

**ANC-55**  
**FLYSHEET FOR CONTRACT HQ0006-98-C-0003**

**Section A – Applicable to Fixed Price Orders for Non-Commercial Items Only**

The clauses cited in GP-1, THE BOEING COMPANY GENERAL PROVISIONS (Fixed Price Contract) along with Flysheet GP-1A for materials and supplies issued under a Department of Defense contract and the Special Provisions identified in Section E hereof, are hereby incorporated into this order. Flysheet AA, Buyer Furnished Items, is hereby incorporated into this order when Boeing is providing material or technical data for performance of work hereunder.

**Section B – Applicable to Fixed Price Orders for Commercial Items Only**

The clauses cited in GP-1, THE BOEING COMPANY GENERAL PROVISIONS (Fixed Price Contract) along with Flysheet GP-1B for materials and supplies issued under a US Government prime contract and the Special Provisions identified in Section E hereof, are hereby incorporated into this order. Flysheet AA, Buyer Furnished Items, is hereby incorporated into this order when Boeing is providing material or technical data for performance of work hereunder.

**Section C – Applicable to Fixed Price Orders for Services Only**

The clauses cited in Flysheet GC-1 – Government Contracts, and the Special Provisions identified in Section E hereof, are hereby incorporated into and made part of GP-2, THE BOEING COMPANY GENERAL PROVISIONS (Fixed Price Services Contract)

**Section D – Applicable to Cost Reimbursement Orders Only**

The clauses cited in form 881-T-6, Cost Reimbursement Orders Under Department of Defense Contracts along with Flysheet T-6, Purchase Order Terms & Conditions (Property Control) and the Special Provisions identified in Section E hereof, are hereby incorporated into this order.

**Section E – Special Provisions**

1. Flysheet S-DOD-507R, Patent and Data Provisions for Contract HQ0006-98-C-0003, is hereby incorporated into this order when delivery of technical data is required.
2. Flysheet 1012, Surveillance and Written Technical Direction, is hereby incorporated into this order.

### 3. ADDITIONAL SPECIAL PROVISIONS

- A. PUBLIC RELEASE OF INFORMATION.** All public information materials prepared by Seller shall be submitted to BMDO for clearance prior to release. These materials include, but are not limited to, technical papers and responses to news queries which relate to work under this order. However, once work has been cleared for public release, it need not be cleared again for later use. All materials to be cleared must be sent through the Buyer to:

Office of the Secretary of Defense  
Ballistic Missile Defense Organization  
7100 Defense Pentagon, BMDO/SRE  
Washington, D. C. 20301-7100

Seller shall submit the material proposed for release to the above address via a letter of transmittal setting forth: 1) to whom the material is to be released; 2) the desired date for public release; 3) a statement that the material has been approved by Seller officials for public release; 4) the order number and prime contract number. Three copies of each item shall be submitted at least two months in advance of the proposed release date. Final approval for release or disclosure of the material cannot be given on the basis of abstracts; outlines or rough drafts will not be cleared. Materials submitted to BMDO for release purposes shall be void of all Seller logos or other attributions to the Seller.

- B. ORGANIZATIONAL CONFLICT OF INTEREST. Purpose.** This clause is to aid in ensuring that: Seller's scientific objectivity and judgment are not biased because of present or planned interests (financial, contractual, organizational or otherwise) which relate to work under this order; Seller does not obtain an unfair competitive advantage by virtue of its access to non-public Government information regarding Government program plans and actual or anticipated resources; and Seller does not obtain any unfair competitive advantage by virtue of its access to proprietary information belonging to others. Restrictions described herein shall apply to performance or participation by Seller and any of its affiliates or their successors in interest in the activities covered by this clause as subcontractor, co-sponsor, joint venturer, consultant or in any similar capacity. Information furnished voluntarily by the owner without limitations on its use, or which is available without restrictions from other sources, is not considered proprietary.

1. System Engineering & Integration (SE&I). TRW (current SE&I contractor) has agreed that the TRW employees who are working in the program office located in Rosslyn, Virginia responsible for NMD Systems Engineering will be isolated and ineligible to participate in the LSI Execution Proposal. While element contractors will provide limited technical support to the LSI Contractor, element contractors will not be restricted in establishing teaming arrangements for the LSI Execution phase. In addition, both TRW and Raytheon have agreed to negotiate, in good faith, subcontractor relationships with the selected LSI prime contractor to provide the

BMC3 (Battle Management, Command & Communications) and GBR (Ground Based Radar) elements, no matter who is selected.

2. Access To & Use Of Government Information. If in the performance of this order, Seller obtains access to information such as plans, policies, reports, studies, financial plans, or data which has not been released or otherwise made available to the public, Seller agrees that without prior written approval of Buyer it shall not use such information for any private purpose unless the information has been released or otherwise made available to the public; compete for work, other than the LSI contract, based on such information after the completion of this order, or until such information is released or otherwise made available to the public, whichever occurs first; submit an unsolicited proposal to the Government which is based on such information after such information is released or otherwise made available to the public; or release such information unless such information has previously been released or otherwise made available to the public by the Government.
  
3. Access To & Protection Of Proprietary Information. Seller agrees that, to the extent it receives or is given access to proprietary data, trade secrets, or other confidential or privileged technical, business, or financial information (hereinafter referred to as "proprietary data") under this order, it shall treat such information in accordance with any restrictions imposed on such information. Seller further agrees to enter into a written agreement for the protection of the proprietary data of others and to exercise diligent effort to protect such proprietary data from unauthorized use or disclosure. In addition, Seller shall obtain from each employee who has access to proprietary data under this order a written agreement which shall in substance provide that such employee shall not, during his/her employment by Seller or thereafter, disclose to others or use for their benefit proprietary data received in connection with work under this order. Seller will educate its employees regarding the philosophy of Part 9.505-4 of the Federal Acquisition Regulation so that they will not use or disclose proprietary information or data generated or acquired in the performance of this order except as provided herein.
  
4. Disclosures. If Seller discovers an organizational conflict of interest or potential conflict of interest after award, a prompt and full disclosure shall be made in writing to the Buyer. This disclosure shall include a description of the action the Seller has taken or proposes to take in order to avoid or mitigate such conflicts.

5. Remedies & Waiver. For breach of any of the above restrictions or for non-disclosure or misrepresentation of any relevant facts required to be disclosed concerning this order, Buyer may terminate this order for default, disqualify Seller for subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this order. If, however, in compliance with this clause, the Seller discovers and promptly reports an actual or potential organizational conflict of interest subsequent to award of the order, Buyer may terminate this order for convenience if such termination is determined to be in Buyer's best interest. Seller recognizes that this clause has potential effects which will survive performance of this order and that it is impossible to foresee each circumstance to which it might be applied in the future. Accordingly, Seller may at any time seek a waiver from the Director, BMDO (via Buyer) by submitting a full written description of requested waiver and reasons in support thereof.
6. Certification Restriction. Seller shall be restricted from performing validation, verification, accreditation or certification of any products developed or delivered under this order. Seller shall not serve as a software independent validation and verification contractor for any software developed or delivered under this order.
7. Modifications. Prior to order modification, when the statement of work is changed to add new work or the period of performance is significantly increased, Buyer may require Seller to submit to the Government through Buyer either an organizational conflict of interest disclosure or an update of the previously submitted disclosure or representation.
8. Subcontracts. Seller shall include this or substantially the same clause in consulting agreements and subcontracts of all tiers. The terms "contract", "order", "Seller", and "Buyer" will be appropriately modified to preserve the Government's and Buyer's rights.

**C. ENABLING CLAUSE FOR NMD INTERFACE SUPPORT.** It is anticipated that during the performance of this order, Seller may be required to support meetings with other Sellers and other Government agencies. Appropriate organizational conflict of interest agreements will be negotiated by the Seller as needed to protect the rights of Seller and Buyer. This agreement is not intended to establish privity of contract between Seller and the Government, nor is it intended to relieve Seller of any of its responsibility to manage its subcontracts effectively. Personnel from other Sellers or from any Government agency are not authorized to direct Seller in any way.

- D. INSURANCE.** Seller shall maintain Workmen's Compensation and all occupational disease insurance as required by state law. Seller's liability insurance (including occupational disease not covered by Workmen's Compensation) shall provide for a minimum of \$100,000 per accident. Seller's comprehensive general liability insurance shall provide for a minimum of \$500,000 per occurrence. Seller's automobile liability insurance shall provide for a minimum of \$200,000 per person; \$500,000 per accident; and \$20,000 for property damage.
- E. IDENTIFICATION OF TECHNICAL DATA, COMPUTER SOFTWARE & SOFTWARE DOCUMENTATION TO BE DELIVERED WITH LESS THAN UNLIMITED RIGHTS.** Except for data and software specifically identified in this order as being delivered with less than unlimited rights, all technical data, computer software, and software documentation required to be delivered under this order will be provided with unlimited rights.
- F. HARDWARE, SOFTWARE, GOVERNMENT PROPERTY & END ITEMS.** For any hardware, software, Government property, and end items delivered under this order or shipped to Buyer or direct to the Government, use best commercial practices in packing the items to ensure they are adequately protected during shipment and handling, unless specifically instructed otherwise in this order.
- G. GOVERNMENT PROPERTY.** Seller is authorized use of Government property in the performance of this order from the following contracts on a no-cost (i.e., without assessment of rental charge), non-interference basis: HQ0006-95-C-0018 and DASG60-92-C-0184.
- H. TRAVEL & TRAVEL COSTS.** Costs for transportation may be based on mileage rates, actual costs incurred, or on a combination thereof, provided the method used results in a reasonable charge. Costs for lodging, meals, and incidental expenses may be based on per diem, actual expenses, or a combination thereof, provided the method used results in a reasonable charge. Except as provided in FAR 31.205-46(a)(3), costs incurred for lodging, meals, and incidental expenses shall be considered reasonable and allowable to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel as set forth in: Federal Travel Regulations, prescribed by the General Services Administration for travel in the conterminous 48 United States; Joint Travel Regulations, Volume 2, DoD Civilian Personnel (Appendix A), for travel in Alaska, Hawaii, and territories and possessions of the United States; and Standardized Regulations (Government Civilians, Foreign Areas) Section 925, prescribed by the Department of State, for all other areas. The maximum per diem rates referenced above generally would not constitute a reasonable daily charge when no lodging costs are incurred, and/or on partial travel days (appropriate downward adjustments from the maximum per diem rates would normally be required under these circumstances). Costs shall be allowable only if the following information is documented: date and place of the expense; purpose of the trip; and name of the person on the trip and that person's title. Travel costs directly attributable to specific

contract performance are allowable and may be charged to the contract under FAR 31.202. Airfare and rail costs in excess of the lowest customary standard, coach or equivalent fare offered during normal business hours are unallowable, except where such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. The costs of travel by Seller-owned, leased or chartered aircraft and automobiles will be governed in accordance with FAR 31.205-46(e) and (f).

- I. YEAR 2000 COMPLIANCE.** Seller represents that any hardware, software, and firmware product delivered under this order shall be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000) and leap year calculations to the extent that other information technology, used in combination with the information technology being acquired, properly exchanges date/time data with it. The remedies available to Buyer under this clause shall include repair or replacement of any non-compliant product discovered and made known to Seller in writing. Nothing in this clause shall be construed to limit any rights or remedies Buyer may otherwise have under this order with respect to defects other than Year 2000 performance.
- J. FIRST TIER SUBCONTRACTS.** Seller agrees, upon request, to render to Buyer a report listing all of Seller's first tier subcontracts, as defined in FAR 52.244-2, paragraph (a), relating to this order. This report shall include for each subcontract, the name of the supplier, a brief statement of the general scope of work contemplated thereunder, the estimated cost or price, the form of contract and the current status and progress thereof. Seller further agrees to furnish, upon request of the buyer, a copy of all such subcontracts.
- K. GSA SCHEDULE.** This order is placed under written authorization from the Ballistic Missile Defense Organization dated January 26, 1999, for contract HQ0006-98-C-0003 during the period April 30, 1999, through April 29, 2001. In the event of any inconsistency between the terms and conditions of this order and those of the GSA schedule contract, the latter will govern.

The following clauses, as in effect on the date of this order, which has been designated on the face of this order, are incorporated herein by reference. For Federal Acquisition Regulation (FAR) clauses, or supplements to FAR clauses, incorporated by reference in such clauses, unless otherwise specifically stated, the term "Contractor" means Seller except in the term "Prime Contractor"; "Subcontractor" means Seller's Subcontractor; "Contract" means this order except in the term "prime contract"; and "Contracting Officer" means the government contracting officer for the prime contract or authorized representative.

- L. **FAR 52.215-19: NOTIFICATION OF OWNERSHIP CHANGES.** This only applies to orders exceeding \$500,000.
- M. **FAR 52.223-5: POLLUTION PREVENTION & RIGHT-TO-KNOW INFORMATION.**
- N. **FAR 52.227-9: REFUND OF ROYALTIES.** "Contracting Officer" means "Buyer" in Paragraphs (a) and (c) and "Contracting Officer" means "Contracting Officer and Buyer" in paragraph (e)
- O. **DOD FAR SUP. 252.223-7006 ALTERNATE 1: PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS.** "Government" means "Government and Buyer.
- P. **DOD FAR SUP. 252.225-7030: RESTRICTION ON ACQUISITION OF CARBON, ALLOY & ARMOR STEEL PLATE.**
- Q. **DOD FAR SUP. 252.242-7004: MATERIAL MANAGEMENT & ACCOUNTING SYSTEM.** This only applies to orders exceeding \$5 million. Firm fixed price orders not having progress payments are exempt. Small businesses are completely exempt from this requirement.
- R. **DOD FAR SUP. 252.243-7000: ENGINEERING CHANGE PROPOSALS.** This only applies to orders over \$500k.