

Date: August 26, 2004

EXHIBIT A

**GOVERNMENT PROVISIONS
APPLICABLE TO
PRIME CONTRACT [DTFAWA-04-C-00052](#)**

The clauses contained in the following Government regulations are incorporated by reference. Where necessary or appropriate to derive proper meaning in a subcontract situation, "Contractor" shall mean Seller; and "Government" shall mean Government and/or Buyer. The full text of FAA contract clauses may be obtained via Internet at: <http://fast.faa.gov> (on this web page, select "toolsets", then "procurement toolbox"). Government clauses cited here and elsewhere in the contract shall be those in effect on August 17, 2004.

<u>FAA Reference</u>	<u>Title</u>
3.1.7-2	Organizational Conflicts of Interest (August 1997)
3.2.2.7-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (April 1996)
3.2.4-5	Allowable Cost and Payment (April 2001)
3.2.5-1	Officials Not to Benefit (April 1996)
3.2.5-3	Gratuities or Gifts (January 1999)
3.2.5-5	Anti-Kickback Procedures (October 1996)
3.3.2-1	FAA Cost Principles (October 1996)
3.5-2	Notice and Assistance Regarding Patent and Copyright Infringement (April 1996)
3.5-11	Patent Rights--Retention by the Contractor (Long Form) (October 1996)
3.6.1-3	Utilization of Small, Small Disadvantaged, Women-Owned, and Service-Disabled Veteran Owned Small Business Concerns (September 2001)
3.6.1-4	Small, Small Disadvantaged, Women-Owned and Service-Disabled Veteran Owned Small Business Subcontracting Plan (September 2001)
3.6.2-16	Notice to the Government of Labor Disputes (April 1996)
3.6.3-1	Clean Air and Water Certification (April 2000)
3.10.1-3	Penalties for Unallowable Costs (October 1996)
3.10.1-24	Notice of Delay (November 1997)
3.13-5	Seat Belt Use by Contractor Employees (January 1999)
3.14-2	Contractor Personnel Suitability Requirements (April 2004)
3.14-3	Foreign Nationals as Contractor Employees (July 2002)

The following clauses also apply if the contract price exceeds \$10,000:

3.6.2-5	Certification of Nonsegregated Facilities (April 1996)
3.6.2-9	Equal Opportunity (August 1998)
3.6.2-12	Affirmative Action for Special Disabled and Vietnam Era Veterans (January 1998)
3.6.2-13	Affirmative Action for Workers With Disabilities (April 2000)
3.6.2-14	Employment Reports on Special Disabled Veterans and Veterans of Vietnam Era (January 1998)

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The following clauses also apply if the contract price exceeds \$100,000:

- 3.2.5-7 Disclosure Regarding Payments to Influence Certain Federal Transactions (June 1999)
- 3.6.2-1 Contract Work Hours and Safety Standards Act-Overtime Compensation (September 2003)
- 3.6.3-2 Clean Air and Clean Water (April 1996)

The following clauses also apply if the contract price exceeds \$1,000,000:

- 3.2.2.3-8 Audit and Records (April 2004)

The following clauses also apply if Technical Data or Computer Software will be Generated or Delivered:

- 3.5-13 Rights in Data - General (October 1996)
- 3.5-13 Alt. V Rights in Data - General (October 1996)
- 3.5-14 Representation of Limited Rights Data and Restricted Computer Software (October 1996)

Additional Provisions:

- 3.10.2-2 Subcontracts (Cost-Reimbursement and Ceiling Priced Contracts) (October 1996)

SPECIAL CONTRACT REQUIREMENTS:

H.2 CONFIDENTIALITY OF DATA AND INFORMATION

- a. The Contractor and any of its subcontractors in performance of this contract, may have need for access to and use of various types of data and information in the possession of the Government which the Government obtained under conditions which restrict the Government's right to use and disclose the data and information, or which may be of a nature that its dissemination or use other than in the performance of this contract, would be adverse to the interests of the Government or other parties. Therefore, the Contractor and its subcontractor(s) agree to abide by any restrictive use conditions on such data and not to:
 - 1. Knowingly disclose such data or information to others without written authorization from the CO, unless that data or information has otherwise become available to the public through no action or fault of the Contractor.
 - 2. Use for any purpose other than the performance of this contract that data which bears a restrictive marking or legend, unless such information or data has otherwise fallen into the public domain through no action or fault by the Contractor.
- b. In the event the work required to be performed under this contract requires access to proprietary data of other companies, the Contractor shall obtain agreement from such other companies for such use unless such data is provided or made available to the Contractor by the Government.

Two copies of such company-to-company agreements shall be furnished promptly to the CO for the Government's information. These agreements shall prescribe the scope of authorized use of disclosure, and other terms and conditions to be agreed upon between the parties thereto. It is agreed by the Contractor that any such data, whether obtained by the Contractor pursuant to the agreement or from the Government shall be protected from unauthorized use or disclosure to any individual, corporation, or organization so long as it remains proprietary.

- c. Through formal training in company policy and procedures, the Contractor shall make employees aware of the requirement to maintain confidentiality of data and/or information, and in the necessity to refrain from divulging either the proprietary data of other companies or data that is obtained from the Government to anyone except as authorized. These agreements must be made available when requested by the Government. The Contractor shall obtain from each employee, engaged in any effort connected with this contract, an agreement, in writing, which shall in substance provide that such employee will not, during his/her employment by the Contractor, or thereafter, disclose to others or use for his/her own benefit or the future benefit of any individual, any trade secrets, confidential information, or proprietary/restricted data (to

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include Government "For Official Use Only") received in connection with the work under this contract unless such information otherwise falls into the public domain through no action or fault of the Contractor or employee.

- d. The Contractor agrees to include the substance of this provision in all subcontracts awarded under this contract. The CO will consider case-by-case exceptions from this requirement for individual subcontracts in the event that (1) the Contractor considers the application of the prohibition of this provision to be inappropriate and unnecessary in the case of a particular subcontract; (2) the subcontractor provides a written statement affirming absolute unwillingness to perform absent some relief from the quality of effort, and (3) the Contractor provides the CO timely written advance notice of these and any other extenuating circumstances.
- e. The Contractor agrees to include the substance of this provision in all subcontracts awarded under this contract. The CO will consider case-by-case exceptions from this requirement for individual subcontracts in the event that (1) the Contractor considers the application of the prohibition of this provision to be inappropriate and unnecessary in the case of a particular subcontract; (2) the subcontractor provides a written statement affirming absolute unwillingness to perform absent some relief from the quality of effort, and (3) the Contractor provides the CO timely written advance notice of these and any other extenuating circumstances.
- f. Except as the CO specifically authorizes in writing, upon completion of all work under the contract, the Contractor shall return all such data and information obtained from the Government, including all copies, modifications, adaptation, or combination thereof, to the CO. Data obtained from other companies shall be disposed of in accordance with the Contractor's agreement with that company, or, if the agreement makes no provision for disposition, shall be returned to that company.
- g. The Contractor shall further certify in writing to the CO that all copies, modification adaptations or combinations of such data or information, which cannot reasonably be returned to the CO (or to a company) have been deleted from the Contractor's (or subcontractor's) records and destroyed. These restrictions do not limit the Contractors or subcontractors right to use and disclose any data and information obtained from other sources without restriction.

H.3 RESTRICTIONS AGAINST DISCLOSURE

- a. The Contractor agrees, in the performance of this Contract, to keep all information furnished to it by the Government or gathered or analyzed by it in the course of the Contract in the strictest confidence, said information being the sole property of the Government. The Contractor also agrees not to publish, reproduce or otherwise divulge such information in whole or in part, in any manner or form, not to authorize or permit others to do so. The Contractor shall take all reasonable measures necessary to prohibit access to such information by any such person other than those Contractor employees needing such information to perform the work. i.e., on a "need-to-know" basis. The Contractor shall immediately notify the COTR in the event it is determined or has reason to suspect a breach of this requirement.
- b. The Contract shall require that all employees, consultants, or subcontractor personnel sign a confidentiality and nondisclosure affidavit agreeing to safeguard the confidentiality of all information gathered or provided to them hereunder as an integral condition of their employment.
- c. The Contractor shall provide the COTR with plans and procedures to ensure the confidentiality and physical security of information gathered or provided hereunder. The Government reserves the right to review and approve all security safeguards instituted to comply with the requirements of the clause.
- d. If the Contractor fails to comply with the requirements of this clause, the contractor shall be deemed to have failed to perform the provisions of this Contract within the meaning of the Default Clause of the Contract.

H.4 USE AND DISSEMINATION OF CONTRACT DATA AND INFORMATION

Without the prior written consent of the Contracting Officer, the Contractor shall not use or disseminate any data, information or results acquired as a result of performing work under this contract for purposes other than accomplishing this contract. Contractor requests to use or disseminate such data, information or results for purposes other than performing work under this contract, shall be submitted directly to the Contracting Officer and include 2 copies of all material (data or information) being proposed for other use or dissemination.

The Contracting Officer shall make a decision on the Contractor's request to use or disseminate the data or information, in written form within 45 days, oral form within 30 days and for Congressional purposes within 10 days.

H.5 RELEASE OF INFORMATION

Work performed under this Contract may involve access to information, including specification, cost estimates and other sensitive data. Consequently, the Contractor and subcontractor(s) (including individual employees thereof) shall not release or communicate, except as required by law or regulations, such information, including any news release, public announcement, or advertising material concerned with this Contract, whether orally or in writing, to any person except:

- a. FAA personnel with a "need to know" who have signed a non-disclosure form or
- b. Employees of the Contractor with a "need to know" who have signed a nondisclosure form or;
- c. Such other person as may be designated in writing by the CO and who have signed a non-disclosure form.

H.6 NON-DISCLOSURE AGREEMENTS

- a. Agreements. The Contractor shall require its and subcontractor employees, as applicable, to execute non-disclosure agreements with the FAA and other Contractors, as a safeguard to prevent the unauthorized disclosure of confidential and business sensitive data or other information containing restrictions on its use and dissemination. A sample format of a non-disclosure agreement may be obtained from the Contracting Officer cited in G.1. By executing non-disclosure agreements, signatories are expressly acknowledging and agreeing that, without written authorization from the Contracting Officer or Liaison Agreement Contractors, they will not disclose any confidential, business sensitive or other similar type of data or information, which by its content or marking, contains restrictions on its use and dissemination.

"Confidential" information includes, but is not limited to, any information labeled as "official," "proprietary" or "sensitive."

- b. Distribution and Retention. The Contractor shall provide the Contracting Officer the signed originals of each non-disclosure agreement signed between its and subcontractor employees and the Government, and a copy of all non-disclosure agreements signed between its and subcontractor employees and other Contractors, pursuant to performing the contract. The Contractor shall maintain a current and complete file containing all signed non-disclosure agreements in effect which apply to work it is performing under this contract. The Contractor shall make this file available for authorized Government review. Through training, internal guidance, subcontracts and or media, the Contractor shall conduct an ongoing program of education to ensure its and subcontractor employees, fully understand the intent and significance of being a signatory to a non-disclosure agreement.
- c. Indemnification. The Contractor agrees it shall hold the Government harmless and indemnify the Government for any cost or loss it may incur as a result of confidential or business sensitive data or other similar type of information being wrongly used or disclosed by it or its subcontractor employees.
- d. Sanctions. Failure by any Contractor or subcontractor to comply with the requirements of a non-disclosure agreement the signed pursuant to this clause may result in this contract being fully or partially terminated. Other actions against the Contractor or subcontractor may include fines, suspension or debarment. Possible sanctions against violating employees include fines, imprisonment and lawsuits by damaged

parties.

- e. Subcontracts. The Contractor shall incorporate the substance of this clause in all subcontracts under this contract.

H.11 ACCESS TO GOVERNMENT FACILITIES

- a. The Contractor shall submit an access request to the relevant COTR and be granted, by appropriate authority, ingress and egress to any Government site where access is required to perform the SOW requirements issued under this contract. Prior to commencing work at such Government sites, the Contractor shall give particular emphasis to the areas of health, safety and security. All Contractor personnel shall comply with the rules and regulations applicable to the Government sites at which they are working.
- b. All Contractor personnel who perform work on DOT facilities, which includes all FAA facilities, shall wear, at all times while present on those facilities, DOT identification badges, issued in accordance with DOT procedures.
- c. Any Contractor or subcontractors employee providing support under this contract who is discharged because of failure to meet the minimal work requirements defined in this contract, will be denied access to DOT facilities.
- d. The Contractor will comply with FAA Order 1600.1D (Personnel Security Program) dated February 5, 1998 and any amendment thereto.

H.15 SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND CONSULTANTS

Any subcontractor or outside consultant required by the Contractor in connection with the services covered by the Contract shall be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors or consultants.

H.21 ATTORNEY/CLIENT PRIVILEGE

During performance of this contract the Contractor may be required to attend meetings at which FAA employees seek and receive legal advice from FAA Attorneys. The FAA intends, and the Contractor agrees, that such advice is to be treated as confidential legal advice, that the Contractor will not discuss such legal advice with non-FAA personnel, that such advice will not be included in notes, written reports, or minutes of such meetings, and that for purposes of asserting the Attorney-Client privilege with regard to such information, the Contractor shall be considered an agent of the FAA.

In the event of litigation or any other legal proceeding involving third parties to which the Contractor is not a named party, the Contractor shall support the FAA by promptly providing to the FAA any documents requested which the Contractor may have in its possession, and by making Contractor employees available to assist FAA for any purpose, including but not limited to attendance at depositions or testimony at hearings. This provision does not preclude the Contractor or the Contractor employees from being represented by Counsel retained by the Contractor or the Contractor employee provided such representation is at no direct cost to the Government.

A = ADDED
D = DELETED
R = REVISED