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H.1 TYPE AND TERM OF CONTRACT

This contract is an indefinite delivery, indefinite quantity, fixed price with a form of economic price adjustment.

The term of this contract will be four years from the date of award with three (3) two-year Government options to extend. The total term of the contract will not exceed 120 months.

H.2 AUTHORIZED USERS

- a. This contract is for the use of all Federal agencies; authorized Federal contractors; agency-sponsored universities and laboratories; and when authorized by law or regulation, state, local, and tribal Governments, and other organizations. All organizations listed in General Services Administration (GSA) Order ADM 4800.2E (as updated) are eligible.
- b. The Government has the right to add authorized users as defined in paragraph (a) at any time during the term of this contract up to the limits specified in Section H.3 - MINIMUM REVENUE GUARANTEE AND MAXIMUM CONTRACT LIMITATION.
- c. The Government is not obligated or required to use this contract to satisfy its requirements for the services described.

H.3 MINIMUM REVENUE GUARANTEE AND MAXIMUM CONTRACT LIMITATION

- a. The minimum revenue for this contract is \$10 million.
- b. The maximum all-inclusive funding ceiling for this and any other contracts awarded as a result of solicitation No. TQC-JTB-05-0002 is \$20.1 Billion.
- c. After award, the Government will not manage or assign traffic or service to maintain a predetermined revenue share to the contracts, if there are multiple awardees.
- d. The Government, at the Government's option, may satisfy the Minimum Revenue Guarantee by using and paying for the contractor's services provided under the contract, or by direct payment(s) to the contractor, or by any combination of use and payment of the contractor's services and direct payment(s) to the contractor

H.4 DISCLOSURE OF INFORMATION

- a. Any Government information made available to the contractor shall be used only for the purpose of carrying out the provisions of this contract and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract
- b. In performance of this contract, the contractor agrees to assume responsibility for protecting the confidentiality of Government records and for ensuring that all work is performed under the supervision of the contractor or the contractor's responsible employees
- c. Each officer or employee of the contractor, its subcontractors and agents, to whom information may be made available or disclosed shall be notified in writing by the contractor that information disclosed to such officer or employee shall be used only for a purpose and to the extent authorized herein. Use of such information for a purpose or to an extent unauthorized herein may subject the offender to criminal sanctions imposed by 18 U.S.C. 641. The law provides, in pertinent part, that whoever knowingly converts to their use or the use of another, or without authority sells, conveys, or disposes of any record of the United States or whoever receives the same with intent to convert it to their use or gain, knowing it to have been converted, shall be guilty of a crime punishable by a fine of up to \$10,000, or imprisonment up to ten years, or both

H.5 INTERNAL REVENUE SERVICE: DISCLOSURE OF INFORMATION - SAFEGUARDS AND SANCTIONS

The contractor agrees to comply, and to assume responsibility for its employees' compliance, with the Internal Revenue Service's statutory requirements for disclosure of information as specified by the following:

- a. All work shall be performed under the contractor's, or the contractor's responsible employees', supervision
- b. Any Federal Tax Return or Return information (as defined in I.R.C. 6103(b)(1) and (2)), made available to the contractor shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Disclosure to anyone other than an officer or employee of the contractor shall require prior written approval of the Internal Revenue Service. Requests to make such disclosures shall be addressed to the Contracting Officer (CO)

- c. Each officer, employee, or any other person to whom returns or return information is or may be disclosed shall be notified in writing that returns or return information disclosed to such officer or employee may be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000.00 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer or employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000.00 with respect to each instance of unauthorized disclosure. These penalties are prescribed by I.R.C. Sections 7213 and 7431 and set forth at 26 Code of Federal Regulations (CFR) 301.6103(n)
- d. Additionally, the contractor is required to inform its officers and employees of the penalties for improper disclosure that are imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records that contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or by rules or regulations established in the Privacy Act and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.00

H.6 CONTINUITY OF SERVICES

- a. The contractor shall recognize that the services under this contract are vital to the Government and must be continued without interruption, and that upon contract expiration or termination, a successor, either the Government or another contractor, may provide the same or similar services. The contractor agrees to phase-in coordination (coordinating the orderly change to new contractor or Government provided services such that the level and quality of service are not degraded), and to exercise its best efforts and cooperate to effect an orderly and efficient transition to a successor
- b. Upon the CO's written notice, the contractor shall:
 - 1. Furnish phase-in phase-out services for up to 365 days after contract expiration or contract termination. The price of services provided during the phase-in phase-out period shall not exceed

the prices in effect under the contract on the date of contract expiration, contract termination, or relocation of service

2. Negotiate in good faith a plan with a successor(s) for determining the nature and extent of phase-in phase-out services required. This plan shall specify interconnection and transition procedures enabling the services to be provided at the levels and quality called for by this contract
- c. Upon the CO's written notice at contract expiration, the contractor shall continue performance under the existing terms and conditions (including price) of the contract for a period of up to 12 months as specified by the CO. During this extended period, the Maximum Contract Limitation may be raised and New or Improved Services (Section H.15) may be implemented
- d. Should the CO, having elected (c) above, but not having elected initially to extend the contract the full 12 (twelve) months, provide subsequent written notice, the contractor, as directed, shall continue to perform under the contract up to the full 12 (twelve) month period

H.7 PRICE MANAGEMENT MECHANISM (PMM)

The Price Management Mechanism is used to ensure that Networkx prices remain highly competitive with the prices offered to large commercial and Government customers. This clause is an important risk reduction factor in the Networkx program, alleviating agency concerns that Networkx prices might not remain competitive with an contractor's best commercial and Government prices over the life of the contract.

The Networkx services that shall be subject to PMM are:

- a. Voice Service (VS)
- b. Circuit Switched Data Service (CSDS)
- c. Internet Protocol Service (IPS)
- d. Toll-Free Service (TFS)
- e. Frame Relay Service (FRS)
- f. Asynchronous Transfer Mode Service (ATMS)
- g. Private Line Services (PLS)
- h. Network-Based IP VPN Services (NBIP-VPNS)
- i. Converged IP Service (CIPS)
- j. Internet Protocol Telephony Service (IPTeIS)

- k. Synchronous Optical Network (SONET) Services
- l. Combined Services (CS)
- m. Cellular/Personal Communications (CPCS)
- n. Optical Wavelength Service (OWS)

Services can be added to or deleted from the above list via bilateral contract modification.

A service is not subject to PMM, if it is not offered in this contract or if the contractor has billed the Agencies a sum total of less than two-hundred and fifty thousand dollars over the most recent full three months for that service.

For each of these services, the Government plans to implement PMM no more than 5 times per service over the 10 year life of this contract. The Government will implement the first PMM no sooner than 12 months after contract award, and will ensure that successive PMMs for each service selected for PMM are at least 12 months apart.

H.7.1 PMM Process

After contract award, the Government will continuously use available information to compare contractor Networkx prices with competitive prices offered to commercial and Government users. Comparison prices will be acquired from (1) the commercial websites of Networkx contractors, (2) Federal and State tariffs, (3) other Government contracts including the Multiple Award Schedules, (4) publicly and privately available price-change indices, and/or (5) any other sources determined by the Government to be relevant for price comparison purposes. If the Government determines that contractor prices are not consistent with the comparison prices, or if the Government has insufficient information to make a price comparison, the Government at its sole discretion will select specific services for PMM analysis. The Government will then proceed to Phase One of the PMM process. There is no requirement for the Government to share its analyses with the contractor or provide a justification for its determination to proceed to Phase One.

H.7.2 PMM Phase One

Phase One triggers a Government request to the contractor for comparison contracts. The contractor shall have 60 calendar days to supply the comparison contracts after receiving the request.

The contractor shall provide comparison contracts in accordance with the following procedures.

If the contractor's total Networkx billing to Agencies is less than \$1 million for the most recent three full months, three single-service contracts (single service

contracts contain only the service under evaluation) shall be submitted per service. The single-service contract submission selection shall be based on the contract size, where single-service contract size is defined as the total dollar figure billed to a contract's customer for the most recent three full months (from the time of the Government's request for contract submissions). The contractor shall submit the three largest sized single-service contracts that do not exceed 115 percent of the contractor's Networx billing for the same service over the same three months.

If the contractor's total Networx billing to Agencies is \$1 million or more for the most recent three full months, the contractor shall deliver its three largest multi-service contracts that contain the service selected by the Government for PMM analysis. The contract size of a multi-service comparison contract is defined as the total dollar figure billed to that contract's customer for all services for the most recent three full months (from the time of the Government's request for contract submissions). The contractor shall additionally submit from zero to three single-service contracts in accordance with the procedures in the above paragraph. The requirement to submit a single-service contract is negated when that single-service contract's size is less than the total dollars billed (for the most recent three full months) for that same service within each and every submitted multi-service contracts.

Government contracts that satisfy the submission requirements above shall be included in the submissions but shall be limited to no more than one multi-service and one single service contract per service. (The Networx Enterprise contract and Multiple Award Schedules (MAS) shall not be considered in the selection or submission of comparison contracts.) If more than one Government contract satisfies the submission requirements above, the contractor shall submit the Government contract with the largest three month billing within its respective multi-service and single-service category. Once one Government contract has qualified as a multi-service submission for a service, all other qualified multi-service submissions shall be determined from commercial contracts for that service. Similarly, once one Government contract has qualified as a single-service submission for a service, all other qualified single-service submissions shall be determined from commercial contracts for that service.

After following these procedures, the contractor shall provide a minimum of three and a maximum of six comparison contracts for each service.

The contractor shall also deliver to the Government the access line prices with all rate affecting terms for each of these contract submissions.

Comparison contracts that are sales of (1) promotional offerings where the service ordering by the contract customer is limited to one month or less, or (2) service, such as to equity partners and other carriers, that are absent of typical customer terms (e.g., detailed billing and full-service account management), or

(3) contracts where the limited geographic availability of service was a significant factor in the pricing of the service offered, or (4) contracts exhibiting extreme internal price imbalances will not be eligible for use in the PMM process.

Any assertion that a contract is not appropriate for use as a comparison contract under the above provisions must be made to the Contracting Officer upon delivery of the comparison contracts. The Contracting Officer will make the determination of which contracts will not be eligible for use under provisions (1) to (4) above. If a contract is excluded, the Government reserves the right to request a replacement contract(s)

Additionally, at the Government's request, the contractor shall supply the replacement of a comparison contract in cases where it does not contain sufficient price elements to match the Networx service traffic (traffic includes network usage, circuits, ports, PVCs, and/or other components that determine the price for services). The replacement(s) of the rejected contract(s) shall be selected in accordance with the requirements listed above. For example, a contract submission that offers only 56/64 kbps private line prices would be unsuitable for a PLS comparison if the Networx service traffic had a significant number of circuits at other speeds.

The multi-service and single-service comparison contracts shall be drawn from contractor's customer contracts. The contract comparison submission information provided by the contractor shall include all rates, prices that are referenced in other offerings, and rate affecting terms and conditions that are required to implement the PMM for that service. The contractor shall clarify contract submission language or provide missing contract data within 5 business days at the Government's request. However, the contractor shall not be required to provide Customer Proprietary Network Information (CPNI) as defined by the Federal Communications Commission (FCC) where that provision is prohibited by law or regulation.

If any of the submitted contract comparison data is publicly available, e.g., on the contractor's website or in tariffs, the contractor shall additionally provide references to find such information. In addition to the contract submissions and public references, the contractor shall provide its understanding of how the prices are to be applied to the Networx service traffic in the form of price tables, including applicable discounts, waivers, and credits. The deliverables shall be in electronic form whenever possible.

Contractor compliance with the submission information requirements of the PMM shall be certified in writing by an employee of the company who has the authority to bind the company. If the contractor fails to comply with the contract submission requirements of this section, the Government reserves the right to use comparison prices from any sources it deems appropriate to substitute for the contractor's contract comparison submissions.

The Government will analyze the submitted comparison contract information, and if the Government believes that the contractor's Networx prices for a service(s) are not competitive with the prices in the contract submissions, the Government will proceed to Phase Two.

H.7.3 PMM Phase Two

During Phase Two, the Government will assess the service by comparing the contractor's Networkx prices for the service to the contractor's submitted comparison prices for that service. To make a comparison, the Government will develop a statistically significant traffic set (called PMM demand set) from the contractor's Networkx network demand (including network usage, circuits, ports, PVCs, and/or other components that determine the price for services) and use it to compare prices.

Total prices for each service are calculated by multiplying the Networkx or comparison contract unit prices by the service demand set and applying other price affecting terms, such as discounts, waivers, and credits. Access line prices, but not SED prices, will be included in the calculation.

The Networkx price calculation totals for each PMM demand set will use Networkx unit prices that will be in effect during the period following the PMM evaluation process. At its discretion, the Government may perform separate PMM calculations and price reduction determinations within a service for communications between: CONUS to CONUS; OCONUS location(s) to CONUS or OCONUS; and/or Country/Jurisdiction(s) to any location.

There will be one Networkx total price calculation and three to six comparison contract price total calculations (a total price calculation for each submitted comparison contract) for each service. The number of total price calculations for a service may increase if the Government decides to perform separate calculations for communications between: CONUS to CONUS; OCONUS location(s) to CONUS or OCONUS; and/or Country/Jurisdiction(s) to any location. If the Government decides to use these separate calculations for a service, the collection of these separate calculations (and any related price reductions) shall count as only one of the five PMM implementations over the life of the contract.

For submitted multi-service contracts, a calculated comparison total price will be computed only for the service(s) under PMM consideration. For submitted single-service contracts, a comparison cost will be computed for the single service only.

For each service, the final comparison total price is calculated by averaging the two lowest total prices from the comparison contracts. The resulting average total price from the comparison contracts will be compared with the total price calculated from the contractor's Networkx total price for the service. If the total Networkx calculated price is at least five percent greater than the calculated average comparison price total for a service, a price reduction will be required by the contractor as specified in Section H.7.4. Otherwise, if the total Networkx calculated price total is not at least five percent greater than the calculated average comparison price total, the PMM process is concluded.

These calculation results are not proprietary if the results do not reveal underlying unit prices of the comparison contracts.

H.7.4 Request for Price Reduction

Price reductions will be requested based on calculation results using comparison prices submitted by the contractor as explained in Sections H.7.2 and H.7.3. If the total Networkx calculated price is at least five percent greater than the calculated average comparison price total for a service, the Government will require a price reduction. Accordingly, the contractor shall reduce its Networkx contract unit prices so that the calculation of the PMM demand set using these reduced unit prices shall yield a total price equal to or below the final comparison total price. The contractor has the discretion to select which contract unit prices in the service to reduce that achieve the required service price reduction. The contractor shall not increase any Networkx contract unit prices when implementing a PMM price reduction.

The Government will provide the contractor the calculation assumptions, unit prices, demand sets, and pricing model access (but not source code) so that the contractor can confirm the Government's calculation results and to assist the contractor in selecting which Networkx unit prices to reduce. The Government and contractor shall enter discussions, at the contractor's request, to clarify assumptions, correct errors, and/or address other issues related to the calculations.

The price reduction shall become effective beginning with the second billing period or within 60 calendar days, whichever is less, after the Government makes a written request for the price reduction. The contractor shall submit the prices tables to the Government that reflect the price reduction within 30 calendar days after receiving the written request for a price reduction. The unit price reductions shall be effective for the length of the contract unless replaced with lower prices as allowed by the contract and its modifications.

H.7.5 Alternate Dispute Resolution (ADR) Process

If the contractor disagrees with the price reduction within 30 calendar days of the contractor's receipt of a written request to reduce prices from the Contracting Officer, the contractor shall issue a "Notice of Disagreement." If the contractor fails to issue a "Notice of Disagreement" within those 30 calendar days, the Contracting Officer may make a determination of the prices to be reduced and the amounts of the reduction. If the parties are still unable to agree to a price reduction within fifteen calendar days after issuance of the "Notice of Disagreement" then the following will apply. To resolve the outstanding dispute the parties shall agree upon an Alternative Dispute Resolution (ADR) process that will resolve the dispute within 90 business days after submittal in accordance with ADR Techniques as described in GSA publication CSL P 5050.1. If the parties are unable to resolve the dispute using this ADR process, the contractor may file a claim pursuant to Section I.1.66 (FAR 52.233-1), Disputes.

While a PMM disagreement is pending, the contractor shall invoice the Agencies using the PMM reduced prices. The contractor shall track the dollar difference between the Agencies' monthly invoices at the contract rate (the rates before the PMM reduction) and the same invoices calculated at the requested lower rates starting when the price reduction was effected and for each subsequent billing cycle. The contractor shall demonstrate the method and accuracy of its calculations to GSA at its request. If dispute and/or legal proceedings later determine that the Government pay any portion of the disputed money to the contractor, the Government will pay that portion with interest as required by statute.

H.8 PRICE REDUCTIONS

- a. The contractor may waive any non-recurring charge at any time to any customer
- b. The contractor may reduce contract prices at any time. Price reductions other than those implemented by the Government under the Price Management Mechanism (PMM) clause of this contract, or covered by subsection (a) above, shall be subject to the following conditions:
 1. The contractor shall propose all price reductions to the CO as a contract modification
 2. The proposed price reduction shall be effective on the first day of a given invoicing period
 3. The proposed price reduction shall be applicable to all Agencies
 4. Price reduction proposals shall include all contract pricing tables, and the effective date(s) of the price reduction. The contractor shall provide all revised pricing tables in an electronic format (or formats) to be specified by the Government at the time of submission
 5. Should the Government execute a price reduction modification on a date after the proposed price reduction effective date, in accordance with subsection (b) (2) above, the price reduction shall be deemed to have occurred on the first day of the next invoicing period for that service or if the price reduction is to be retroactive, on the first date of a billing period earlier than that if mutually agreed to by the Government and the contractor.

H.9 RESERVED

H.10 RESERVED

H.11 ELECTRONIC ACCESS TO CONTRACT

The contractor is hereby advised that a redacted version of the contract and all modifications will be made available on the Internet. Within 30 days of award, the contractor shall post the redacted contract to the public web site and, at the same time, the proposed redaction shall be provided to the GSA Contracting Officer. The contractor shall prepare the proposed redacted version in accordance with Freedom of Information Act. All Government location information and addresses shall be redacted for security purposes. Proposed redacted modifications shall be posted within five (5) business days of the date that the contractor signed the modification. At the same time, the proposed redacted modification shall be provided to the GSA Contracting Officer. The GSA Contracting Officer is the final approval authority for redactions. As necessary, the contractor shall correct and repost redactions at no additional cost to the Government.

All modifications shall be incorporated electronically in context within the basic contract in accordance with the "Modification Guidelines" in Attachment J.4.

H.12 KEY PERSONNEL AND CORPORATE STRUCTURE

H.12.1 Key Personnel

At the time of contract award the contractor shall identify individuals selected to fill the following contractor personnel roles:

- a. Networkx Enterprise Program Manager
- b. Contracts Manager
- c. Billing Manager
- d. Network Manager
- e. Security Manager
- f. Service Ordering Manager
- g. Training Manager
- h. Transition Project Manager(s)
- i. Customer Service Manager

The contractor shall provide information on each role to include, but not be limited to:

- a. Responsibilities
- b. Voice telephone number
- c. Cell telephone number (if used)

- d. Pager telephone number and PIN (if used)
- e. Fax telephone number
- f. E-mail address
- g. Administrative assistant's contact information

H.12.2 Substitutions and Additions of contractor Key Personnel

The following instructions address the procedures for substitution of key personnel defined in Section H.12.1:

- a. Resumes for substitutions and/or additions to the contractor's key personnel under this contract shall be submitted for the written approval of the CO. Any substitutions and/or additions shall be subject to the terms and conditions of this requirement
- b. During the first 180 days of contract performance, no key personnel substitutions shall be permitted unless such substitutions are due to illness, injury, death, disciplinary action, demotion, bona-fide promotion, termination of employment, or other exceptional circumstances when approved by the CO. In any of these events, the contractor shall promptly notify the CO and provide the information required by paragraph (d) below. After the initial 180-day period, in accordance with paragraph (d) below, all proposed substitutions and additions of key personnel shall be submitted to the CO in writing 15 calendar days (30 calendar days if security clearance is to be obtained) prior to the contractor anticipated effective date of the proposed substitutions and additions
- c. The CO may consider additional key personnel on an individual basis
- d. For all requests for substitutions and additions, the contractor shall provide a detailed explanation of the circumstances requiring the proposed substitution or addition. A complete resume for each proposed substitute or addition, and any other information requested by the CO shall be provided. The contractor shall certify that the proposed replacement is better qualified than, or at least equal to, the key personnel to be replaced, subject to the penalties in 18 USC 1001. The CO or the CO's authorized representative will evaluate such requests and promptly notify the contractor of the approval or disapproval thereof
- e. Key personnel included under this contract are listed by name and position or title below:
 - 1. To be completed at contract award
- f. The Contractor's Personnel Plan submitted as part of the proposal and incorporated as part of this contract shall be updated by the contractor within 15 calendar days of the receipt of the CO's approval of a

substitution or of an addition to the contractor's key personnel listed above

H.12.3 Corporate Structure

The offeror shall provide and the contractor shall maintain after award documentation describing its corporate organization. The revised documentation shall be updated within 10 calendar days of any change.

This documentation shall include, but not be limited to, the following information:

- a. The contractor's, the contractor's subsidiaries, and major subcontractors' organization charts and descriptive text clearly depicting the areas of responsibility assigned to carry out this contract and flow of authority within each organization
- b. Charts that show the functional relationships among organizational elements and identify the positions of key personnel assigned to carry out this contract
- c. Relationship of the highest ranking individual assigned to this contract to the corporate Chief Operations Officer, President, and Chief Executive Officer
- d. Organization charts and plans that clearly depict the areas of responsibility and flow of authority between the contractor and its subsidiaries and/or major subcontractors
- e. Charts and descriptive text indicating the contractual, technical, and administrative interfaces between the Government and the contractor, the contractor's subsidiaries, and major subcontractors
- f. A description of the contractor's, the contractor's subsidiaries', and the major subcontractors' managements systems, including the controls and scheduling techniques to be used for ensuring task accomplishment and procedures for ensuring complete coordination of all activities, as well as escalation procedures to be used to ensure task accomplishment
- g. A description of the relationship of the contractor's, the contractor's subsidiaries', and major subcontractors' organizations, which are responsible for managing both the project and individual activities of the project, to the corporate or "home" office during transition, migration, implementation, and operation. This description shall include a clear definition of the level of authority delegated to the manager of the local organizations(s). A description of any corporate or "home" office resources, including manpower, computers, software, shop, service engineering or service development organization, applied research laboratory, etc., to be committed to this contract on an as-needed basis, and the procedures for using these resources, shall be included

- h. A description of corporate escalation procedures for resolving critical issues, including points of contact

H.13 PROTECTION OF PROPOSAL AND CONTRACT INFORMATION

In accordance with Federal Acquisition Regulation (FAR) Part 3.104-4, the Government will take the necessary and usual steps to maintain the confidentiality of information submitted prior to award of the contract and contract modifications. Although Section H.11, Electronic Access to Contract, advises the contractor of Freedom of Information Act redaction, the contractor is advised that the Government will make all current year unit contract prices publicly available.

H.14 CREDITS AND CONSIDERATION FOR FAILURE TO PROVIDE SERVICE OR MEET CONTRACT REQUIREMENTS

If the contractor fails to meet the performance objectives specified in the Service Level Agreements (SLAs) contained in Attachment J.13 of this contract, the Government is entitled to receive credit in a future monthly invoice. The amount of credit shall be calculated as specified in Attachment J.13.4, Credit Arrangements.

For all SLAs except the Billing Accuracy SLA (Attachment J.13.3, SLA Performance Objectives), the Agency Hierarchy Code on the invoice defines the customer who will receive the credit. (See Attachment J.12, Ordering and Billing Data Elements, for a description of the Agency Hierarchy Code.) For the Billing Accuracy SLA, GSA will receive the credit. The credit shall be applied within the next two billing cycles after the Government notifies the contractor that a credit is due.

To qualify for credit, the Government must submit a credit notification within six calendar months after a trouble report regarding the incident was opened or the Government accepts the contractor's SLA Compliance Report, Trouble Management Performance Summary, Order Processing Performance Report, or Technical Report that documents the apparent performance deficiency. (See Sections C.3.2, Program Management, C.3.3, Service Management, C.3.5, Service Ordering, and C.7, Technical Reports, for more information about these reports.) Example credit notification forms are in Attachment J.13.5.

In the event that the contractor disputes the Government's determination that a credit is due, the dispute shall be handled in accordance with Section C.3.6.3, Billing Disputes and Adjustments.

The contractor is responsible for services provided by its subcontractors and any other providers that the contractor uses to deliver Network services.

The Government may grant a waiver from all or part of a credit if exceptional circumstances warrant.

H.15 TARIFF FILING REQUIREMENTS

- a. The contractor shall file all domestic and/or non-domestic tariff or other regulatory filings that are required by law or regulation and that are necessary for contract performance. The contractor shall provide the CO copies of all such filings on the same day they are filed. The contractor shall certify that all terms, conditions, and prices in the filing are as stated in the contract, and that the filing contains nothing inconsistent with the contract. Refer to Section F for deliverable requirements.
- b. The contractor shall file the initial tariff filing(s) required to implement the contract within sixty (60) calendar days after the date of Notice to Proceed. If such filing(s) is not permitted to become effective by a governmental regulatory body or bodies within one-hundred and five (105) calendar days after the date of Notice to Proceed, the Government shall have the right, partially or entirely, to terminate the contract without liability
- c. After contract award, except for the initial filing mentioned in (b) above, the contractor shall provide to the CO advance copies of all revisions to existing tariffs, new tariffs, or other regulatory filings that specifically pertain to the contract or that may materially affect the Government's rights under the contract. These shall be provided to the CO at least ten (10) calendar days in advance of the intended filing date. The contractor shall make no revisions to its tariffs or other regulatory filings that materially and adversely affect the Government's rights under the contract (including the contract as modified), without obtaining the Government's prior written consent
- d. If any ruling, order, or determination of the governmental regulatory body or a court of competent jurisdiction shall materially and adversely affect the contractor's ability to offer services under the terms and conditions of this contract, the contractor shall immediately develop a proposal that provides comparable service to the Government at rates equal to or less than those set forth in the contract, and under terms and conditions identical to those set forth in the contract, to the extent permissible under applicable legal and regulatory requirements

H.16 RESERVED

H.17 OTHER GOVERNMENT CONTRACTORS

Under the Networx program the Government may award several contracts to provide various forms of technical and management services. Government agencies may also use support contractors to assist them with the Networx contract. Once these contractors are operating in their official capacity as agents for the Government, the contractor shall provide them full cooperation, including but not limited to, full access to relevant portions of the Networx contracts, all requested reports, data, and other information regarding the

Government's service. These support contractors will complete the Certification for Nondisclosure of Information and Conflict of Interest forms. The Networkx Contracting Officer is the sole approval authority for these forms.

H.18 STATE AND LOCAL TAXES

With respect to any "after-imposed tax" identified by the contractor in accordance with the FAR clauses incorporated by reference in I.1.53 (FAR 52.229-4), the Government generally will pay all state and local taxes applicable to telecommunications services delivered under this contract, with the following exceptions:

- a. Taxes from which the Federal Government is expressly exempt under the authorizing state statute or local ordinance
- b. Any state or local tax whose legal incidence is on the Federal Government

Special attention must be paid to the treatment of the Government Management Service (GMS) fee, which will be included in the prices of FTS Networkx services as explained in Sections C.3 and G.6. Under no circumstances shall the Government pay state and local taxes on amounts representing the GMS fee. For example, the contractor shall not include the GMS fee when calculating the Networkx revenues to which a state or local tax applies. The exclusion of the GMS fee is for the purposes of tax calculations only; for all other billing purposes the GMS fee shall be handled in accordance with the billing processes.

The contractor shall provide to the Government, on a semi-annual basis, an itemized list of taxes that are included in its monthly invoices, including the name of each tax, jurisdiction by name, reference to the statutory source for the tax, and applicable tax rates.

H.19 SMALL BUSINESS SUBCONTRACTING PLAN

The North American Industry Classification System (NAICS) Code for the FTS Networkx acquisition is 517110 – Wired Telecommunications Carriers: Size Standard: 1500 employees, Telephone Communications, Except Radio Telephone. Because of the size, scope, and magnitude of this acquisition, the Government anticipates numerous subcontracting opportunities for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. At award, the contract shall include a Subcontracting

Plan pursuant to FAR 52.219-9, Small Business Subcontracting Plan (See Contract Section I.1.25).

The target goals for subcontracting for the Networx program are as follows:

CATEGORY	PERCENT
Total Small Business	37.00%
Small Disadvantaged Business	6.00%
Woman-owned	5.00%
HUBZone	3.00%
Service-disabled Veteran-owned	3.00%
Veteran-owned	5.00%

NOTE: The goals are expressed as a percentage of planned subcontracting dollars. The Subcontracting Plans shall contain a separate part for the basic contract period and separate parts for each option period. The Subcontracting Plan shall be an individual plan for this contract, not corporate wide. In accordance with instructions on the reverse side of Standard Form (SF) 294, subcontract award data that is reported by prime contractors/subcontractors shall be limited to awards made to their immediate subcontractors. Credit cannot be taken for awards made to lower tier subcontractors.

Small Business Program Legend	
Total Small Business:	Total Awards to Small Businesses (includes awards to WOB, SDB, HUBZone, Service Disabled Veteran-owned, and Veteran-owned)
Small Disadvantaged Business:	Total Awards to Small Disadvantaged Businesses.
Woman-owned:	Total Awards to Small Woman-owned Businesses
HUBZone:	Total Awards to Certified Firms Located in Historically Underutilized Business Zones (HUBZone)
Service Disabled Veteran-Owned (SDV):	Total Awards to Small Businesses owned and controlled by Service Disabled Veterans
Veteran-Owned:	Total Awards to Small Businesses owned and controlled by Veterans

The Government intends to monitor the contractor’s adherence to the Subcontracting Plan and continually work to ensure the maximum practicable participation of these business concerns in the FTS program. The Contractor’s performance will be reported in the Past Performance Information System (PPIRS) (Reference Section H.20). In addition to the requirement to file a Standard Form (SF) 294 and SF 295, as required in FAR 52.219-09, the contractor shall provide to the Contracting Officer subcontracting information cited below. In support of the Government’s monitoring effort, the contractor shall, on a semiannual basis:

- a. Provide a concise written summary of activity in the contractor's subcontracting outreach program (as described in the contractor's Subcontracting Plan)
- b. Subcontracting Plan backup data consisting of a spreadsheet showing, in chronological order of subcontract award, the dollar-value of each subcontract, type of subcontract and the name and size of the business concern to which the subcontract was awarded.
- c. Attend meetings with representatives of the Contracting Office, the PMO, and the Small Business Administration to discuss the contractor's activity in the contractor's subcontracting program

All backup data shall correlate with the contractor's SF 294. If the Government subsequently implements an electronic system for the submission of the SF 294/295 forms, the contractor shall utilize the system, at no additional cost to the Government.

H.20 CONTRACTOR PERFORMANCE INFORMATION

In conformance with the Government's need to record and maintain information on contractor performance during the life of this contract, the Government will periodically evaluate the manner in which the contractor performed in accordance with contract requirements such as: quality of service; cost efficiencies; timeliness; business relations; history of reasonable and cooperative behavior; commitment to customer satisfaction; and key personnel. Information obtained as a result of the evaluation(s) may be shared with Government agencies for their use in support of future award decisions (Reference FAR 42.1500).

The Past Performance Information Retrieval System (PPIRS) will be utilized by the Contracting Officer for the FAR Part 42 evaluations. PPIRS can be accessed at: <http://www.ppirs.gov/default.htm>. The contractor will use PPIRS to access, review and comment on these evaluations. In order to access their own information in PPIRS, contractors must first gain access through the Central Contractor Registration (CCR) process. Contractors shall go to the CCR web site at: <http://www.ccr.gov/> to register for the first time or update their information profile to indicate a past performance Point of Contact. In CCR, contractors shall assign themselves a Marketing Partner Identification Number (MPIN), which they will use to gain access to PPIRS.

H.21 NEWS RELEASES

News releases pertaining to this contract shall not be made without prior approval of the CO. A minimum of 36 hours notice is required for approval.

H.22 PERMITS

The contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses, certifications, authorizations, approvals, and permits, and for complying with any applicable Federal, national, state, and municipal laws, codes, and regulation, and any applicable foreign work permits, authorizations, etc., and/or visas in connection with the performance of the contract, whether domestic or non-domestic.

H.23 CONTRACTOR-PROVIDED EQUIPMENT

The Government reserves the right to acquire ownership of contractor-provided Service Enabling Device (SED) installed pursuant to the provisions in Section B.4, at any time during the contract period. This option to acquire ownership shall be consistent with the provisions of FAR Part 52.207-5. The purchase conversion cost of a SED acquired by the Government shall be the paid DNRC or the sum of DMRC payments for the full DMRC term.

If an authorized user initially elects a DMRC payment term and subsequently chooses to assume ownership prior to the completion of the DMRC payment term, the user shall be permitted to pay the DNRC for the SED(s) minus the value of all DMRC payments paid up to the time that the user assumes ownership, with such DMRC payment amounts reduced to remove that portion of the payments reflecting the adjustment for the Monthly Payment Factor.

No charges will be incurred by the Government as a result of any changes to User-to-Network Interfaces (UNIs) (i.e., replacement of one UNI by another UNI) resulting from the transfer of ownership.

Any manufacturer's warranty remaining on a SED, at time of title transfer, will transfer to the Government; to the extent such warranty transfer is permitted by the terms of the manufacturer's initial warranty. However, where maintenance of the SED continues after title transfer, pursuant to the provisions in Section B.4.8.4, the contractor providing such maintenance will manage the warranty on the SED for the Government and will receive such pecuniary benefits as might result from operation of the warranty.

H.24 HOSTING AND MANAGEMENT OF GOVERNMENT FURNISHED PROPERTY (GFP)

Prior to the delivery of GFP, the Contractor shall inform the Government of all usual and customary or otherwise known, fees, charges, duties, taxes, surcharges, customs, laws, certifications, declarations or any other special requirements that are necessary to transport, or obtain approvals and authority to deliver and operate GFP at the Contractor's facility, or ship GFP from the Contractor's facility.

At the Contractor's facility, the Contractor shall be responsible for the following, as required:

- a. Maintaining, at the Contractor's expense, adequate public liability and property damage insurance, during the continuance of this contract, insuring the Contractor against all claims for injury or damage
- b. Assuming responsibility for all damage or injury to persons or property occasioned through the use, maintenance, management, and operation of the Contractor's facilities, GFP, or other equipment by, or by the action of, the Contractor or Contractor's employees and agents. The Government shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, management, or operation of any facility, GFP, or other equipment by, or by the action of, the Contractor or the Contractor's employees and agents in performing under this contract, and the Government shall be indemnified against claims for damage or injury in such cases
- c. Completing any necessary pre-delivery preparations for the delivery site, site security, or storage facilities to temporarily or permanently accommodate the GFP in a safe and secure manner
- d. Accepting, inspecting and verifying GFP inventory, including the processing and distribution of manifest records and receipts; uncrating, unpacking, and reporting and filing claims with transporters for damaged or missing GFP
- e. Relocating GFP from initial receiving points or temporary storage facilities to the final Contractor facility and installation site
- f. Preparing the final installation site including the provisioning of necessary physical space, environmental systems, and network connectivity, including but not limited to: internetworking connections, fire suppression, HVAC, power, lighting, water, sewer, telephone and communications, physical security systems, network security systems, disaster resistance and recovery systems, cages, racks, and UPS, emergency power systems, all on a 24x7 basis, unless otherwise mutually agreed upon and specified
- g. GFP setup, including assembling, loading, configuring, testing, filing warranty and guarantee documents, and certifications. Determinations of inter-compatibility and inter-operability shall be conducted by the Contractor as soon as practical after delivery and setup
- h. Providing Contractor personnel with all required national citizenship, security clearances, training, and technical certifications to receive,

use, maintain, manage, operate, package, transport, or ship sensitive and secure GFP

- i. Providing training as requested by the Government, on a per/seat and location basis, for Government personnel as appropriate for the installation, configuration, operation, maintenance, and management of GFP
- j. Providing all usual and customary testing equipment (i.e., voltage, current and continuity testers, wireless LAN test tools, inline network testers, cable and wire testers, optical echo testers, etc.) as required for quality assurance purposes and diagnostic testing of GFP
- k. Certifying GFP is in working order prior to crating and packing for return shipment, safe-guarding and escorting GFP to the transport carrier's departure point, and signing over GFP to the Government provided or approved transport carrier. The cost of crating and packing, and any interim transportation to the point-of-transfer to the Government provided or approved transport carrier shall be provided by the Contractor free of expense to the Government

GFP shall be crated, packaged and delivered to the Contractor's facility at the Government's expense, unless otherwise agreed upon and approved by the Government and the Contractor.

At the Government's option, the Contractor shall provide, or subcontract for, GFP maintenance, if available. GFP maintenance that is subcontracted through a third party shall be billed to the Government as a pass-through of the actual costs incurred. No additional mark-up or overhead shall be added.

Authorized Government personnel shall have access to GFP at specified times, in specified locations, as mutually agreed upon between the Government and the Contractor. Government personnel shall conform to the contractor's Acceptable Use Policy (AUP) in effect at the specified contractor facility, except where the AUP conflicts with agency regulations, the provisions of the Networx Contract, or other Government executive orders, regulations or laws.

H.25 NOTICE TO PROCEED

The contractor shall not commence any work specified until the contractor receives written notification from the CO providing a Notice to Proceed.

This Notice to Proceed shall include contact information for the GSA Program Manager, COTR and Networx Billing Manger.

H.26 YEAR 2000 WARRANTY – COMMERCIAL/NON-COMMERCIAL SUPPLY ITEMS

The contractor warrants that each commercial and non-commercial telecommunications service, features, support systems, and/or hardware, software, and firmware product delivered under this contract 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) external to this contract used in combination with products delivered under this contract properly exchange date data with such products. If the contract requires that products must perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those products as a system. The duration of this warranty and the remedies available to the Government for breach of this warranty shall be as defined in, and subject to, the superior of the terms and limitations of the contractor's standard commercial warranty or warranties contained in this contract. Notwithstanding any provision to the contrary in such commercial warranty or warranties, the remedies available to the Government under this warranty shall include repair or replacement of any product whose non-compliance is discovered and made known to the contractor in writing within ninety (90) days after acceptance. Nothing in this warranty shall be construed to limit any rights or remedies the Government may otherwise have under this contract with respect to defects other than Year 2000 performance.

H.27 MEETINGS/CONFERENCES

Technical meetings and/or post-award/pre-performance conferences and/or meetings during contract performance may be necessary to resolve problems and to facilitate understanding of the technical requirements of the contract. Participants at these meetings/conferences shall be members of the contractor's technical staff and technical representatives of the Government. These meetings/conferences shall be scheduled with the agreement of and arrangements made between the Administrative Contracting Officer (ACO) or their representative and the contractor. All contractor costs associated with the attendance at these meetings shall be incidental to the contract and not be separately billed.

H.28 FEES AND SURCHARGES

The Government will allow separate billable line items of the following Government-imposed and regulatory-based fees and surcharges that are limited to only Federal Universal Service Fund (FUSF), Federal Pre-Subscribed Interexchange Carrier Charges (PICCs), 911, Number Portability, and Relay Service (for the hearing and speech impaired). These items will not be treated as taxes in compliance with the FAR clause that is incorporated by I.1.53. The

Government will require the contractor to provide sufficient information, upon request, to allow the Government to establish that the fees and surcharges listed above, both at award and throughout the life of the contract, are:

- a. Not fees and surcharges from which the Government is exempt, and
- b. Fair and reasonable, and
- c. Limited to the pass through of actual charges or imposed costs associated with the fees and surcharges (compensation for administrative costs is not permitted), and
- d. No greater than those charged to similarly situated customers; and
- e. No greater than what would be charged under an equal pro-rata allocation among all of the contractor's customers for services subject to the charges

The information required in support of the above requirements (a-e) shall include, but not be limited to:

1. A copy of the contractor's FCC Form 499A, Telecommunications Reporting Worksheet, or its successor, which will be considered proprietary information of the contractor, and
2. Documentation supporting the fact that the fees and surcharges collected under this contract do not exceed the actual amount paid out by the contractor resulting from its provision of the services provided under this contract

Following contract award, new fees and surcharges may be permitted but only when satisfying requirements a through e and following approval of the Contracting Officer.

H.29 RESERVED

H.30 U.S. CITIZENSHIP REQUIREMENTS

Contractors are hereby placed on notice that work on some orders, especially those requiring site visits to some U.S. Government locations or work on some Government Furnished Property, may require contractor personnel performing the work to have U.S. citizenship and to be able to provide proof of that citizenship.

H.31 RESERVED

H.32 SERVICE TRIALS

A service trial is defined as the use of proposed future enhancements by an agency that takes place for an agreed upon period of time, at agreed upon location(s). The contractor shall provide written notification to and receive written approval from the GSA Contracting Officer (CO) and associated agency prior to initiation of any trial program with the agency. This notification shall include the start date and duration and a copy of the estimate for collateral costs. The contractor may invoice the government for collateral costs. These collateral costs shall be limited to the components of the service that are already in the contract and shall be at contract prices. The contractor shall not invoice the Government for any items not already in the contract.

The contractor shall provide the CO and the responsible agency representative with contract prices and the corresponding section(s) of the contract that the trial proposes to enhance. The CO will respond with approval or rejection within 15 business days after receipt of the notification. The contractor will not be reimbursed for trial costs exceeding the collateral cost estimate unless approval for such costs has been made by the CO in writing prior to the start of the service trial.

The requiring agency, independent of GSA, will be responsible for the establishment of performance standards and making a determination of acceptability for the service. The agency shall use these standards to evaluate the service.

Service trials shall follow the fair opportunity process in Section G.4 of this contract.

The contractor shall report monthly and upon the completion of each trial to the CO and PMO in writing using the format and data in Table H.32-1 below:

- a. Number of trials
- b. Description of the trials
- c. Participants
- d. Location(s)
- e. Results to date
- f. Estimated completion dates
- g. Estimated costs (if applicable)

Table H.32-1. Service Trial Status Report

Service Trial Status Report					
Number of Trials					
Description of the Trial	Participants	Locations(s)	Results to Date	Estimated Completion Dates	Estimated Cost (If Applicable)

H.33 ATTACHMENT J.9 CROSS REFERENCE TABLES

In the event that there is conflict between the cross reference tables and the referenced requirements in the contract, the contract requirements shall take precedence over the Attachment J.9 Cross Reference Tables.

H.34 ACCEPTABLE USE POLICY

The selection of whether to have an Acceptable Use Policy (AUP) is indicated by checking one of the two blocks below, indicating that either no Acceptable Use Policy applies or the AUP below applies. In either instance, no other AUP or reference to a differing AUP will take precedence to this clause.

No Acceptable Use policy applies.

The following Acceptable Use Policy applies:

This Acceptable Use Policy (AUP) shall prevail over the terms of any other AUP used by the Contractor or any of its subcontractors, suppliers or teaming partners. Any inconsistency between this AUP and any Government requirements in the Contract shall be resolved by giving precedence to the Government requirements in the Contract. This AUP may only be changed through contract modification.

Legitimate Government Use

This AUP does not limit the ability of Customers to carry out legal operations pursuant to their regulatory, law-enforcement, or national defense responsibilities.

Prohibited Actions

Services provided under this contract may only be used for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. Interference with the use of the Contractor's network or the Internet, or use of services provided under the contract that results in the publication of threatening or offensive material, the distribution of forged or unsolicited e-mails ("spam") or other E-mail/Usenet abuse, or use that

presents security or privacy risks for other than valid Government requirements is prohibited.

Unlawful Activities

Customers may not use the services provided under the Contract in criminal or civil violation of any applicable local, state, or federal law, treaty, court order, ordinance, regulation or administrative rule.

Intellectual Property

Pursuant to 28 U.S.C. 1498, the exclusive action which may be brought for Government use of the Contractor's Service to transmit, re-transmit, or store any content or to engage in any activity that infringes the intellectual property rights of any individual, group or entity is an action by the intellectual property owner against the United States in the United States Court of Federal Claims.

Threatening or Offensive Material or Content

Except as required in connection with the execution of lawful, duly authorized Government operations, Customers may not use the services provided under the Contract to host, post, transmit, or re-transmit any content or material that is threatening, harassing, obscene, indecent, pornographic, hateful, malicious, racist, defamatory, libelous, treasonous, excessively violent or promotes the use of violence, or provides instruction, information or assistance in causing or carrying out violence against any government, organization, group or individual, or provides guidance, information or assistance with respect to causing damage or security breaches to the Contractor's network or to the network of any other service provider under this Contract.

E-mail Abuse

Except as required in connection with the execution of lawful, duly authorized Government operations, Customers may not use the services provided under this Contract to send or facilitate the sending of forged or unsolicited e-mail messages, including the sending of "junk e-mail" or other advertising material to individuals who did not specifically request such material ("e-mail spam").

Security Violations

Except as required in connection with the execution of lawful, duly authorized Government operations, Customers may not use the services provided under the contract to interfere with, to gain unauthorized access to or to otherwise violate the security of the Contractor's or another's server, network, personal computer, network access or control devices, software or data, or other system, or to attempt to do any of the foregoing.

Customer Responsibilities

Customers remain solely and fully responsible for their Content and for their use of the services provided under the Contract only for legitimate Government requirements and operations.

Suspension of Service

The Contractor shall provide the Agency DAR Administrator (or other official designated by the Agency) with written notice and detailed explanation via e-mail or otherwise of an AUP violation so that such violation may be corrected without impact on service. In the event these steps are not successful, the Contractor may, only to the extent necessary to prevent the continued violation of the AUP, suspend the service. Said suspension shall be effective no earlier than five (5) business days after the Government has acknowledged receipt of the written notice of an AUP violation. The Government is deemed to have received notice twenty-four (24) hours after written notice has been sent via confirmed fax or e-mail.

Notwithstanding the foregoing, the Contractor may, 24 hours after the Agency DAR Administrator (or other official designated by the Agency) has acknowledged receipt of the Contractor's written notice and detailed explanation, suspend service only to the extent necessary to prevent a violation of this AUP from causing imminent (1) exposure of the Contractor or underlying service providers to criminal sanctions or prosecution, (2) significant irreparable harm to or significant interference with the integrity or normal operations or security of the Contractor's network or networks with which the Contractor is interconnected or significant interference with another Customer's use of the contractor services or the Internet; (3) significant irreparable harm to the Contractor, underlying service providers or the Contractor's Customers or their respective employees. The Government is deemed to have received notice twenty-four (24) hours after written notice has been sent via confirmed fax or e-mail.

The Contractor may act immediately and without prior notice to suspend service only to the extent necessary to respond to a federal or state government order or mandate that certain conduct must be stopped. In such instance, the Contractor shall provide written notice and detailed explanation to the COTR, GSA ACO, and the impacted Agency DAR Administrator (or other official designated by the Agency) within 30 minutes of its receipt of the court or other Government order mandating service suspension.

Under no circumstances may the contractor suspend service without notice.

Any suspension shall be only for the time necessary for steps to be taken that will reasonably prevent the violation from continuing or reoccurring.

Under no circumstances may the contractor unilaterally terminate service.

H.35 ORGANIZATIONAL CONFLICT OF INTEREST (OCI) MITIGATION PLAN

This clause provides guidance for mitigating organizational conflict of interest when an Agency's support contractor is also a subcontractor to a prime Networx Universal contract or Networx Enterprise contractor.

Potential Organizational Conflict of Interest

Subcontractor is a subcontractor to **Prime Contractor**, doing general support framework for the **Government Customer** and **Program Title**, providing **Program Description**. This work may include such services as **Detailed Program Description**.

There may be a conflict of interest, INSERT EXPLANATION OF POTENTIAL CONFLICT(S) OF INTEREST OR EXISTING CONFLICT(S) OF INTEREST.

The purpose of this Plan is to mitigate any potential organizational conflicts of interest within Subcontractor in connection with the Networx Program.

OCI Mitigation Actions

The following actions will be taken to avoid or mitigate potential OCI matters arising from Subcontractor work on the Prime Contractor Program and participation in the procurement of [insert service or services] under the Networx Program.

Directions to Employees Assigned to Program

Subcontractor employees who work on Program have duties and responsibilities for ensuring that Subcontractor's team does not obtain any information from any Subcontractor personnel working on the Contractor Program that could give SUBCONTRACTOR an unfair competitive advantage in PROGRAM. Therefore, each SUBCONTRACTOR employee identified for current or future work on PROGRAM will be directed in writing to:

1. Avoid situations where there is risk of unauthorized disclosure of contractor proprietary or government-privileged information from SUBCONTRACTOR employees working on the PRIME CONTRACTOR Task Order;
2. Refuse to divulge PROGRAM information if requested or otherwise demanded;
3. Report all conflict of interest problems to his/her supervisor and to SUBCONTRACTOR Legal Counsel.

Personnel Identification and Written Notice

A copy of the memorandum to personnel working on PROGRAM is Appendix 1 to this OCI Mitigation Plan.

All personnel working on PROGRAM will be identified to the PROGRAM working group and written directions provided to each PROGRAM member to avoid any actions with persons outside the PROGRAM working group that might result in an organizational conflict of interest and create an unfair competitive, as described in Federal Acquisition Regulation (FAR) Subpart 9.5, and this OCI Mitigation Plan.

No Preparation of PROGRAM Proposals

SUBCONTRACTOR employees involved in the PRIME CONTRACTOR Task Order work will not be allowed to participate in any way the preparation of SUBCONTRACTOR proposals for PROGRAM.

Employee Training

SUBCONTRACTOR will take steps to appropriately inform and instruct its employees assigned to PROGRAM with regard to their responsibilities pertaining to PROGRAM. In addition, SUBCONTRACTOR has trained all of its employees with respect to the Procurement Integrity Act. Specifically, employees have been trained with regard to proprietary and source selection information, which becomes available during the conduct of any program. Further, SUBCONTRACTOR employees have been trained concerning the potential penalties for violation of the Procurement Integrity Act from disqualification of the contractor to criminal penalties. Each employee is required to sign an annual certificate for compliance with the SUBCONTRACTOR Corporate Personal Integrity Program (C/PIP) during his/her tenure with SUBCONTRACTOR.

Investigation of Allegations

Allegations of disclosure of contractor or other information is limited solely to the PRIME CONTRACTOR Task Order work will be investigated and appropriate sanction imposed as warranted by the PRIME CONTRACTOR.

SUBCONTRACTOR provides "hotlines" for confidential reporting by employees of ethical or legal concerns to designated corporate officers. Hotline information is contained in the SUBCONTRACTOR Corporate Standards of Conduct provided to all employees, and is prominently posted in all SUBCONTRACTOR facilities. Reports are confidentially investigated under protection of the company's attorney-client privilege. All of the above establish a virtual "firewall"

that SUBCONTRACTOR personnel working on PROGRAM do not accept any information relating to the PRIME CONTRACTOR Task Order work.

Summary of Mitigation Actions

As stated above, SUBCONTRACTOR employees working on PROGRAM have received or will receive specific written direction and guidance from SUBCONTRACTOR management as to their duties and responsibilities for avoiding OCI with respect to PROGRAM. In addition, all such SUBCONTRACTOR employees are required to bring questions, issues, and evidence of real or apparent conflicts to the immediate attention of SUBCONTRACTOR management.

J.14.1 Appendix 1: SUBCONTRACTOR Memorandum entitled "Avoidance of Organizational Conflict of Interest on the PROGRAM Project".

J.14.2 Appendix 2: List of PROGRAM Personnel.

J.14.3 Appendix 3: PROGRAM Nondisclosure Agreement.

H.36 CONSTRUCTION INCIDENTAL TO A TASK ORDER

I. The requirements of this contract may require construction work to allow the provisioning of services provided by this contract. In most instances, FAR 22.402 exempts the requirements of this contract from the Davis-Bacon Act.

Incidental construction applies to this contract under one of two categories:

A. Small-volume incidental construction: The construction work is incidental to the furnishing of services provided under this contract. The Davis-Bacon Act requirements do not apply to simple installation or alteration at a public building or public work that is incidental to furnishing services provided under this contract. Most inside-wire work fits within this category. If, however, a substantial and segregable amount of construction, alteration, or repair is required, Davis-Bacon Act requirements apply to the construction work, which places it outside the scope of this contract.

B. The construction work is so merged with non-construction work or so fragmented in terms of the locations or time spans in which it is to be performed, that it is not capable of being segregated as a separate contractual requirement.

II. Without regard to which category above applies to the order, no Task Order shall be issued where the construction related Line Items of the task will equal or exceed 50 (fifty) percent of the overall price of the base period of the Task Order. All tasks where construction related labor costs and material equal fifty percent or more of the overall price of the base period of the Task Order are deemed to be

outside of the scope of this contract. This limitation does not mean that unrelated construction may be included in a Task Order under this contract so long as the 50 percent threshold is not exceeded: the work must fit within either of the two categories listed above.