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Section H: Special Contract Requirements

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H.1 Type and Term of Contract

This contract is an Indefinite-Delivery, Indefinite-Quantity (IDIQ) type of contract with fixed unit prices. The effective period of this contract is for a base term of four years (48 months) from date of award and, at the option of the Government, four successive one-year option years.

H.2 Authorized Users

1. This contract is for the use of all Federal agencies; authorized Federal contractors; agency-sponsored universities and laboratories; and as 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, Eligibility to Use GSA Sources of Supply and Services, January 3, 2000 (as updated) are eligible.
2. The Government has the right to add authorized users as defined in the above paragraph at any time during the term of this contract, subject to the constraints specified in Section H.3.
3. 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

1. The Minimum Revenue Guarantee (MRG) for the WITS 3 Program is \$20 million (\$20,000,000) and will be divided at contract award among the WITS 3 contract awardees. If all awardees are committed to serving all users within the WITS 3 service area, then all awardees will receive an equal share of the MRG. However, if one or more awardees cannot commit to serving all users within the WITS 3 service area, then the MRG will be divided between awardees utilizing the following formula. Each vendor will receive a percentage of the total \$20 million MRG determined by the number of NPA-NXXs covered by the vendor divided by the sum of the numbers of NPA-NXXs covered by all the vendors.

$$\text{E.g., } \$20,000,000 * \text{Offeror's NPA-NXXs} / (\sum \text{all Offeror's NPA-NXXs}) = \text{MRG}$$

2. The Maximum Contract Limitation for this contract is \$1.8 billion (\$1,800,000,000).
3. The Government, at the Government's option, may satisfy the MRG by any of the following arrangements:
 - a) Using and paying for the contractor's services provided under the contract.
 - b) Direct payment(s) to the contractor.

- c) Any combination of use and payment of the contractor's services and direct payment(s) to the contractor.
4. For purposes of this clause, the MRG and Maximum Contract Limitation represent the actual dollars received for services rendered plus taxes. The Associated Government Fee is not included in either the MRG or the maximum dollar value.

H.4 Disclosure of Information

1. Any GSA or Government information made available shall be used only for the purpose of performing contract requirements and shall not be disclosed in any manner to any person except as may be necessary in the performance of the contract.
2. 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.
3. Each officer or employee of the contractor 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 can be used only for the 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 United States Code (U.S.C.) Section 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 of up to 10 years, or both.

H.5 Internal Revenue Service (IRS): Disclosure of Information – Safeguards and Sanctions

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

1. All work shall be performed under the contractor's, or the contractor's responsible employees' supervision.
2. Any Federal Tax Return or Return information (as defined in Internal Revenue Code [IRC] 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 IRS. Requests to make such disclosures should be addressed to the GSA-Administrative Contracting Officer (GSA-ACO).

3. 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 can be used only for the 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 IRC Sections 7213 and 7431 and set forth at 26 Code of Federal Regulations (CFR) 301.6103(n).
4. 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 customer records that contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or disclosure of the specific material is so prohibited, willfully discloses this information to someone who is not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.00.

H.6 Price Management Mechanism (PMM)

The Price Management Mechanism is used to ensure that WITS 3 prices remain highly competitive over the life of the contract with the prices offered to large commercial and Government customers. All WITS 3 services available under the contract shall be subject to PMM – including services added post award by contract modification.

The Government plans to implement PMM no more than 4 times per service over the 8 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. The

following paragraphs describe the process and methodology for conducting a PMM.

H.6.1 Price Management Mechanism Process

After contract award, the Government will continuously use available information to compare contractor WITS 3 prices with competitive prices offered to commercial and Government users. Comparison prices will be acquired from:

1. Commercial websites of WITS 3 contractors.
2. Federal and State tariffs.
3. Other Government contracts including Networx and the Multiple Award Schedules.
4. Publicly and privately available price-change indices.
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.6.2 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 multi-service and single-service comparison contracts in accordance with the following procedures.

1. For each service identified by the Government, 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).
2. The contractor shall additionally submit from zero to three single-service contracts (single service contracts contain only the service under evaluation) as follows:
 - a) 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).

- b) The contractor shall submit the three largest sized single-service contracts that do not exceed 115 percent of the contractor's WITS 3 billing for the same service over the same three months.
 - c) 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 multi-service contract that is submitted.
3. *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/or one single service contract per service. (The WITS 3 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/or 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.
 4. Comparison contracts that are sales of promotional offerings (where the service ordering by the contract customer is limited to one month or less) or sales of services, such as to equity partners and other carriers, that are absent of typical customer terms (e.g., detailed billing and full-service account management) will not be eligible for use in the PMM process. The contractor may also seek concurrence from the Government to eliminate contracts from the PMM process, on an individual case basis, that have significantly different scope than the WITS 3 contract.
 5. 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 demand set. 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 dedicated transmission services would be unsuitable for a DTS comparison if the demand set had a significant number of circuits at other speeds.
 6. The multi-service and single-service comparison contracts shall be drawn from the 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.

7. 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.
8. In addition to the contract submissions and public references, the contractor shall provide its understanding of how the prices are to be applied to its existing WITS 3 traffic in the form of price tables, including applicable discounts, waivers, and credits. The deliverables shall be in electronic form whenever possible.

After following these procedures, the contractor shall provide a minimum of three and a maximum of six comparison contracts for each service. Contractor compliance with the submission information requirements of the PMM shall be certified in writing by an officer 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 WITS 3 prices for a service(s) are not competitive with the prices in the contract submissions, the Government will proceed to Phase Two.

H.6.3 PMM Phase Two

During Phase Two, the Government will assess the service by comparing the contractor's WITS 3 prices for the service to the contractor's submitted comparison prices for that service according the following procedures:

1. The Government will develop a statistically significant traffic set (called the PMM demand set) from the contractor's WITS 3 network demand (including network usage, circuits, ports, PVCs, and/or other components that determine the price for services) and use it to compare prices.
2. Total prices for each service are calculated by multiplying the WITS 3 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 will be included in the calculation.

3. The WITS 3 price calculation totals for each PMM demand set will use WITS 3 unit prices that will be in effect during the period following the PMM evaluation process.
4. There will be one WITS 3 total price calculation and three to six comparison contract price total calculations (a total price calculation for each submitted comparison contract) for each service.
 - a) For submitted multi-service contracts, a calculated comparison total price will be computed only for the service(s) under PMM consideration.
 - b) For submitted single-service contracts, a comparison cost will be computed for the single service only.
5. 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 WITS 3 total price for the service.

If the total WITS 3 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.6.4. Otherwise, if the total WITS 3 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.6.4 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.6.2 and H.6.3. If the total WITS 3 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 WITS 3 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 WITS 3 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 WITS 3 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 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.6.5 Alternate Dispute Resolution (ADR) Process

If the contractor disagrees with the price reduction, the contractor shall issue a "Notice of Disagreement" within 30 calendar days of the contractor's receipt of a written request to reduce prices from the Contracting Officer. 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 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 (as updated). If the parties are unable to resolve the dispute using this ADR process, the contractor may file a claim pursuant to Section I Clause Number 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 pays any portion of the disputed money to the contractor, the Government will pay that portion with interest as required by statute.

H.7 Price Reductions

1. The contractor may waive any non-recurring charge at any time to any customer.
2. The contractor may reduce contract prices at any time. Price reductions other than those implemented by the Government under the PMM clause of this contract (Section H.6) shall be subject to the following conditions:

- a) The contractor shall propose all price reductions to the GSA-ACO as a contract modification.
- b) The proposed price reduction shall be effective on the first day of a given invoicing period.
- c) The proposed price reduction shall be applicable to all Agencies.
- d) 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.
- e) Should the Government execute a price reduction modification on a date after the proposed price reduction effective date, in accordance with subsection (2) (b) 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.8 Electronic Access to the Contract

The contractor shall maintain a current redacted version of the WITS 3 contract on a publicly available Internet web site maintained by the contractor. The contractor shall be responsible to ensure that current year GSA pricing is posted and publicly available. Offerors agree that current year GSA prices are releasable under the Freedom of Information Act (FOIA).

Offerors are put on notice that GSA may disclose contract pricing information for all contract years, including option years, to:

- 1. Personnel of Federal agencies who are purchasing or contemplating purchasing under the contract to satisfy their fair consideration obligations.
- 2. Employees of support contractors that are involved in the administration of the contract, but only after such employees have executed appropriate nondisclosure agreements against further disclosure of such information.
- 3. Other customers and consultants to the Government with a need to access the information, but only after such persons have executed appropriate nondisclosure agreements against further disclosure of such information.

Within 30 calendar days of award, the contractor shall provide a redacted version of the contract to the GSA-ACO. Within 5 business days following the ACO's approval of the redactions, the contractor shall post the redacted contract to a public Internet web site. The contractor shall incorporate in the base contract in text, all subsequent changes resulting from contract modifications and submit the updated contract to the GSA-ACO as a deliverable for approval within 20

business days after the end of each Quarter, with the first Quarter beginning on October 1st. Upon GSA-ACO approval, the contractor shall post the updated contract. As necessary, the contractor shall correct and repost redactions at no additional cost to the Government.

The contractor shall prepare the proposed redacted version of the contract and subsequent updates in accordance with Freedom of Information Act guidance. The GSA-ACO is the final approval authority for all redactions.

The contractor shall also establish a baseline and maintain current non-redacted pricing B-Tables. Within 30 calendar days after award, the contractor shall provide individually, on CD ROMs, a baseline non-redacted version of all pricing B-Tables. After award, all changes resulting from contract modifications shall be incorporated in the baseline and updates delivered on new, individual CD ROMs to the GSA-ACO by the 5th business day of each month.

H.9 Protection of Proposal and Contract Information

In accordance with Federal Acquisition Regulation (FAR) Part 3.104-4 and Part 15.207, the Government will take the necessary and usual steps to maintain the confidentiality of information submitted prior to and after award of the contract . Although Section H.8, advises the contractor of Freedom of Information Act redaction, the contractor is advised that the Government requires all redacted current year unit contract prices be made publicly available for the full contract period (up to 8 years) from the first day to the last day of the contract.

H.10 Key Personnel and Corporate Structure

H.10.1 Key Personnel

The offeror shall provide as part of its proposal and the contractor shall maintain after award a list of key personnel. The contractor shall identify individuals by name selected to fill the following contractor key personnel roles:

1. Program Manager
2. Customer Service Manager
3. Security Manager
4. Contracts Manager
5. Billing Manager

The contractor shall provide point of contact information on each designated individual to include, but not be limited to:

1. Voice telephone number
2. Cell telephone number (if used)
3. Pager telephone number and PIN (if used)

4. Fax telephone number
5. E-mail address
6. Administrative assistant's contact information

H.10.2 Substitutions and Additions of contractor Key Personnel

The following instructions address the procedures for substitution of key personnel defined in Section H.10.1:

1. Resumes for substitutions and/or additions to the contractor's key personnel under this contract shall be submitted for the written approval of the GSA-ACO. Any substitutions and/or additions shall be subject to the terms and conditions of this requirement.
2. 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 GSA-ACO. In any of these events, the contractor shall promptly notify the GSA-ACO and provide the information required by paragraph (4) below. After the initial 180-day period, in accordance with paragraph (4) below, all proposed substitutions and additions of key personnel shall be submitted to the GSA-ACO 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.
3. The GSA-ACO may consider additional key personnel on an individual basis.
4. 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 GSA-ACO 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 GSA-ACO or the ACO's authorized representative will evaluate such requests and promptly notify the contractor of the approval or disapproval thereof.

H.10.3 Corporate Structure

The offeror shall provide as part of its proposal and the contractor shall maintain after award documentation describing its corporate organization. Revised documentation shall be delivered to the Government within 10 calendar days of any change.

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

1. 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.
2. Charts that show the functional relationships among organizational elements and identify the positions of key personnel assigned to carry out this contract.
3. Relationship of the highest ranking individual assigned to this contract to the corporate Chief Operations Officer, President, and Chief Executive Officer.
4. 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.
5. Charts and descriptive text indicating the contractual, technical, and administrative interfaces between the Government and the contractor, the contractor's subsidiaries, and major subcontractors.
6. 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.
7. 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.
8. A description of corporate escalation procedures for resolving critical issues, including points of contact.

H.11 Incentive Plan

The Government reserves the right to establish a WITS 3 incentive plan to reward the contractor for:

1. Performance beyond that required in the contract.
2. Improvements in areas important to customer satisfaction.

3. Actions that produce savings for the WITS program.

There is no WITS 3 incentive program at this time.

H.12 Credits and Consideration for Failure to Provide Service or Meet Contract Requirements

H.12.1 Performance

When the contractor fails to provide service that satisfies the performance requirements specified in the contract, an extension of the contract, or any service order due to reasons other than “acts of God” or Government fault,¹ the Government shall receive a credit based on the monthly invoice amount that would have been billed to the affected customer had there been no out-of-service conditions. The amount of these credits shall be based on the provisions of this clause.

Credits shall be applicable as set forth in Tables H.12-1 through H.12-3. Table H.12-2 provides the performance references against which Table H.12-1 applies. Table H.12-3 applies separately to all outages.

Table H.12-1. Credit Allowance Computation

Type of Performance Requirement	For Each	Credit Equals
Availability ²	0.10 percent below the performance requirement	1.00% of the invoiced service charge for the affected customers of the service, for the given month. Not to exceed 100% of the amount that would have been invoiced had there been no credits.
Quality of Service ³	1.00 percentage point degradation from the performance requirement	1.00% of the invoiced service charge for the affected customer for the given invoice period. Not to exceed 100% of the fixed monthly rate for each month.
Service Availability Interval	Failure to meet confirmed service availability interval (standard or expedited)	10% of the Service Initiation Charge (SIC) for the affected service for each day an order is late. Not to exceed 100% of the applicable

¹ The concept of “Government fault” includes GSA and the user agencies. The Government will be at fault under this clause when its actions are the primary cause of the contractor’s failure to perform. If the contractor disputes the Government’s decision, the contractor may request an adjustment from the ACO. The contractor may appeal the ACO’s decision to the GSA Board of Contract Appeals or the Court of Federal Claims.

² Availability shall be computed as specified in Section C.2.1.10.4 for each service.

³ Quality of Service shall be computed for VS and CSDS using the metrics defined in Sections C.2.2.3 and C.2.3.3.

Type of Performance Requirement	For Each	Credit Equals
		SIC.

Table H.12-2. Performance Requirement Reference

Service	Performance Requirement Section C References
Voice Service (VS)	C.2.2.3
Circuit Switched Data Service (CSDS)	C.2.3.3
Dedicated Transmission Service (DTS)	C.2.4.3
Teleconferencing Service (TS)	C.2.5.1.4 and C.2.5.2.3
Frame Relay Service (FRS)	C.2.6.3
Asynchronous Transfer Mode Service (ATMS)	C.2.7.3
Dark Fiber Service (DFS)	C.2.8.5
Internet Access Service (IAS)	C.2.9.3
Gigabit Ethernet Service (GES)	C.2.10.2

Table H.12-3. Credit Allowance Schedule for Outages

Services ⁴	Credit per Outage ⁵
VS, CSDS, DTS, TS, FRS, ATMS, DFS, IAS, GES	1/30 of the fixed monthly rate for the first 24 hours and 1/30 of the fixed monthly rate for each additional 24 hours. Not to exceed 100% of the amount that would have been invoiced had there been no service interruption(s).

H.12.2 Additional Terms and Conditions for Failure to Provide Service or Meet Contract Requirements

If services are delayed, the Government may terminate this contract or cancel a service order in whole or in part, under the Default (Fixed-Price Supplies and Services) (APR 1984), FAR 52.249-8, Section I Clause Number I.1.84. However, the Government may elect not to terminate the contract or cancel the service order and instead accept consideration in lieu thereof. Consideration will be negotiated on an individual-case basis between the Government and the contractor.

⁴ Outages shall include, but are not limited to, incidents of call, connection, or session interruption, involuntary service disconnection, unsatisfactory transmission performance, and dialing or call set-up error.

⁵ The period of outage ends when the service is operative, as confirmed by the user.

H.12.3 Retention of Government Rights

Notwithstanding any provision of this section or any Government action taken under the provisions of this section, the Government retains all rights and remedies available to it under any other provisions of this contract under law.

H.13 Tariff Filing Requirements

1. The contractor shall make all tariff filings or other regulatory filings that are required by law or regulation and that are necessary for contract performance. The contractor shall provide the GSA-ACO with all such tariffs on the same day they are filed. The contractor shall certify that all terms, conditions, and prices in the tariff are as stated in the contract and that the tariff contains nothing inconsistent with the contract. The initial tariff filing(s) and any subsequent tariff revision filings shall contain all price and price-affecting components of the contract (e.g., Section B price schedules; H.6) to the extent required by law and regulation.
2. The contractor shall make the initial filing required to implement the contract within 60 calendar days after the date of Notice to Proceed. If such filing(s) is not permitted to become effective by a government regulatory body or bodies within 105 calendar days after the date Notice to Proceed, the Government will have the right to partially or entirely terminate the contract without liability.
3. After contract award, except for the initial filing mentioned in paragraph (2) above, the contractor shall provide to the Government advance notice summarizing content of all revisions to tariffs or new tariffs that specifically pertain to the contract or that may materially affect the Government's rights under the contract. These shall be provided to the GSA-ACO at least 10 calendar days in advance of the intended filing date. The contractor shall make no revisions to its tariffs that materially and adversely affect the Government's rights under the contract (including the contract as modified), without obtaining the GSA-ACO's prior written consent.
4. If any ruling, order, or determination of a government regulatory body or 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. Such service may be provided under other existing tariffs (if this can be done at such tariffs' then-effective rates without further revision) or under newly filed tariffs. If the contractor is

unwilling or unable to develop such a proposal within 10 business days of any such event, this will be considered a material breach of contract performance.

H.14 New, Improved, or Additional Services

The incorporation of new, improved, or additional services shall be undertaken by contract actions in accordance with the terms of this contract and in accordance with FAR 52.243-1 (Alt II) Changes, Fixed Price. Decisions to add new, improved, or additional services will be made in the best interests of the Government.

After contract award, the contractor shall provide WITS 3 subscribers access to all commercial telecommunications services that are now available or that become available within the WITS 3 service area throughout the life of the contract. If a new service is introduced by the contractor within the WITS 3 service area, the contractor shall propose its inclusion in the WITS 3 contract within 30 days.

New, improved or additional services may be solicited by the contractor to meet new Government needs, improve performance, or for any other purpose which presents an advantage to the Government. Operational capability demonstrations or trials may be used in connection with such proposals.

The contractor shall advise the Government of any emerging service or new technology that is becoming available in the WITS 3 service area semiannually in a *Technology Refreshment Plan*. The contractor shall advise the Government of plans to implement this new technology in the WITS 3 network. The contractor also shall describe standards that have recently been adopted or are pending that may affect the delivery of WITS 3 services and apprise the Government of plans to implement these standards in the WITS 3 network in accordance with Section C.2.1.12, Conformity to Standards.

WITS 3 customers may approach the contractor directly with requests for proposals for enhancements. If a WITS 3 subscriber requests a new service or feature that has become commercially available, the contractor shall propose to the GSA-ACO within 30 days to incorporate this new service or feature in the WITS 3 product line and arrange access to the new service from the WITS 3 network. The delivery intervals for WITS 3 subscribers shall be equal to or better than those available to the contractor's most favored customers.

GSA will periodically assess the extent to which WITS 3 subscribers have access to all of the local telecommunications services that are being offered commercially in the WITS 3 service area. GSA will conduct a Comparison of Publicly Available Services (ComPAS) periodically to determine differences between the services, features, and functions available under the WITS 3 contract and those available from at least one service provider in the commercial

marketplace. Based on the results of ComPAS or for competitive necessity, the Government may request the contractor to propose enhancements.

The contractor shall respond to each such request within 10 working days. The contractor's proposal, at a minimum, shall contain the following:

1. A cover letter summarizing:
 - a) The differences between the existing contract and the proposed new service offering.
 - b) The change in cost to the WITS program.
 - c) The increased revenue to the WITS program.
 - d) The improvement in the Quality of Service.
 - e) The service availability date.
 - f) The advantages and disadvantages to WITS 3 customers of buying the proposed enhancement under the WITS 3 contract.
2. A Cost Proposal conforming to the requirements of FAR Part 15.
3. A Technical Proposal that includes:
 - a) Proposed contract change pages.
 - b) Proposed Contract Line Item Numbers (CLINs).
 - c) Past performance of the proposed enhancements.
 - d) Any additional information requested by the Government.

The Government will not be liable for proposal preparation costs or financial harm attributable to review, acceptance, or rejection of any proposal submitted in accordance with any provision of this clause. The contractor shall specify a minimum proposal acceptance period of 90 calendar days.

Proposed new, improved, or additional services that are acceptable to the Government will be processed as modifications to the contract. However, unless and until a proposal is executed, the contractor remains obligated to perform according to the existing contract.

H.15 Other Government Service Contracts and Contractors

Under WITS 3 and related GSA programs, 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 WITS 3 contract. When contractors of these related contracts are operating in their official capacity as agents for the Government, the [WITS 3] contractor shall provide them full cooperation.

H.16 State and Local Taxes

The Government generally will pay all mandatory state and local taxes applicable to telecommunications services delivered under this contract. Mandatory taxes are those items which the contractor is required by law to collect directly from its customers, with the following exceptions:

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

Special attention must be paid to the treatment of the WITS 3 Associated Government Fee(s), which shall be included in the prices of WITS 3 services, as explained in Section H.25. Under no circumstances shall the Government pay state and local taxes on amounts representing the WITS 3 Associated Government Fee(s). For example, the contractor shall not include the WITS 3 Associated Government Fee(s) when calculating the revenues to which a state or local tax applies. The exclusion of the WITS 3 Associated Government Fee(s) is for the purposes of tax calculations only. For all other billing purposes, the WITS 3 Associated Government Fee(s) shall be handled in accordance with the billing process described in Section C.3.4, Billing.

Any taxes that may appear on a WITS 3 invoice that are in existence at the time of proposal submission shall be identified and described Table B.1-2, Taxes, Surcharges, and Fees. Table B.1-2 is incorporated within the Bid Model and has been designed to allow offerors to apply a tax to a specific Contract Line Item Number (CLIN) and billing category; e.g., Service Initiation Charge (SIC), Cancellation Charge (CC), Disconnect Charge (DC), Deinstallation Charge (DINS), Monthly Recurring Charge (MRC), etc.

Following contract award, new taxes may be permitted but only after the contractor provides the GSA-ACO copies of all statutes or ordinances imposing such new taxes and following a negotiated and mutually agreed upon contract modification. Similarly as existing WITS 3 taxes are reduced or eliminated by the governing state and local authorities, such changes shall be implemented with a contract modification. Table B.1-2 shall be updated as necessary when mandatory taxes are added, reduced, or removed from the contract.

H.17 Small Business Subcontracting Plan

Because of the size, scope, and magnitude of this acquisition, the Government anticipates substantial 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. The contractor shall provide a Subcontracting Plan pursuant to FAR 52.219-9, Small Business Subcontracting Plan; in accordance

with Section I Clause Number I.1.25 and Section L.30.2.3.4, Small Business Subcontracting Plan; and consistent with the outline set out in Section J.8, Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan Outline.

Target goals for subcontracting for the WITS 3 program as shown below in Table H.17-1:

Table H.17-1. Small Business Subcontracting Goals

Category	Target (%)
Total Small Business	40
Small Disadvantaged Business	5
Woman-owned	5
HUBZone	3
Service-disabled Veteran-owned	3
Veteran-owned	5

NOTE: The goals are expressed as a percentage of planned subcontracting dollars. The Subcontracting Plan 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.

<p>Small Business Program Legend</p> <p>Total Small Business: Total Awards to Small Businesses (includes awards to WOB, SDB, HUBZone, Service Disabled Veteran-owned, and Veteran-owned)</p> <p>Small Disadvantaged Business: Total Awards to Small Disadvantaged Businesses.</p> <p>Woman-owned: Total Awards to Small Woman-owned Businesses</p> <p>HUBZone: Total Awards to Certified Firms Located in Historically Underutilized Business Zones (HUBZone)</p> <p>Service Disabled Veteran-Owned (SDV): Total Awards to Small Businesses owned and controlled by Service Disabled Veterans</p> <p>Veteran-Owned: Total Awards to Small Businesses owned and controlled by Veterans</p>
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The Government intends to monitor the contractor's adherence to the Subcontracting Plan and continually work to ensure the maximum practicable participation of small business concerns. In addition to the requirement to file a Standard Form (SF) 294 and SF 295, as required in FAR 52.219-9, the contractor shall on a semi-annual basis:

1. Provide to the GSA-ACO a concise written summary of activity in the contractor's subcontracting outreach program (as described in the contractor's Subcontracting Plan).
2. Provide to the GSA-ACO 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.
3. 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. The contractor shall use the Electronic Sub-Contracting Reporting System (eSRS) [www.eSRS.gov] for the submission of the SF 294/295 forms. The contractor shall utilize the system, at no additional cost to the Government.

H.18 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 evaluate, semiannually, 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).

H.19 News Releases

News releases pertaining to this contract shall not be made without prior approval of the GSA-ACO. A minimum of 2 business days notice is required for approval.

H.20 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, state, and municipal laws, codes, and regulations, and any applicable foreign work permits, authorizations, etc., and/or visas in connection with the performance of the contract.

H.21 Fair Opportunity Process

To ensure that all contractors offering the required services and coverage receive fair consideration for a service order, authorized users will follow the fair opportunity process described below in placing WITS 3 orders.

1. Agencies will neither aggregate orders nor split orders in order to “pre-select” or influence which contractor is selected as a result of the fair opportunity process.
2. Formal evaluation plans or scoring of quotes or offers are not required. However, the amount of acquisition planning and evaluation should be commensurate with the estimated value and importance of the service order.
3. The Agency’s order placement decision may be based on either:
 - a) Total price or cost alone (which may include price-related factors), or
 - b) Some combination of technical, past performance, and price or cost. (For example, a decision to order a new data network interconnecting multiple locations may weigh technical issues more highly than a decision to install a single link between two locations where technical issues may be less complex).
 - c) Consideration of total price or cost to the Government must be included.
4. To make the order placement decision, the Agency will consider available information, including but not limited to:
 - a) Contract data and pricing.
 - b) Output from Government order placement decision support tools.
 - c) The contractor’s Web site.
 - d) Output from contractor order placement decision support tools.
 - e) Other contractor-provided information (e.g., marketing materials, product specifications, etc.) and post-award performance data (if available). The contractor is encouraged to maintain the currency of all information presented to the Government. The Government may rely on these systems and the data contained therein when making ordering decisions.
5. The Agency may hold discussions, whether oral, written or a combination of the two, with all contractors that offer the services to be ordered.
6. The Agency may also, if desired, request proposals, either oral or written, from all contractors that offer the services to be ordered under this procurement.

The Government intends to place orders for the initial WITS 3 requirements (i.e., requirements that are transitioning from the WITS2001 contract to WITS 3) using the process described above. In addition, technical, cost, and past performance considerations associated with transition will be significant factors in arriving at the decisions made by the Government associated with initial requirements placement. The impact on the ability to meet MRG minimums may also be analyzed by the Government in making initial fair opportunity decisions prior to transitioning existing services to WITS 3. Fair opportunity decisions for transition and other large project orders, bulk orders, and multiple orders placed simultaneously will be documented by Agency Contracting Officers.

The Government reserves the right to modify this process and will notify the contractor of any such modifications in advance of any orders being placed using the modified process.

H.21.1 Exceptions to the Fair Opportunity Process

Orders may be issued without the fair opportunity process whenever circumstances warrant the exercise of any exception set forth in 41 United States Code (USC) §253j. The table below describes the possible exceptions and examples that an Agency may determine apply under this contract. (These examples are provided only for illustrative purposes.) Agency Contracting officers may describe the basis for future exceptions to fair opportunity to facilitate ordering by non-warranted Agency DARs when ordering additional services, in accordance with 41 USC §253j. Agency Contracting Officer described exceptions must appear on all orders administrated by non-warranted DARs.

Certain Agencies may have additional requirements for use of an exception to the fair opportunity process. Under those circumstances, the Agency or an Agency conducting the fair opportunity process on behalf of another Agency must meet the Agency’s additional requirements.

Table H.21-1. Exceptions to Fair Opportunity

Exception Provided for by 41 USC §253j	Examples that Qualify as Exceptions
Unusual urgency that would lead to unacceptable delays	<ul style="list-style-type: none"> • Natural disaster or other emergency • Military/mobilization • Immediate short-term need arising on short notice
Only one capable contractor	<ul style="list-style-type: none"> • Only one contractor offers service • Only one contractor offers service to locations needed • Only one contractor can demonstrate it is capable of providing service as required by user or to required locations
Economy, efficiency, and logical follow-on to an order already issued under Fair	<ul style="list-style-type: none"> • Orders associated with any moves, additions, changes, or similar needs • Incremental orders for same or new service to locations

Exception Provided for by 41 USC §253j	Examples that Qualify as Exceptions
Opportunity	<p>where service already exists or has been ordered</p> <ul style="list-style-type: none"> • Orders placed to minimize inefficiencies or additional costs that would result from introducing multiple maintenance, operations, training, network management, or other support systems • Orders placed to augment or maintain engineering and operational integrity of established telecommunications capability
Need to satisfy Minimum Revenue Guarantees (MRGs)	<ul style="list-style-type: none"> • Self explanatory

H.22 Fraud Prevention Management

The contractor shall take a proactive approach in developing and implementing methods to prevent, detect and report fraudulent use of services. Within one hour of detection, the contractor shall report to the GSA Designated Representative (GDR) or Agency DRs all incidents it detects of fraudulent use of services.

The contractor shall take all prudent measures to detect and prevent fraud abuse related to the WITS program. A description of the contractor's internal policies for fraud prevention, detection, and recording shall be included in the proposal. The contractor shall maintain and update the fraud prevention procedures after contract award.

H.22.1 Financial Responsibility for Fraud

The contractor shall assume financial responsibility for all costs resulting from fraudulent use of WITS 3 services for cases where the contractor's fraud prevention measures fail and where there is negligence or willful misconduct by the contractor, the contractor's subsidiaries, or the contractor's subcontractors.

H.22.2 Protection of Customer Systems

Upon request, the contractor shall examine customer-owned Private Branch Exchanges and other customer-owned equipment used for WITS 3 services and shall make recommendations, as appropriate, to protect against fraudulent use of WITS 3 services. The cost of this service will be negotiated by the GSA-ACO as an ODC. Customer organizations utilizing this fraud protection service and having implemented all reasonable recommendations made by the contractor will not be liable for the fraudulent use of the WITS 3 services.

H.23 Year 2000 Warranty – Commercial and 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.24 Notice to Proceed

The contractor shall not commence any work specified until the contractor receives written notification from the GSA-ACO providing a Notice to Proceed. This Notice to Proceed shall include contact information for the GSA Program Manager and COR.

H.25 WITS 3 Associated Government Fee(s)

The contractor shall collect the WITS 3 Associated Government Fee(s) from Direct Billed Customers on a monthly basis throughout the life of the contract. This fee represents any direct or indirect costs incurred by the Government associated with the WITS 3 program such as, but not limited to, the contract management fee.

The fee(s) could be a percentage, a set fee(s), or combination thereof. The fee(s) will be applied to services, features, equipment or any other billed charges. This fee(s) collection requirement is subject to the following:

1. The fee(s) shall be included in the invoice price of services, features, equipment, or any other billed charge, unless identified and directed by the Government to be a separate line item.
2. The Government reserves the right to adjust the Associated Government Fee(s) at any time during the life of the contract. The contractor shall effect the addition, adjustment or deletion of a fee(s) only upon written notice of the GSA-ACO or designee. The contractor shall implement the

revised fee(s) to be effective for invoicing in the next complete billing cycle. The contractor shall add, adjust or delete the fee(s) at no additional cost to the Government.

3. The contractor shall forward the collected fee(s) to the Government via electronic funds transfer within 45 calendar days of the close of each calendar month, except for August billing when payment will be due by September 20th by electronic funds transfer. The contractor shall notify the GSA-ACO or designee, within 24 hours of completion of the transfer. Collection and supporting documentation shall be subject to audit as defined in FAR 52.215-2, Audit and Records, Section I Clause Number I.1.16.
4. If the full amount of the fee(s), based on the total amount billed to direct billed agencies, is not paid within the period specified by item 3 above, the nonpayment shall constitute a contract debt to the United States Government under the terms of Part 32.6 of the FAR. The Government may exercise all rights available to it under the Debt Collection Act of 1982, including withholding or setting off payments and interest on the debt (see FAR 52.232-17, Interest, Section I Clause Number I.1.62).
5. The contractor shall submit a monthly Detailed AGF Collection Status Reports as a supplement to the Associated Government Fee Summary Report for the direct billed accounts. The later Report is a monthly deliverable as required by Section G.2.1.8
6. Failure to submit the monthly Summary Report of Billed Charges for All Customers, falsification of this report, or failure to pay the fee(s) in a timely manner may result in termination of this contract.
7. The contractor shall report to the GSA ACO or the designee of all direct billed accounts that are delinquent in payment for 120 calendar days or more. The delinquent agency customer is not complying with the 5 CFR 1315: Prompt Payment.

H.26 Other Direct Costs (ODCs)

ODCs, including material necessary for performance of this contract, shall be specified in individual service orders and shall be reimbursed in accordance with the "Compensation" and "Payments" clauses of this contract. Maximum allowable amounts will be established by individual service orders. The cost of general purpose items required for the conduct of the contractor's normal business operations will generally not be considered allowable ODC in the performance of this contract.

ODCs may be assessed for service and equipment items that are incidental to the telecommunications services provided under this contract and may include, but are not limited to, telephone sets, Data Terminal Equipment, inside wiring, system integration services and equipment to achieve compatibility with existing legacy systems.

H.27 Surcharges and Fees

As indicated in Section B.1.3, the firm fixed prices under this contract shall not include the contractor's collection of current and future costs associated with Government-imposed and regulatory-based surcharges and fees, such as the Federal Universal Service Fund (FUSF) and other regulatory commitments at the Federal, state, or local levels which the contractor is required by law to collect directly from its customers. Such charges shall be identified and described in Table B.1-2, Taxes, Surcharges, and Fees, and shall be presented for payment as separate billable line items on the invoice.

Surcharges and fees will not be treated as taxes in compliance with the FAR clause 52-229-3 that is incorporated by I.1.55, Federal, State, and Local Taxes. The contractor shall provide upon request sufficient information to allow the Government to establish that the surcharges and fees collected, both at award and throughout the life of the contract, are:

1. Not fees and surcharges from which the Government is exempt.
2. Fair and reasonable.
3. Limited to the actual cost or imposed cost associated with the fees and surcharges – recovery of administrative costs is not permitted.
4. No greater than those charged to similarly situated customers.
5. 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 shall include but not 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.
2. Documentation supporting the fact that the fees and surcharges collected under this contract do not exceed that actual amount paid out by the contractor resulting from its provision of the services provided under this contract.

Following contract award, new surcharges and fees may be permitted but only after satisfying the requirements set out above and following approval of the

GSA-ACO and a negotiated and mutually agreed upon contract modification. Similarly as existing WITS 3 surcharges and fees are reduced or eliminated by the governing authorities, such changes shall be implemented with a contract modification. Table B.1-2 shall be updated as necessary when mandatory surcharges and fees are added, reduced, or removed from the contract.

H.28 Special Requirements for Work in Areas Containing Asbestos

1. This contract incorporates those requirements of the Occupational Safety and Health Administration (OSHA) asbestos regulations contained in Title 29, Part 1910 of the CFR. All installation and/or site preparation work undertaken in areas containing asbestos shall be conducted in accordance with these requirements. If during the course of performance under this contract, the contractor suspects contact with hazardous or toxic materials/substances, such as asbestos, polychlorinated biphenyls (PCBs), explosives, or radioactive materials, as specified in Subpart H and Z of 29 CFR 1910 and Federal Standard 313, the contractor shall immediately inform the GSA-ACO of these harmful materials/substances, their exact whereabouts, and the identity of those individuals who have been exposed to these harmful materials/substances.
2. The contractor shall stop work immediately upon discovery of asbestos and shall incur no penalties for delay, provided all other requirements of Section C are met. The Government does not intend to require the contractor to remove asbestos. However, extraordinary costs can be recovered via ODC if the contractor agrees to help with its removal.
3. The contractor shall not disturb suspected harmful materials/substances but shall take responsible measures to prevent exposure to individuals, pending receipt of direction from the GSA-ACO. The GSA-ACO will coordinate any necessary action with the GSA-COTR and the building owner.

The contractor shall maintain full responsibility and liability for compliance with all applicable regulations pertaining to the protection of workers, visitors to the site and persons occupying affected and adjacent areas. The contractor shall hold the Government harmless against injury resulting from failure on the contractor's part or on the part of the contractor's employees or subcontractors to comply with any applicable safety or health regulation.

H.29 Historic Buildings

The contractor shall be in compliance with 36 Code of Federal Regulations (CFR) Part 800 and all aspects of the Secretary of Interior's *Standards for the Treatment of Historic Properties* as they apply to the installation of equipment in historic buildings. For any historic buildings requiring WITS 3 services, the contractor shall provide a plan for the proposed types of work that will occur.

This *Site Preparation Plan (Historic Building)* will be reviewed by the Historical Preservation Officer, Public Buildings Service (PBS) and the applicable State Historic Preservation Office to determine if the proposed types of work are in compliance with the Secretary of Interior's Standards. If the proposals are found to be acceptable, the appropriate approval documents will be issued by the PBS authorizing the contractor to proceed with the installation.

Under no circumstances shall the contractor proceed with work in a historic building until the appropriate approval to proceed has been issued. This requirement applies to all buildings that are on the National Historic Register listing.

As soon as any work is contemplated, the contractor shall contact the involved building managers, who in turn will contact and work closely with the Historical Preservation Officer(s). Further contacts with the appropriate State Historical Preservation Officers, the National Advisory Council on Historical Preservation and other concerned authorities will be coordinated through the designated Historical Preservation Officers. Extraordinary costs associated with working in historic buildings may be billed as ODC.

H.29.1 Historical Preservation Officer - Public Buildings Service (PBS)

Contact: Name: (To be identified at or after contract award)
 Location: (To be identified at or after contract award)
 Telephone No: (To be identified at or after contract award)

H.29.2 Historic Buildings Reference Documents

All work performed in historical buildings shall conform to the requirements contained in the documents identified in this section.

1. Department of Interior, National Park Service: *The Secretary of the Interior's Standards for the Treatment of Historic Properties* (Revised 1983), U.S. Government Superintendent of Documents, Washington, DC 20401, Stock No. 024005010033, \$2.00 a copy, Telephone (202) 512-1800.
2. Department of the Interior, National Park Service, Conference of State Historic Preservation Officers: *Preservation Tax Incentives for Historic Buildings*, Preservation Assistance Division, National Park Service, Order by Title, No Charge, Telephone (202) 606-8503.
3. General Services Administration (GSA):
 - a) *Maintenance, Repair and Alterations of Historic Buildings*, August 20, 1982, ADM 1020.1, Department of Commerce National Technical Information Service, \$21.95 plus \$3.00 handling fee, Telephone 1-800-553-6847.

- b) *Handbook Procedure for Historic Properties*, March 2, 1981, PBS P 102.2, Available from Contracting Officer.

H.30 Meetings and 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 GSA-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.31 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. This shall be provided at no additional cost to the Government.

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-ACO 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 GSA-ACO and the responsible agency representative with contract prices and the corresponding section(s) of the contract that the trial proposes to enhance. The GSA-ACO 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 GSA-ACO 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.

In all instances, the fair opportunity process shall be followed and shall include service trials.

The contractor shall report monthly and upon the completion of each trial to the GSA-ACO and PMO in writing and provide the following information:

1. Number of trials
2. Description of the trials
3. Participants
4. Location(s)
5. Results to date
6. Estimated completion dates
7. Estimated costs (if applicable)

H.33 Lease Termination

During the term of the WITS 3 contract, the contractor shall include payments for all loans that are established under this contract in accordance with Section B.1.3.2 in its consolidated invoices to the appropriate customers in accordance with Section C.3.4.1. However, at the expiration of the contract, to the extent that any of these loans remain outstanding, the contractor shall ensure that:

1. Appropriate WITS 3 customers shall be billed directly for these outstanding loans; and
2. All rights under the outstanding loans that existed prior to the expiration of the WITS 3 contract shall remain in full force until their respective date(s) of expiration.

H.34 Continuity of Services

1. 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
2. Upon the CO's written notice, the contractor shall:

- a. Furnish phase-in phase-out services for up to 24 months 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
 - b. 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
3. In accordance with FAR Clause 52.217-8 (incorporated into the contract at Section I), 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 6 months as specified by the CO. During this extended period, the Maximum Contract Limitation may be raised and New or Improved Services (Section H.14) may be implemented.
4. Should the CO, having elected (3) above, but not having elected initially to extend the contract the full 6 months, provide subsequent written notice, the contractor, as directed, shall continue to perform under the contract up to the full 6 month period.

H.35 Department of Defense Security Classification

Department of Defense security requirements in the performance of the WITS 3 contract shall be maintained in accordance with DD Form 254, Department of Defense Contract Security Classification Specification. The highest classification involved in the performance of this contract is Top Secret.

H.36 Accountability of Contract Employees

The contractor shall be required to develop and implement an employee accountability system in the event of an emergency or disaster, or other event that requires or results in evacuation or closure of buildings under GSA's control. The employee accountability system will enable contractors to track their employees to determine their safety and wellbeing. GSA will not be responsible under this contract for accounting for the whereabouts of contractor employees in the event of an emergency or disaster, or other event that requires or results in the evacuation or closure of buildings under GSA's control.

The requirement above applies to contract employees physically present in a GSA/NCR controlled facility, and receive on-site supervision, or day-to-day supervision by the contractor's on-site supervisors and/or project managers, or are present for 30 days or less.

Contract employees will be included under GSA/NCR's accountability system provided the on-site contract employees are physically housed on a recurring or regular basis in GSA/NCR's facilities for 30 days or longer.

In the event contract employees are physically present or housed in government facilities "not under GSA/NCR control," it is incumbent upon the contractor to account for their whereabouts in accordance with the first paragraph above or find out if contract employees are covered under another government's employee accountability system.