the scope of work of this contract pertaining to the installation of new equipment/services requires the Contractor to coordinate the transfer of such current equipment or services with the new equipment with minimal disruption in the functioning or performance of the equipment/services currently in place.

H17.2 The Government will rely on the schedules and information provided by the Contractor in the "Cutover Plan" submitted in accordance with Contract Data Requirements List Exhibits concerning phase-out schedules and events. Accordingly, the Contractor shall immediately notify the Contracting Officer in writing, with a copy of such notification to the COR, of any potential or actual delays in the phasing-in of any new equipment.

H18 SOFTWARE

H18.1 The Contractor shall furnish any software provided under this contract with a perpetual license. That perpetual license will vest to the Government upon full payment of the item purchase price. Any perpetual license acquired will be for the software releases installed at Government sites or Government-designated sites at the time of contract completion.

H18.2 At any time during the performance of this contract the Government may require the Contractor to remedy any failure of the software to comply with the requirements of this contract, by correction or replacement of the defective software. The resulting corrected or replaced software shall be provided and distributed by the Contractor at no additional cost to the Government.

H18.3 The Contractor agrees to make available any updates to the software provided under this contract. If such updates are available to other customers without charge, then they shall also be made available to the Government without additional charge. The contractor will ship these updates to existing customers who have acquired the software being updated under this contract. For subsequent orders of this software, the contractor shall provide the updated software at the existing contract price to all Government users.

H18.3.1 The following is applicable to all software provided under this contract:

H18.3.1.1 The Contractor shall support the software for the life of the contract.

H18.3.1.2 The provision of all error-correcting modifications that the OEM may develop.

H18.3.1.3 Technical telephone support assistance as required in Part C.

H18.3.2 RESERVED

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H18.3.3 The Contractor agrees to make available to the Government all upgrades (to include new revisions, releases, or versions, etc., that correct errors and/or add enhanced capabilities and/or features) to the software currently provided under this contract no later than thirty (30) days when they become available from the OEM.

H18.3.4 No software upgrades will be shipped without prior approval of the Contracting Officer, as the Government does not have to accept the offered upgrade(s).

H18.4 For all software, all updates, upgrades and new releases shall be provided to the Government at no additional charge for a period of 90 days after government acceptance of the software. The 90 day period shall begin the first day after the software has been accepted. Additional hardware or labor required as a result of re-configuration, update of databases or manual adjustments of existing applications programs will be at the expense of the Government.

H19 RESPONSE TIME AND REPAIR TIME CREDITS

H19.1 No credit shall accrue to the Government during those periods when the Contractor is denied access.

H19.2 Creditable hours shall be adjusted to the nearest half hour. If a Blanket Delivery Order is issued and the Contractor invoices monthly, the creditable hours shall be accumulated for the month applied to the current invoice. Otherwise, the creditable hours per call shall be applied to the corresponding invoice.

H19.3 Exception to Credit Terms. If the Contractor fails to meet the prescribed response or repair time due to causes beyond the control and without the fault or negligence of the Contractor, then the credit terms of this contract shall not apply. Such determination shall be made by the designated Government accepting authority specified in the "Inspection and Acceptance" clause in Part E.

H19.4 Response and Repair Time Credits. Credits will be applicable for maintenance of equipment in and out of warranty.

H19.4.1 Response Time Credits. If the Contractor maintenance personnel fail to commence repair at the designated point within the required response time as specified in Part C, the Contractor shall grant a credit to the Government for the excess response time. The amount of credit for each hour in excess of the required response shall equal the applicable per-call maintenance hourly rate. For example, with standard per-call maintenance for non-cable plant, non-switching systems the time to respond is 8 hours, if the Contractor arrives on site on the 12 hour after notification the Government will receive maintenance credit for four (4) hours.

H19.4.2 Repair Time Credits. Per-call maintenance shall be performed upon notification that a component is inoperative. Notification starts when a bonafide attempt is made by the Government to notify the contractor of the required maintenance. The component shall be repaired or replaced and returned to the Government in proper operating condition within the time(s) specified in Part C. Failure to comply with this requirement may result in a repair time

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credit. If the Contractor continues repair after the maximum hours allotted for repair, there shall be no charges for hours beyond this time. In addition, if the hours beyond the maximum exceeds eight (8) hours, the contractor shall be charged 8 hours of repair time credits. For example, with standard per-call maintenance for non-cable plant, non-switching systems the time to repair is 48 hours, if the Contractor completes the repair in the 58th hour after notification, there will be no charge for billable hours after the 48th hour and the Government will receive repair time credit for eight (8) hours.

H20 MAINTENANCE OF EQUIPMENT

H20.1 Reserved.

H20.2 Reserved.

H20.3 Maintenance Charges. There shall be no additional Contractor maintenance charges for:

H20.3.1 Reserved.

H20.3.2 Reserved.

H20.3.3 Time spent by maintenance personnel after arrival at the site awaiting the arrival of additional maintenance personnel or delivery of parts, etc.

H20.3.4 Reserved.

H20.3.5 Replacement parts, unless such parts are required due to the fault of negligence of the Government.

H20.4 Reserved.

H20.5 Reserved.

H20.6 Reserved.

H20.7 Responsibilities of the Government.

H20.7.1 In accordance with security regulations, the Government will permit access to the equipment which is to be maintained.

H20.7.2 The Government will provide mutually agreed upon system resources required to use the Contractor's on-line maintenance software.

H20.8 Relocation of Government-Owned Equipment

PART H - ADDENDA FOR SPECIAL TERMS AND CONDITIONS

H20.8.1 If the system being maintained under the terms and conditions of this contract is moved to another location, the terms and conditions of this contract shall continue to apply.

H20.8.2 The Government will give thirty (30) days prior written notice to the Contractor of its intention to move the equipment. In emergency situations, prompt notice will be given.

H20.8.3 Reserved

H20.8.4 Shipment to the new installation site will be at the Government's expense. The Government may provide the Contractor with an authorization to ship by commercial carrier on a prepaid basis, in which case the Government shall be invoiced for the transportation charges.

H20.8.5 The Government will furnish such labor as necessary for packing and unpacking of the equipment unless the Government has issued a delivery order for that service. Contractor supervised packing, unpacking and relocation of the equipment by the Government can be performed on a per-call basis. All other costs associated with the relocation will be the responsibility of the Government.

H20.8.6 Geographic Area. Equipment may be relocated to any geographic area including aboard ships. If equipment relocation is made OCONUS, the Contractor will be entitled to OCONUS prices as identified in Part B of this contract.

H21. HARDWARE WARRANTY

H21.1 The Contractor shall warrant that all hardware furnished under this contract operates according to specifications for the duration of the warranty provided by the Contractor in accordance with paragraph C16. The warranty period shall begin upon acceptance of the hardware as specified in Part E. At no additional charge to the Government, the Contractor shall furnish, for hardware purchased under this contract, all maintenance (labor and parts) for the duration of the warranty period. At a minimum, maintenance during the warranty period shall be equivalent to standard per-call maintenance during the principal period of maintenance (PPM) as specified in Part C. The Government, at its option, may order additional maintenance coverage during the warranty period. Such maintenance ordered and performed, shall be reimbursed at a rate equal to the difference between the applicable maintenance charges equivalent to the warranty and the actual service rendered. Maintenance credits shall be applicable for maintenance of equipment in and out of warranty. The Contractor shall furnish, without charge, at least standard per-call maintenance service for all sites including all replacement parts for ships at sea for the duration of the warranty period. Maintenance and parts required as a result of fault or negligence of the Government will be at the Government's expense.

H21.2 All parts replaced during the warranty period shall become the property of the Contractor. However, the Government will have up to 30 days to relinquish possession of the part if security issues are involved.

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H21.3 Replacement of Equipment.

H21.3.1 Government Installed Equipment. Prior to the expiration of the warranty period, whenever equipment is shipped for replacement purposes, the Contractor shall bear all charges, including, but not limited to, the charges for packing, transportation, and insurance. The warranty shall apply to the replacement equipment beginning on the first day after its acceptance.

H21.3.2 Contractor Installed Equipment. Prior to the expiration of the warranty period, whenever the Contractor elects to ship equipment for replacement purposes, the Contractor shall bear all costs, including, but not limited to, costs of packing, transportation, rigging, drayage, insurance, and reinstallation unless such replacement was due to the fault or negligence of the Government. Replacement and/or repair done by the Contractor which was due to the fault or negligence of the Government will be reimbursed in accordance with the applicable maintenance prices under the contract.

H21.4 The warranty shall not apply to maintenance required due to the fault or negligence of the Government.

H21.5 Installation and self-maintenance by the Government shall not invalidate the warranty. If Government negligence results in a repair call (either for equipment under warranty or per-call maintenance), the maximum repair time shall not apply and the Government will pay the price per hour specified in the contract for the hours rendered to complete the repair.

H22. WARRANTY OF REPAIR

The Contractor guarantees to repair at no charge any malfunction which reoccurs within 90 calendar days of the initial repair. Warranty of Repair is a separate warranty from those described elsewhere in the contract.

H23. ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF EQUIPMENT

H23.1 Warranty Period. The Contractor shall furnish, at no cost to the Government, all maintenance (labor and parts), as specified in this contract, during the Principal Period of Maintenance, for the duration of the warranty provided in response to paragraph C16 beginning on the first day after the successful performance period. All replaced parts during the warranty period shall become the property of the Contractor.

H23.2 Cost Of Movement. Prior to the expiration of the warranty period provided in response to paragraph C16, whenever equipment is shipped for replacement purposes, the Contractor shall bear all costs, including but not limited to, costs of packing, transportation, rigging, drayage, and insurance.

H23.3 Fault Of Government. The warranty provided in response to paragraph C16 shall not apply to maintenance required due to the fault or negligence of the Government.

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H23.4 Title (Under Purchase). Title of equipment, including special features installed thereon, will pass to the Government when it accepts the equipment (if the equipment is being purchased) or the lease-to-own time for continuous lease has been exceeded.

H24. BASE SUPPORT

H24.1 At all sites where maintenance and warranty services are to be performed, the Government shall furnish the Contractor with storage space at the Contractor's own risk, and with working space, including heat, air conditioning, light, ventilation, electric current, outlets, workstations, and local telephone service for the use of the Contractor's maintenance and on-site support personnel (if any). These facilities shall be provided subject to availability and at no charge to the Contractor.

H24.2 OCONUS base support may differ with each Commanding Officer. Each delivery order will reflect the individual sites.

H24.3 Base Support Agreements for OCONUS location may be required with each delivery order. It is anticipated that certain privileges would be available to the Contractor, if a requirement exists for any extended stays by the Contractor. This may include, but would not be limited to the following privileges: billeting, commissary, base or post exchange, credit union, or any other privileges approved by the individual installation commander.

H24.4 The Contractor is responsible for any passports or visas, and any travel requirements to and from any OCONUS installation.

H25. COMPUTATION OF FRACTIONAL CHARGES

Charges for fractions of an hour shall be computed at the rate of $\frac{1}{4}$ of the hourly rate for each $\frac{1}{4}$ of an hour or part thereof.

H26. CANCELLATION OF OCONUS MAINTENANCE, SUPPORT SERVICES AND LEASES

In the event of a contingency (e.g., war, international crisis, foreign emergency), the Government reserves the right to immediate cancellation of maintenance, technical support services and leases at OCONUS locations at no charge to the Government.

H27. OTHER DIRECT COSTS ("ODC's")

H27.1 The Contractor shall provide such back-up documentation for the proposed price for all ODC's (CLIN 0500 series) as may be required by regulation, the Contracting Officer, this contract, and/or the ordering officer.

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H27.2 Cable Plant Installation Supplementary Components (CLIN 0500). A firm-fixed-price for any necessary supplementary components (CLIN 0500) of the nature of Table C-1 shall be negotiated, ordered and invoiced under CLIN 0500. These items shall be used for cable plant-related requirements and shall be orderable for installation by either Government or Contractor personnel. The unit price of any supplementary component (CLIN 0500) shall not exceed \$250.00 unless otherwise approved by the Contracting Officer, and the G&A and profit percentages shall not exceed those identified in the pricing exhibits which may be added to the Contractor's price paid for the item.

H27.3 Heavy Equipment. The use of heavy equipment shall be negotiated, ordered and invoiced under CLIN 0501, and the G&A and profit percentages shall not exceed those identified in the pricing exhibits which may be added to the Contractor's price paid for the item.

H27.4 Spare/Repair Parts. Spare/repair parts as described in Part C shall be negotiated, ordered and invoiced under CLIN 0503 in accordance with paragraph G15. G&A and profit percentages shall not exceed those identified in the pricing exhibits which may be added to the Contractor's price paid for the item.

H27.5 ODC's for Support Services. Items necessary for a complete solution when the focus of the requirement is communications related that are not already under contract shall be negotiated, ordered and invoiced under CLIN 0504 in accordance with paragraph G15. The not-to-exceed G&A and profit percentages identified in the pricing exhibits may be added to the Contractor's price paid for the item. The total value of the ODC's ordered under CLIN 0504 shall not exceed 40% of the value of the effort without approval of the Contracting Officer.

H28. TRAVEL

Travel, if required in the performance of support services (including maintenance) other than training and warranty, shall be negotiated and specified on individual delivery orders as CLIN 0502. Travel rates will not exceed those established in the Joint Travel Regulation in effect at that time for both per diem and travel expenses plus travel G&A, if applicable. (G&A application on travel is applicable only if the Contractor's disclosure statement permits G&A burden to be applied to their to travel expenses.) The G&A percentage that may be added shall not exceed that identified in the pricing exhibits. No profit may be applied by the Contractor or paid by the Government for travel associated with SCLIN 0502 "Travel."

H29. SITE PREPARATION

H29.1 If the Government elects to have the Contractor perform installation, the Government shall prepare the site at its own expense and in accordance with the Site Preparation, Requirements Analysis and Installation Plan (Exhibit G) submitted by the Contractor, and approved by the Government.

H29.2 Re-inspection of the Site. After the Site Preparation, Requirements Analysis and Installation Plan has been delivered and upon receipt of the order for installation, the following applies.

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H29.2.1 The site will be available to the contractor for the purpose of inspection at least 30 calendar days prior to the required installation date.

H29.2.2 The Contractor shall inspect the site within five (5) work days from receipt of written notice from the Government that the site preparation work is completed.

H29.2.3 Within two work days of completion of the site inspection, the Contractor shall notify the Contracting Officer in writing whether the site is in compliance with the approved plan. If the site does not comply with the approved plan:

H29.2.3.1 All site deficiencies and corrective action required by the Contractor shall be included in the written statement.

H29.2.3.2 Paragraphs H29.2.2 and H29.2.3 will apply until the site preparation has been completed.

H29.3 Site Alterations or Modifications. Alterations or modifications to the site(s) that are attributable to incomplete or erroneous specifications of the detailed design plan provided by the Contractor shall be made at the expense of the Contractor.

H29.4 Communication Media. Unless specified otherwise in the contract, arrangements for acquisition, installation and maintenance of communication media (telephone, telegraph, etc.) necessary for the remote transmission of data, are the responsibility of the Government. Any charges for such media in connection with installation, operation or maintenance of the machines will be paid by the Government.

H30. INFORMATIONAL GOAL FOR SUBCONTRACTING TO SMALL BUSINESSES

In addition to Contractors meeting the **requirement** at DFARS 219.000(1) to establish positive goals to award five percent (5%) of contract and subcontract dollars to small disadvantaged business (SDB) concerns, Contractors are encouraged to subcontract not less than ten percent (10%) of the total dollars obligated under the contract, per year, to small businesses and women-owned small businesses.

H31. YEAR 2000 WARRANTY FOR COMMERCIAL SUPPLY ITEMS

H31.1 The Contractor warrants that each hardware, firmware and software product delivered under this contract (delivered products) shall be able to accurately process date data (including, but not limited to, calculating comparing and sequencing) from, into, and between the twentieth and twenty-first centuries, including leap year calculations, when used in accordance with the product documentation provided by the Contractor, provided that all products (e.g., hardware, software, firmware) used in combination with such delivered product properly exchange date data with it. If the contract requires that such delivered products shall perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those delivered products as a system.

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H31.2 The duration of this product and/or system warranty and the remedies available to the Government for breach of this warranty shall be part of, as defined in, and subject to, the terms and limitations of the warranties contained in the contract, provided that notwithstanding any provision to the contrary in such warranties, the remedies available to the Government under this warranty shall include repair or replacement of any delivered product whose non-compliance is discovered or made known to the Contractor in writing within ninety (90) days after 01 January 2000.

H31.3 Nothing in this product and/or system warranty shall be construed to limit any rights or remedies that the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

H31.4 All delivered products carry the Year 2000 warranty described above. For those products listed below, the Contractor is permitted to deliver noncompliant products up to 31 December 1998 and thereafter shall deliver compliant products; provided, however, that the Contractor shall repair or replace such noncompliant products with compliant products by 01 January 1999 at no cost to the Government.

See Volume I - Contractual Information of Contractor's Proposal

H32 RESERVED

H33. INCIDENTAL HARDWARE OR SOFTWARE

This contract is primarily for voice, video and data; however, incidental hardware or software may be justified on individual TRN's/delivery orders in cases where it can be demonstrated that the hardware or software is incidental to the performance of services to be provided in the delivery order. The dollar value of hardware or software as it pertains to the delivery order issued against this contract is limited to not more than \$500.00 or 20% of the estimated total price of the delivery order, whichever is higher.

H34. KEY PERSONNEL

H34.1 Key personnel are those Contractor personnel identified in the PMO and are considered to be essential to the performance of the contract. The Contractor shall notify the Contracting Officer, COR and ordering officer prior to making any changes in key personnel.

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H34.2 Prior to replacing key personnel, the Contractor shall demonstrate to the satisfaction of the COR and the Contracting Officer that the qualifications of prospective replacement personnel are equal to or better than the qualifications of the personnel being replaced. For example, although the "personnel qualifications" listed under paragraph C11 "Contractor Support Services" specifies qualifications for different categories of personnel, if the Contractor proposed qualifications greater than those qualifications listed by the Government, then the Contractor's replacement personnel shall at least meet the Contractor's original personnel qualifications.

H34.3 Key personnel are:

- a. Program Manager—15 years of related experience
- b. Deputy Program Manager—15 years of related experience
- c. Contracting Officer—10 years of related experience

H34.4 The Contractor will have dedicated personnel serving as key personnel. The Program Manager shall have the necessary authority to successfully manage ViViD or will have to go not more than one other source/level higher to obtain that authority.

H34.5 The PMO shall have at least three (3) of the following dedicated personnel categories:

- a. Program Logistician
- b. Program Service Consultant
- c. Technical Consultant Personnel
- d. Technical Support Personnel
- e. Customer Service Personnel

H35. TOTAL SYSTEM PERFORMANCE/INTEGRATION RESPONSIBILITY

The Contractor may act as the Government's agent under this contract for purposes of passing title to specific equipment directly from a supplier to the Government if it is in the Government's best interest (e.g., avoidance of Contractor mark-ups). Regardless of those arrangements, the Contractor shall remain responsible to the Government for ensuring that such equipment, or any system delivered in which such equipment is a part, meets the contract requirements.

H36. PRICE ADJUSTMENT FOR CLIN'S IDENTIFIED IN PARAGRAPHS C11.2.1 THROUGH C11.2.6.B.

H36.1 The Davis-Bacon Act (40 U.S.C. 276a-276a-7) provides that contracts in excess of \$2,000 to which the United States or the District of Columbia is a part for construction, alteration, or repair of public buildings or public works within the United States that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

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H36.2 The contract prices for CLIN's identified in paragraphs C11.2.1 through and including C11.2.6 shall be established using Davis-Bacon Act Wage Determination CA960001 dated 01/03/97 for San Diego County. San Diego County is the Index Area for purposes of this special provision. Any adjustments to CLIN prices made in conjunction with this special provision shall begin with the Davis-Bacon Act Wage Determination rates in the aforementioned Davis-Bacon Act Wage Determination.

H36.2.1 The aforementioned Davis-Bacon Act Wage Determination may be obtained on the internet by subscribing to the Davis-Bacon Act Wage Determination database service provided by FedWorld. To subscribe to the Davis-Bacon Act database service provided by FedWorld, the Contractor may contact the Subscription Department FedWorld at (703) 487-4648.

H36.2.2 To receive assistance in using the Davis-Bacon Act Wage Determination database once a subscription has been obtained, the Contractor may contact FedWorld at (703) 487-4223.

H36.3 This provision applies to CLIN's identified in paragraphs C11.2.1 through and including C11.2.6.b. which are labor categories subject to a Department of Labor (DOL) Wage Determination under the Davis-Bacon Act. This provision is intended provide the means for users to adjust the rates to be paid for those CLIN's based on the prevailing wage determination for the area in which the work is to be performed. Notwithstanding the applicability of the Act to the specific requirements, these procedures shall be used to adjust hourly rates of CLIN's identified in paragraphs C11.2.1 through and including C11.2.6.b.

H36.4 Instructions for determining the prices to be charged for CLIN's identified in paragraph C11.2 for a specific delivery order are as follows:

- a) The ordering officer will obtain a current wage determination at the time the order is issued.
- b) After obtaining the current wage determination, the amount of adjustment to be applied will be determined by subtracting the difference in the current wage determination from the index wage determination for the labor category for which the contract price is being determined. This difference will then be subtracted from the contract price for that CLIN.

Example 1:

**CURRENT WAGE DETERMINATION IS LESS THAN
THE INDEX WAGE DETERMINATION**

CLIN 7050 Laborer Contract Price = \$20.00 per hour (the rate the contractor will be paid under this contract for each hour of work to be performed on the delivery order)

Index DOL Wage Determination - Laborer is \$13.48 per hour (the minimum rate that the worker would be paid as required by the Davis-Bacon Act)

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Delivery order to be issued. Current DOL Wage Determination for the Laborer in the area the work is to be performed is \$12.48 per hour.

First, determine the difference in the Index Wage determination and the Current Wage Determination:

Index DOL Wage Determination <u>Hourly Rate</u>	-	Current DOL Wage Determination <u>Hourly Rate</u>	=	Difference in Index and <u>Current DOL Rate</u>
\$13.48	-	\$12.48	=	\$1.00

Second, subtract the difference computed in Step 1 from the contract price:

Contract rate for Laborer	-	Difference in Index and Current DOL rate	=	Hourly contract rate to be paid for the delivery delivery order
\$20.00	-	\$1.00	=	\$19.00

Example 2:

CURRENT WAGE DETERMINATION IS MORE THAN THE INDEX WAGE DETERMINATION

CLIN 7050 Laborer Contract Price = \$20.00 per hour (the rate the Contractor will be paid under this contract for each hour of work to be performed on the delivery order)

Index DOL Wage Determination - Laborer is \$13.48 per hour (the minimum rate that the worker would be paid as required by the Davis-Bacon Act)

Delivery order to be issued. Current DOL Wage Determination for the Laborer in the area the work is to be performed is \$15.49 per hour.

First, determine the difference in the Index Wage determination and the Current Wage Determination:

Index DOL Wage Determination <u>Hourly Rate</u>	-	Current DOL Wage Determination <u>Hourly Rate</u>	=	Difference in Index and <u>Current DOL Rate</u>
\$13.48	-	\$15.49	=	-\$2.01

Second, subtract the difference computed in Step 1 from the contract price:

Contract rate		Difference in Index		Hourly contract rate
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for Laborer delivery	-	and Current DOL rate	=	to be paid for the delivery order
\$20.00	-	(-\$2.01)	=	\$22.01

H36.5 Notwithstanding any of the computations allowed above, the Government will not pay the Contractor a rate higher than the rate charged under their GSA schedule or their most favored customer for similar work under similar terms and conditions.

H37. AUTHORIZATION TO USE GOVERNMENT SUPPLY SOURCES

H37.1 The Contracting Officer may authorize ViViD Contractor(s) to use Government supply sources (except other ViViD sources) in performing under their ViViD contract(s) if (a) supplies or services required in performance of the ViViD contract(s) are available from Government sources and (b) it is determined to be in the Government's best interest to do so.

H37.1.1 In addition to the Government sources identified in FAR 52.251-1 and DFARS clause 252.251-7000, the Contracting Officer may authorize the ViViD Contractor(s) to purchase (for Government use) supplies and/or services from any contracts listed on ITEC Direct.

H37.1.2 Before issuing an authorization to a ViViD Contractor to use Government supply sources, the Contracting Officer shall document in writing, and place a copy of such documentation in the contract file, a determination supporting issuance of the authorization to use Government supply sources to the ViViD Contractor(s). The aforementioned determination shall be based upon considerations such as but not limited to those considerations listed in FAR 51.102.

H37.1.3 The Contractor shall clearly identify which CLIN/SCLIN, including its salient characteristics, shall be delivered under this provision in the pricing exhibits. Under the description column, that description shall identify the Government contract utilized. Use of Government sources under this provision is at the Contractor's risk, including risk of liquidated damages for nonavailability or delays.

H38. MOST FAVORED CUSTOMER STATUS

H38.1 The Contractor shall accord the Government most favored customer status. If the Contractor or OEM provides any product or service to any other customer at a more favorable price than the price for products or services provided by the Contractor under this contract, then the Contractor shall offer that product or service to the Government at the same or lower price (adding any applicable markup for handling, integration, profit, etc. to an OEM price) offered to any other customer.

H39. TARIFF-RELATED SERVICES

H39.1 Tariffs

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H39.1.1 The Contractor agrees that it shall make, or shall cause its subcontractors to make, all filings, including tariff filings, and shall maintain all registrations that may be required from time to time in connection with this contract by any regulatory agency, court or any other body having authority over the provision of services hereunder. In no event shall the Contractor, nor any of its subcontractors, file any tariff that purports to govern the services that is inconsistent with the rates or other terms and conditions set forth in this contract. If the initial tariff(s) that the Contractor or any subcontractor files to implement this contract are not permitted to become effective or if any ruling, order or determination shall materially and adversely affect the Contractor's ability to offer services under the terms and conditions set forth herein, the Contractor shall develop a proposal the purpose of which will be to provide functionally equivalent service to the Government at rates that are at or below those set forth herein in a manner consistent with all applicable laws and regulatory requirements. Such service may be provided under other existing tariffs of the Contractor or its subcontractors (if this can be done at such tariffs' then-effective rates without further revision) or under newly-filed tariffs. If the Contractor or any subcontractor is unable to provide functionally equivalent service when required above, or is directed by a regulatory agency, court or any other body having authority over the provision of services hereunder to increase the rates and charges for any service, and is unable to give the Government an offsetting credit of like amount in the relevant jurisdiction, then at the Government's option either (i) the Government may terminate this contract or any affected portion thereof without further liability to the Contractor, and the Contractor shall reimburse the Government for the installation and related non-recurring charges paid by the Government to any successor vendor(s), or (ii) the Contractor shall issue a monthly recurring credit against the Government's rates and charges for unregulated service or provide equipment equal to the amount of such increase. The Contractor shall file any tariff revisions necessary to authorize such credit.

H39.1.2 In addition to the requirements of DFARS 252.239-7006 "Tariff Information," the Contractor shall make a copy of its tariffs and its subcontractor's tariffs make it available to the Contracting Officer for review and inspection and shall provide a copy of all amendments to such tariffs having a bearing on this contract as and when such amendments are filed with the appropriate governmental agencies. In addition, the Contractor shall give the Contracting Officer 30 days prior written notice of any tariff revisions that are either specific to the Government or would materially affect the Government's rights and obligations under this contract.

H39.1.3 The Contractor shall protect its ability to offer the services provided hereunder under the terms and conditions set forth in this contract. The Contractor agrees that throughout the term of this contract, it shall take all steps necessary to ensure that the services provided in accordance with paragraph C9, and the tariff-related rates, terms and conditions in this contract, are fully compliant with all applicable laws, rules, regulations, licenses, and orders of any regulatory agency, court or any other body having authority over the provision of services hereunder.

H39.1.4 The Contractor shall promptly notify the Contracting Officer in writing if a charge of noncompliance with any applicable law, rule, regulation, license, or order is filed against the Contractor or any subcontractor in connection with the services.

H39.2 Construction

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H39.2.1 The parties acknowledge that the Contractor's tariffs, and the tariffs of its subcontractors, may govern or affect the services provided to the Government in accordance with paragraph C9. This contract and any applicable tariffs shall be construed whenever possible to avoid any conflict between them. The fact that a condition, right, obligation or other term appears in this contract but not in an applicable tariff shall not be interpreted as, nor be deemed grounds for finding, a conflict, and the Contractor agrees to waive any right it may have to assert the existence of any such conflict, and further agrees to cause its subcontractors to waive same. If a regulatory agency, court or any other body having authority over the provision of services hereunder finds that provisions of this contract and an applicable tariff conflict, the Contractor shall file, or shall cause its subcontractor to file, a tariff amendment to eliminate such conflict within 10 days after such finding becomes final or takes effect, whichever occurs first. If such amendatory tariff filing fails to become effective within 20 days after filing and the Government is adversely affected by such failure, the Government may terminate this contract or any affected portion thereof and the Contractor shall reimburse the Government for the installation and related non-recurring charges paid by the Government to any successor vendor(s).

H39.3 Detariffing

H39.3.1 In the event that the Contractor becomes lawfully entitled or required to offer to the Government under contract, and not pursuant to tariff, services that are required to be tariffed as of the effective date of this contract, and the Contractor elects or is required to withdraw any tariff applicable to the provision of such services to the Government, the parties shall jointly determine what modifications (if any) to this contract may be appropriate to secure for each of them the ongoing benefits contemplated hereunder. Such modifications shall include the designation of an appropriate surrogate for tariffed rates to be used in any instance where this contract directly or indirectly requires that rates and charges or other terms hereunder be set with reference to a tariffed rate.

H.40 Lease Terms and Conditions

H40.1 Each lease transaction shall be initiated by a delivery order under CLIN 0900 Customized Leasing, which shall specify the terms of the transaction. Equipment leased pursuant to a delivery order may include software, as well as hardware (collectively the "Assets"). Any such software shall be deemed to be licensed pursuant to the applicable standard commercial software licensing terms and conditions contained in this contract, for the duration of the lease term.

H40.2 Instructions to Ordering Officers. Ordering officers are responsible for ensuring that the requirements of FAR 7.4 and DFARS 207.4 have been satisfied prior to issuing a delivery order pursuant to this clause. Ordering officers are reminded that each delivery order for leasing should address the following:

1. Type of Lease, either capital lease or operating lease.
2. Length of the lease term including all options.
3. Early termination of lease
4. Correct type of appropriations for the lease type.
5. Lease payment terms and payment frequency.
6. Lease commencement date.

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7. Additions of any accessory, upgrade, or other devices on the asset(s).
8. Relocation of assets during the lease term.
9. Risk of loss
10. When/if does title pass to the government
11. Maintenance of assets during the lease term.
12. Return of asset(s).

H41. APPLICABILITY OF FAR 52-207.3 “RIGHT OF FIRST REFUSAL OF EMPLOYMENT”

FAR 52-207.3 “Right of First Refusal of Employment” applies to all Task Requirements Notices forwarded to the contractor for proposal which may result in a conversion from in-house performance to contract performance of work currently being performed by the Government and in any delivery orders delivery orders issued as a result of the proposal.

H42. DON INFORMATION TECHNOLOGY STANDARDS GUIDANCE

H42.1 All products, services, and solutions provided under this contract to Department of the Navy (DON) customers will comply with the DON Information Technology Standards Guidance (ITSG) Version 1.0. The ITSG must be considered for all DON organizations involved in IT planning, acquisition, contracting, and operations. The ITSG applies to all services, products, and systems that produce, use, or exchange information electronically.

H42.2 All products, services, and solutions offered under this contract to DON customers shall be ITSG Version 1.0 compliant within 3 months of signature of this modification at no additional cost to the Government. The contractor shall propose only products for DON use that are compliant with all future revisions of the ITSG within 3 months of version approval at no additional cost to the Government. All delivery orders issued prior to the issuance of this clause are exempt from this clause. Delivery orders for DON customers that include products not compliant with the ITSG will require DON IT Umbrella Program Manager approval.

H42.3 All products or services that are ITSG compliant shall include a notice of DON CIO preferred product status in the CLIN description of the product. The contractor shall identify to the DON IT Umbrella Program Manager all products and services offered under this contract that are not ITSG compliant within 3 months.

H42.4 Approval and signature of this modification shall indicate that the contractor certifies ITSG compliance for all products and services offered under this contract that have not been identified in accordance with the instructions above to the DON IT Umbrella Program Manager as non-compliant.

H42.5 In the event of any conflict between the ITSG and other contract requirements, ITSG shall apply.