

GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES
 DEPARTMENT OF PROPERTY AND PROCUREMENT
PROCUREMENT DIVISION

INVITATION BID & AWARD SUPPLY CONTRACT	CONTRACT NO. ORDER NO.	PAGE NO. 1	NO. OF PAGES 16
ISSUED BY Department of Property & Procurement Division of Procurement	ADDRESS 8201 Subbase, 3rd Floor St. Thomas, Virgin Islands 00802		

INVITATION FOR BIDS	
DATE ISSUED June 22, 2020	INVITATION NO. IFB039GVIT20 (S)
<p>Hand Deliver Bids in quintuplicate (1 Original and 4 Copies), or via Email Submission at ebids_proposals@dpp.vi.gov (One (1) copy), subject to (1) The Terms and Conditions of the Invitation for Bids, (2) General Provisions which are incorporated herein by reference, and (3) such other contract provisions and specifications as are attached or incorporated by reference will be received at the Department of Property and Procurement until 10:00 o'clock, Atlantic Standard Time, not later than Wednesday, July 22, 2020 and publicly open at 10:15 a.m. for furnishing the supplies or services for delivery f.o.b. in ST THOMAS, VI _____.</p> <p><i>General information and instructions to Bidders are contained in the terms and conditions on the reverse hereof.</i></p>	

SCHEDULE					
ITEM NO.	SUPPLIES OR SERVICES	QUANTITY (NO. OF UNITS)	UNIT	UNIT PRICE	AMOUNT
	Security Guard Service for the Government of the Virgin Islands in the St. Thomas/St. John and St. Croix District				

BID →	DATE OF BID
<p>IN COMPLIANCE WITH THE ABOVE THE UNDERSIGNED OFFERS AND AGREES, IF THIS BID BE ACCEPTED WITHIN _____ DAYS (30 calendar days unless a different period is inserted by the Bidder) FROM THE DATE OF OPENING TO FURNISH ANY OR ALL OF THE ITEMS UPON WHICH PRICES ARE QUOTED, AT THE PRICE SET OPPOSITE EACH ITEM, DELIVERED AT THE DESIGNATED POINTS WITHIN THE TIME SPECIFIED IN THE INVITATION. DISCOUNTS WILL BE ALLOWED FOR PROMPT PAYMENT AS FOLLOWS:</p> <p>_____ PERCENT, 20 CALENDAR DAYS; _____ PERCENT, 30 CALENDAR DAYS</p> <p>BIDDER REPRESENTS (Check appropriate boxes)</p> <p>(1) THAT HE IS _____, IS NOT _____, A SMALL BUSINESS CONCERN. IF BIDDER IS A SMALL BUSINESS CONCERN AND IS NOT THE MANUFACTURER OF THE SUPPLIES BID UPON, HE ALSO REPRESENTS THAT ALL SUPPLIES TO BE FURNISHED HEREUNDER WILL _____, WILL NOT _____, BE MANUFACTURED OR PRODUCED BY A SMALL BUSINESS CONCERN IN THE UNITED STATES, ITS TERRITORIES, ITS POSSESSIONS, OR THE COMMONWEALTH OF PUERTO RICO.</p> <p>(2) THAT HE IS A REGULAR DEALER IN _____, MANUFACTURER OF _____, THE SUPPLIES BID UPON.</p> <p>(3) (A) THAT HE HAS _____, HAS NOT _____, EMPLOYED OR RETAINED ANY COMPANY OR PERSON (OTHER THAN A FULL-TIME BONA FIDE EMPLOYEE WORKING SOLELY FOR THE BIDDER) TO SOLICIT OR SECURE THIS CONTRACT, AND (B) THAT HE HAS _____, HAS NOT _____, PAID OR AGREED TO PAY ANY COMPANY OR PERSON (OTHER THAN A FULL-TIME BONA FIDE EMPLOYEE WORKING SOLELY FOR THE BIDDER) ANY FEE, PERCENTAGE, COMMISSION, OR BROKERAGE FEE, CONTINGENT UPON OR RESULTING FROM THE AWARD OF THE CONTRACT; AND AGREES TO FURNISH INFORMATION RELATING TO (A) AND (B) ABOVE AS REQUESTED BY THE CONTRACTING OFFICER.</p> <p>(4) HE OPERATES AS AN INDIVIDUAL _____, PARTNERSHIP _____, CORPORATION _____, INCORPORATED IN THE TERRITORY OF THE VIRGIN ISLANDS</p> <p>(5) PREFERRED BIDDER: _____ A BONA FIDE CONTINUOUS RESIDENT OF THE VIRGIN ISLANDS FOR AT LEAST EIGHT (8) YEARS OR _____ WAS BORN IN THE VIRGIN ISLANDS; _____ A FIRM, PARTNERSHIP, OR CORPORATION IN WHICH AT LEAST FIFTY-ONE PERCENT (51%) OF THE LEGAL OR EQUITABLE OWNERSHIP IS HELD BY A PERSON OR PERSONS WHO HAVE BEEN BONA FIDE CONTINUOUS RESIDENTS OF THE VIRGIN ISLANDS FOR AT LEAST EIGHT (8) YEARS OR _____ WHO WERE BORN IN THE VIRGIN ISLANDS; _____ SAID PERSON, FIRM, PARTNERSHIP, OR CORPORATION IS LICENSED IN AND MAINTAINS HIS OR ITS PRINCIPAL PLACE OF BUSINESS IN THE VIRGIN ISLANDS AND OWNS, OPERATES, OR MAINTAINS A STORE, WAREHOUSE, OR OTHER PLACE OF BUSINESS IN THE VIRGIN ISLANDS OR _____ THE DULY AUTHORIZED AGENT, DEALER, DISTRIBUTOR OR REPRESENTATIVE IN THE VIRGIN ISLANDS FOR THE MATERIALS, SUPPLIES, ARTICLES, OR EQUIPMENT OF THE GENERAL CHARACTER DESCRIBED BY THE SPECIFICATIONS AND REQUIRED UNDER THIS CONTRACT.</p>	

NAME & ADDRESS OF BIDDER (Street, City, State and Zip Code) <i>(Type or Print)</i>	SIGNATURE OF PERSON AUTHORIZED TO SIGN BID →
	TYPE OR PRINT SIGNER'S NAME & TITLE

AWARD		DATE OF AWARD
ACCEPTED AS TO ITEMS NUMBERED	AMOUNT	GOVERNMENT OF THE VIRGIN ISLANDS
SUBMIT INVOICE FOR PAYMENT TO: Department of Property and Procurement Subbase, 3rd Floor St. Thomas, Virgin Islands 00802		BY _____ <i>Contracting Officer</i>

CONTINUATION SHEET
 (Supply Contract)

Contract, Order, or Invitation No.
 (As Applicable)

Page No.

IFB039GVIT20 (S)

ITEM NO.	SUPPLIES OR SERVICES	AMOUNT
	Government of the Virgin Islands St. Thomas, Virgin Islands 00802 Security Guard Service Scope of Work- Attached	
1	<u>Unarmed Security Guards</u>	
a.	St. Thomas	\$ _____
b.	St. John	\$ _____
c.	St. Croix	\$ _____
2	Armed Security Guards	
a.	St. Thomas	\$ _____
b.	St. John	\$ _____
c.	St. Croix	\$ _____
3	<u>Taser Security Guards</u>	
a.	St. Thomas	\$ _____
b.	St. John	\$ _____
c.	St. Croix	\$ _____

Name of Bidder:

CONTINUATION SHEET
(Supply Contract)

IFB039GVIT20 (S)

ITEM NO.	SUPPLIES OR SERVICES	AMOUNT
----------	----------------------	--------

NOTICE TO BIDDERS

ALL INDIVIDUALS, FIRMS, PARTNERSHIPS, CORPORATIONS AND/OR JOINT VENTURES DOING BUSINESS WITH THE GOVERNMENT OF THE VIRGIN ISLANDS SHALL SUBMIT INFORMATION IN WRITING, OF THE **PHYSICAL LOCATION** OF THEIR PRINCIPAL PLACE OF BUSINESS. A POST OFFICE BOX MAILING ADDRESS ONLY WILL NOT SUFFICE.

BIDDERS **MUST** INSERT THEIR E.I.N.-EMPLOYER'S IDENTIFICATION NUMBER ON PAGE 1 IN THE SECTION WHERE THE COMPANY'S NAME AND ADDRESS IS REQUIRED.

PROSPECTIVE BIDDERS WILL BE REQUIRED TO FURNISH THE FOLLOWING DOCUMENTS WITH THEIR SUBMITTAL. FAILURE TO COMPLY WITH ALL THE REQUIREMENTS AS OUTLINED, **MAY** DISQUALIFY THE BIDDER.

- A. ORGANIZATION AND PERSONNEL
- B. LISTING OF PROJECT EXPERIENCE WITHIN THE LAST 2 YEARS.
- C. REFERENCES (2 minimum)
- D. CURRENT VIRGIN ISLANDS BUSINESS LICENSE FOR THE TYPE OF SERVICE BEING REQUESTED
- E. CERTIFICATE OF LIABILITY INSURANCE
- F. CURRENT CERTIFICATE OF GOVERNMENT INSURANCE COVERAGE
- G. CERTIFICATE OF GOOD STANDING
- H. CORPORATE RESOLUTION EVIDENCING THE DIRECTORS/OFFICERS OF THE COMPANY
- I. ARTICLES OF INCORPORATION/ ORGANIZATION, IF APPLICABLE
- J. TRADE NAME CERTIFICATE
- K. DUNS NUMBER AND SAM/CAGE CODE NUMBER

"IT SHALL BE THE BIDDERS' RESPONSIBILITY TO DELIVER BID TO THE DESIGNATED LOCATION PRIOR TO THE BID TIME SPECIFIED ON PAGE 1 OF THIS INVITATION FOR BIDS."

AWARD WILL BE MADE TO THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER. UNDERBIDDING CAN DEEM YOUR BID NON-RESPONSIBLE."

Name of Bidder:

Standard Form 86 November 1949 Edition General Services Administration Fed. Proc. Reg. (41 CFR) 1-16.107 36-104. Rev. 3-18-08	CONTINUATION SHEET (Supply Contract)	Contract, Order, or Invitation No. (As Applicable)	Page No.
		IFB039GVIT20 (S)	
ITEM NO.	SUPPLIES OR SERVICES	AMOUNT	
<p>CONTRACT PERIOD: The period of any contract entered into under this Invitation for Bids shall be for a period of one (1) year. (October 1, 2020- September 30, 2021).</p>			
<p>OPTION TO RENEW: The service of this contract may be extended for an additional one (1) year period subject to the availability of funds.</p>			
<p>SUPPLEMENTARY PROVISIONS: The application of all materials will be in such a manner so as not to cause harm to humans, foodstuff or equipment within the building and/or property.</p>			
<p>The Contractor shall maintain on his own, Workmen's Compensation Insurance, Comprehensive General Liability Insurance against bodily injury with limits of \$100,000.00 and against property damage with limits of \$100,000.00, the cost of which shall be borne by the Contractor and maintained fully during the term of the Contract.</p>			
<p>A copy of the Insurance listed herein shall be filed with the Department of Property & Procurement, 8201 Sub Base, 3rd Floor, St. Thomas, U. S. Virgin Islands 00802.</p>			
<p>The Contractor shall be liable for loss or damages to property or persons, however, in no case shall such negligence be presumed or inferred.</p>			
<p>The Contractor agrees not to refuse to hire or employ or to bar or discharge from employment any individual because of race, religion, color, or ancestry.</p>			
<p>The Contractor hereby agrees to pay the existing minimum wages, Federal and/or Local taxes as may be applicable.</p>			
<p>PROMPT PAYMENT DISCOUNT: Prompt payment discounts shall NOT be considered in the evaluation bids. Prompt payment discounts are removed as evaluation factors.</p>			
<p>Although prompt payment discounts are not evaluated, any discount offered will form part of the award, and will be taken by the User Agency and the Department of Finance if payment is made within the discount period specified by</p>			
<p>No discount offered for payments within less than thirty (30) calendar days will be considered. Paragraph 6a on Page 1 of the Bid Form is hereby deleted.</p>			
<p>EXPLANATION TO BIDDERS: Any explanation desired by a bidder regarding the meaning or interpretation of this Invitation for Bids, specifications, etc., must be requested no later than Monday, July 6, 2020 at 12:00 noon, in writing to Assistant Commissioner, Lisa M. Alejandro at e-mail address, lisa.alejandro@dpp.vi.gov and allow for sufficient time for a reply to reach said bidder before the submission of their bids. Any interpretation made will be in the form of an amendment to the Invitation for Bids, specifications, etc., and will be furnished to all prospective bidders.</p>			
<p>PREFERRED BIDDERS: In addition to placing a check (✓) in the appropriate box on Page 1, Section 5 of this Bid, any Person, Firm, Partnership or Corporation name be added to a Preferred Bidders' List to be maintained by the Commissioner of the Department of Property & Procurement.</p>			
<p>If bidder has not previously filed a notarized copy of the Preferred Bidders' Certificate with the Commissioner of the Department of Property & Procurement, Division of Procurement, 8201 Subbase, 3rd Floor Subbase, St. Thomas, U. S. Virgin Islands, or 3274 Estate Richmond, Christiansted, St. Croix, U.S. Virgin Islands, notarized, and submitted to the Division of Procurement not later than the date and hour of bid opening as specified on Page 1 of this bid. All bidders not complying with the procedures set forth herein and in accordance with Title 31 V. I. C. § 236 a, will not be considered eligible as Preferred Bidders for this Invitation for Bids.</p>			
<p>Name of Bidder:</p>			

CONTINUATION SHEET
 (Supply Contract)

Contract, Order, or Invitation No.
 (As Applicable)

Page No.

IFB039GVIT20 (S)

ITEM NO.	SUPPLIES OR SERVICES	AMOUNT
----------	----------------------	--------

Pursuant to Act No. 3072, approved July 29, 1971, amending Section 245 of Chapter 23, Title 31 of the Virgin Islands Code, each person who submits a bid in relation to any purchase in excess of \$1,000.00, under this Chapter, will disclose the Name and Address of each individual having a beneficial interest of more than five (5%) per Centum in the bidding enterprise, and if the bidder is a Corporation, the Names and Addresses of all its Officers and Directors.

NAME

ADDRESS / PHONE

TITLE

Open-Bid Meeting Information
Teleconference Call
 Dia-In Number: 1 (712)451-0422
 Access Code: 164896

Name of Bidder:

Security Guard Services

DESCRIPTION OF SERVICES

1. To provide Security Guard Services at various offices, buildings, institutions, structures, and facilities of the Government of the Virgin Islands in the District of St. Thomas/St. John and St. Croix during the period **October 1, 2020 to September 30, 2021**, as directed by the Virgin Islands Police Department. The services of the contract may be extended for an additional one (1) year period subject to the availability of funds.
2. The contractor will furnish uniform guards with time clocks and such other appurtenances as may be necessary for the protection of life and property at the place under security. **Because of conditions that may arise during the term of the contract, it is difficult to determine the number of guards or hours; therefore, each Department or Agency will be responsible for ascertaining its needs and notifying the Contractor (within 24 hours) of Guard Services required.**
3. The Contractor shall secure premises and personnel by patrolling property, inspecting buildings, equipment, and access points, permitting entry.
4. The Contractor shall prevent losses and damage by reporting irregularities, informing violators of policy and procedure, restraining trespassers.
5. The Contractor shall control traffic by directing drivers
6. The Contractor shall complete reports by recording observations, information, occurrences, and surveillance activities; interviewing witnesses; obtaining signatures
7. The contractor shall file with the bid, a statement under oath that the guards have been fully trained giving name and experience of the persons or organization by whom trained. **Such statements will be one of the important factors in making the awards.**
8. The contractor shall maintain Workmen's Compensation Insurance, Comprehensive General Liability Insurance including automobile, against bodily injury with limits of \$100,000.00 and property damage with limits of \$100,000.00. The cost is to be borne by the Contractor and maintained fully during the contract period. A copy of the Insurance Policy will be filed with the Virgin Islands Police Department within ten (10) days after receipt of the award.

9. The contractor may replace any guard when such action is deemed to be in its own best interest.

10. The contractor hereby agrees to pay the existing minimum wages, federal and/or local taxes as may be applicable.

11. The contractor agrees not to refuse to hire or employ or to bar or discharge from employment, any individual because of race, religion, color, or ancestry.

12. The Government reserves the right to request the contractor to remove any guard, who in the opinion of the Government is undesirable or who, in the judgment of the Government had failed to perform his duties properly and adequately.

13. The Government reserves the right to reject any or all bids, to waive any informality in bids and unless otherwise specified by the Government or by the bidder, to accept any item in the bid.

14. Guard personnel shall be courteous and efficient in their conduct and demeanor and will present themselves at all times in a neat and clean appearance.

15. Guard Services are requested for daily pick up of revenues for deposit to a banking institution.

16. The contractor must be licensed in the United States Virgin Islands and where required with an office maintained for such services on the islands of operation.

17. The contractor shall furnish the hours the office is opened for business excluding hours where answering service devices only are used.

OFFICE HOURS: from 8:00 a.m. to 5:00 p.m.

18. The contractor shall furnish the ratio of supervisory personnel for the number of guards employed as well as the number of vehicles registered by the company or corporation for use by the supervisory personnel.

NUMBER OF VEHICLES FOR USE BY SUPERVISORS: 2

RATIO OF SUPERVISORS: 4 SUPERVISORS TO 19.5 GUARDS

**GOVERNMENT OF THE VIRGIN ISLANDS
DEPARTMENT OF PROPERTY AND PROCUREMENT**

NON-COLLUSION AFFIDAVIT

————— 0 —————

..... being duly sworn, deposes and says that —

(1) He is [owner, partner, officer, representative, or agent] of

..... the bidder that has submitted that attached bid;

(2) He is duly informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;

(3) Such bid is genuine and is not a collusive or sham bid;

(4) Neither the said bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or to fix any overhead, profit or cost element of the price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against The Government of the Virgin Islands or any person interested in the proposed contract; and

(5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

Signature of Affidavit

SUBSCRIBED AND SWORN to before me this....., day of

Notary Public

GENERAL PROVISIONS (SUPPLY CONTRACT)

1. DEFINITIONS

(a) The term "Contracting Officer" as used herein means the person executing this contract on behalf of the Government and includes a duly appointed successor or authorized representative.

2. SPECIFICATIONS AND DRAWINGS

The Contractor shall keep on the work a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy either in the figures, in drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such determination shall be at his own risk and expense. The Contracting Officer shall furnish from time to time such detail drawings and other information as he may consider necessary, unless otherwise provided.

3. CHANGES

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be change order, make any change in the work in the general scope of the contract, including but not limited to changes:

- (i) In the specifications (including drawings and designs);
- (ii) In the method or manner of performance of the work;
- (iii) In the Government-furnished facilities, equipment, materials, services, or site, or
- (iv) directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation, or determination) from the Contracting Officer, which causes any such change, shall be treated as a change order under this clause, provided that the Contractor gives the Contracting Officer written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: Provided, however, That except for claims based on defective

specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: And provided further, That in the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increase cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Contracting Officer a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Government. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

4. DIFFERING SITE CONDITIONS

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Contracting Officer in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing material from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Contracting Officer shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above; provided, however, the time prescribed therefore may be extended by the Government.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

5. TERMINATION FOR DEFAULT—DAMAGES FOR DELAY—TIME EXTENSIONS

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within such time, the Government may, by written notice to the Contractor,

terminate his right to proceed with the work of such part of the work as to which there has been delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work necessary therefore. Whether or not the Contractor's right to proceed with the work is terminated, he and his sureties shall be liable for any damage to the government resulting from his refusal or failure to complete the work within the specified time.

(b) If fixed and agreed liquidated damages are provided in the contract and if the Government so terminates the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned the Government in completing the work.

(c) If fixed and agreed liquidated damages are provided in the contract and if the Government does not so terminate the Contractor's right to proceed, the resulting damage will consist of such liquidated damages until the work is completed or accepted.

(d) The Contractor's right to proceed shall not be so terminated nor the Contractor charged with resulting damage if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and such subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of such delay (unless the Contracting Officer grants a further period of time before the date of final payment under the contract,) notifies the Contracting Officer in writing of the causes of delay.

The Contracting Officer shall ascertain the facts and the extent of any delay and extent the time for completing the work when, in his judgment, the findings of facts justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject only to appeal as provided in Clause 6 of these General Provisions.

(e) If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the Contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of this clause, the rights and obligations of the

parties shall, if the contract contains a clause provided for termination for convenience of the Government, be the same as if the notice for termination had been issued pursuant to such clause. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the Government, the contract shall be equitable adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(f) The rights and remedies of the Government provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in Paragraph (d) (1) of this clause, the term 'Subcontractors or Suppliers' means Subcontractors or Suppliers at any tier.

6. DISPUTES

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the head of the Agency involved. The decision of the head of the agency or his duly authorized representative for the determination if such appeals shall be final and conclusive. This provision shall not be pleaded in any suit involving a question of fact arising under this contract as limited judicial review of any such decision to cases where fraud by such official or his representative or board is alleged: **Provided, however,** That any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for in paragraph (a) above. Nothing in this contract, however, shall be constructed as making final the decision of any administrative official, representative, or board on a question of law.

7. PAYMENTS TO CONTRACTOR

(a) The government will pay the contractor price as hereinafter provided.

(b) The Government will make progress payments monthly as the work proceeds, or at more frequent intervals as

determined by the Contracting Officer, on estimates approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a break down of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis of determining progress payments. In the preparation of estimates the Contracting Officer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the Contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the Contracting Officer, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, he may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the Contracting Officer, if he considers the amount retained to be in excess of the amount adequate for the protection of the Government, at his discretion, may release to the Contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate building, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefore without retention of a percentage.

(d) All material and work covered by progress payments made shall thereupon become the sole property of the Government, by this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or a waiving the right of the Government to acquire the fulfillment of all the terms of the contract.

(e) Upon completion and acceptance of all work, the amount due to the Contractor under this contract shall be paid upon the presentation of a properly executed voucher and after the Contractor shall have furnished the Government with a release, if required, of all claims against the Government arising by virtue of this contract, other than claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the contract has been assigned under the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), a release may also be required of the assignee.

8. ASSIGNMENT OF CLAIMS

(a) If this contract provides from payments aggregating \$1,000 or more, claims for moneys due or to become due to the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financial institution,

including any Federal lending agency and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payments to an assignee of any moneys due to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff.

9. MATERIAL AND WORKMANSHIP

(a) Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limited competition, and the Contractor may, at his option, use any equipment, material, article, or process which, in the judgment of the Contracting Officer is equal to that named. The Contractor shall furnish to the Contracting Officer for his approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the work. When required by this contract or when called for by the Contracting Officer, the Contractor shall furnish the Contracting Officer for approval full information concerning the material or articles which he contemplated incorporating in the work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required approval shall be at risk of subsequent rejection.

(b) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may, in writing, require the Contractor to remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

10. INSPECTION AND ACCEPTANCE

(a) Except as otherwise provided in this contract, inspection and test by the Government of material and workmanship required by this contract shall be made at reasonable times and at the site of the work, unless the Contracting Officer determines that such inspection or test of material which is to be incorporated in the work shall be made at the place of production, manufacture, or shipment of such material. To the extent specified by the Contracting Officer at the time of determining to make off-site inspection or test, such inspection or test shall be conclusive as to whether the material involved conforms to the contract requirements. Such off-site inspection or test shall not relieve the Contractor of responsibility for

damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Government after acceptance of the completed work under the terms of paragraph (f) of this clause, except as hereinabove provided.

(b) The Contractor shall, without charge, replace any material or correct any workmanship found by the Government not to conform to the contract requirements, unless in the public interest the Government consents to accept such material or workmanship with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(c) If the Contractor does not promptly replace rejected material or correct rejected workmanship, the Government (1) may, by contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor, or (2) may terminate the Contractor's right to proceed in accordance with Clause 5 of these General Provisions.

(d) The Contractor shall furnish promptly, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspection and test as may be required by the Contracting Officer. All inspection and test by the Government shall be performed in such manner as not unnecessarily to delay the work. Special, full size, and performance tests shall be performed as described in this contract. The Contractor shall be charged with any additional cost of inspection when material and workmanship are not ready at the time specified by the Contractor for its inspection.

(e) Should it be considered necessary or advisable by the Government at any time before acceptance of the entire work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect, due to the fault of the Contractor or his subcontractors, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, an equitable adjustment shall be made in the contract price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the work has been delayed thereby, he shall, in addition, be granted suitable extension of time.

(f) Unless otherwise provided in this contract, acceptance by the Government shall be made as promptly as practicable after completion and inspection of all work required by this contract. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Government's rights under any warranty or guarantee.

11. SUPERINTENDENCE BY CONTRACTOR

The Contractor shall give his personal superintendence to

the work or have a competent foreman or superintendent, satisfactory to the Contracting Officer, on the work at all times during progress, with authority to act for him.

12. PERMITS AND RESPONSIBILITIES

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 prosecution of the work. He shall be similarly responsible for all damages to persons or property that occur as a result of his fault or negligence. He shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. He shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction thereof which therefore may have been accepted.

13. CONDITIONS AFFECTING THE WORK

The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve him from responsibility for successfully performing the work without additional expense to the Government. The Government assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this contract, unless such understanding or representations by the Government are expressly stated in the contract.

14. OTHER CONTRACTS

The Government may undertake or award other contracts for additional work, and the contractor shall fully cooperate with such other contractors and Government employees and carefully fit his own work to such additional work as may be directed by the Contracting Officer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Government employees.

15. PATENT INDEMNITY

Except as otherwise provided, the Contractor agrees to indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, arising out of the performance of this contract or out of the use or disposal by or for the account of the Government of suppliers furnished or construction work performed hereunder.

16. ADDITIONAL BOND SECURITY

If any surety upon a bond furnished in connection with this contract becomes unacceptable to the Government, or if any such surety fails to furnish reports as to his financial condition from time to time as requested by the Government, the Contractor shall promptly furnish such additional security as may be required from time to time to protect the interests of Government and of persons supplying labor or materials in the prosecution of the work contemplated by this contract.

17. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

18. OFFICIALS NOT TO BENEFIT

No member of the Legislature or members of Congress shall be admitted to any share or part of this contract, or to any benefit that may arise there from; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

19. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Legislature that a fair proportion of the purchases and contracts for suppliers and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

(c) Contractor shall hire, in addition to any other employee he may retain, apprentices or trainees or both or the performance of the work hereunder, the total number of which shall be determined by the Director of the Division of Apprenticeship and Training upon the basis of one (1) Apprentice (or Trainee) for the first journeyman steadily employed, and one (1) additional Apprentice (or Trainee) for every two (2) additional Journeyman steadily employed.

(d) Within ten days of the execution of this Agreement the contractor shall submit to the Division of Apprenticeship &

Training, and to the Contracting Officer (The Commissioner of the Department of Property and Procurement) a list of the occupations for which Journeymen will be required in the performance of this contract.

(e) Veterans of the U.S. Armed Forces shall be given priority with the respect to the hire of Apprentices and Trainees.

(f) Failure of Contractor to comply with the aforesaid provisions of this section shall be a material breach thereof.

20. SUSPENSION OF WORK

(a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interpret all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period time, suspended, delayed, or interrupted by an act of the Contracting Officer in the administration of this contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contactor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirements shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption but not later than the date of final payment under the contract.

TERMINATION OF CONTRACTS

— 0 —

CONVENIENCE OF THE GOVERNMENT

- (a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:
 - (i) stop work under the contract on the date and to the extent specified in the Notice of Termination;
 - (ii) place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
 - (iii) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
 - (iv) assign to the Government, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - (v) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contracting Officer, to the extent, he may require, which approval or ratification shall be final for all the purposes of this clause;
 - (vi) transfer title and deliver to the Government in the manner, at the times, and to the extent, if any, directed by the Contracting Officer (A) the fabricated or unfabricated parts, work in progress, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (B) the completed or partially completed plans, drawings, information,

and other property which, if the contract had been completed, would have been required to be furnished to the Government.

- (vii) use his best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Commissioner of Property and Procurement, any property of the types referred to in (vi) above; provided, however, that the Contractor (A) shall not be required to extend credit to any purchaser, and (B) may acquire any such property under the conditions prescribed by and at the price or prices approved by the Commissioner of Property and Procurement and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the Commissioner of Property and Procurement may direct;
 - (viii) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and
 - (ix) take such action as may be necessary, or as the Commissioner of Property and Procurement may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.
- (c) After receipt of the Notice of Termination, the Contractor shall submit to the Commissioner of Property and Procurement his termination claim, in the form and with certification prescribed by the Commissioner of Property and Procurement. Such claim shall be submitted promptly but in no event later than one year from the effective date of termination, unless one or more extensions in writing are granted by the Commissioner of Property and Procurement, upon request of the Contractor made in writing within such one year period or authorized extension thereof. However, if the Commissioner of Property and Procurement determines that the facts justify such action, he may receive and act upon failure of the Contractor to submit his termination claim within the time allowed, the Commissioner of Property and Procurement may determine, on the basis of information available to him, the amount, if any, due to the Contractor by any reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- (d) Subject to the provisions of paragraph (c), the Contractor and the Commissioner of Property and Procurement may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (e) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Commissioner of Property and Procurement to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this

clause, shall be deemed to limit, restrict or otherwise determine or affect the amount or amounts which may be agreed to be paid to the Contractor pursuant to this paragraph (d):

- (e) In the event of the failure of the Contractor and the Commissioner of Property & Procurement to agree as provided in paragraph (d) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the Commissioner of Property & Procurement shall pay to the Contractor the amounts determined by him as follows, but without duplication of any amounts agreed upon in accordance with paragraph (d):
- (i) for completed supplies, materials and equipment or services accepted by the Government (or sold or acquired as provided in paragraph (b) (vii) above) and not theretofore paid for, a sum equivalent to the aggregate price for such supplies or services computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving for freight or other charges;
 - (ii) the total of —
 - (A) the costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under paragraph (e) (i) hereof;
 - (B) the cost settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (b) (v) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable under (A) above; and
 - (C) a sum, as profit on (A) above, determined by the Contracting Officer to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed under this subdivision (C) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
 - (iii) the reasonable costs of settlement, including accounting, legal, clerical and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontract thereunder, together with reasonable storage, transportation and other costs incurred in connection with the protection or disposition of property allocable to this contract.