

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE	PAGE OF PAGES
2. AMENDMENT/MODIFICATION NO. P00006		3. EFFECTIVE DATE 03-Apr-2003	4. REQUISITION/PURCHASE REQ. NO.		1 11
6. ISSUED BY U.S. SPECIAL OPERATIONS COMMAND/SOAL-K 7701 TAMPA POINT BLVD. ATTN: KARENE SPURLIN MACDILL AFB FL 33621-5323		CODE USZA22	7. ADMINISTERED BY (If other than item 6) DCMA ST. PETERSBURG 9549 KOGER BLVD. GADSEN BLDG., SUITE 200 ST. PETERSBURG FL 34615-4822		5. PROJECT NO.(If applicable) S1109A
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code) GEMINI INDUSTRIES, INC VICTORIA BONDAC SIX FORTUNE DRIVE BILLERICA MA 01821-3917			9A. AMENDMENT OF SOLICITATION NO.		
			9B. DATED (SEE ITEM 11)		
			X 10A. MOD. OF CONTRACT/ORDER NO. USZA22-02-D-0015		
			X 10B. DATED (SEE ITEM 13) 22-Apr-2002		
CODE 0BAX9			FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS					
<input type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.					
12. ACCOUNTING AND APPROPRIATION DATA (If required)					
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).					
X C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: FAR 52.243-3 Changes					
D. OTHER (Specify type of modification and authority)					
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input checked="" type="checkbox"/> is required to sign this document and return <u>1</u> copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) See Continuation Pages.					
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.					
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) KARENE L. SPURLIN / CONTRACTING OFFICER TEL: (813) 828 7347 EMAIL: spurlik@socom.mil		
15B. CONTRACTOR/OFFEROR (Signature of person authorized to sign)		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA BY <i>Karene L. Spurlin</i> (Signature of Contracting Officer)		16C. DATE SIGNED 16-Apr-2003

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

SUMMARY OF CHANGES

SECTION A - SOLICITATION/CONTRACT FORM

The 'administered by' organization has changed from

DCMA BOSTON Code:525700
495 SUMMER STREET
BOSTON MA 02210-2138
to
DCMA - ST. PETERSBURG Code: S1109A
9549 KOGER BLVD.
GADSEN BLDG., SUITE 200
ST. PETERSBURG FL 34615-4822

The 'Payment will be made by' organization has changed from

DFAS-COLUMBUS CENTER Code: HQ0337
DFAS/CO NORTH ENTITLEMENT OPERATIONS P
COLUMBUS OH 43216-2266
to
DEFENSE FINANCE AND ACCOUNTING SERVICES Code: HQ0338
COLUMBUS CENTER, DFAS-CO
SOUTHERN ENTITLEMENT OPERATIONS
P.O. BOX 182264
COLUMBUS OH 43218-2264

SECTION H – SPECIAL CONTRACT REQUIREMENTS

The following Special Provisions are hereby incorporated in full text: (See attached pages 3-10)

- H.31. COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS INCLUDING OCONUS PERFORMANCE LOCATIONS
- H.32. LOGISTICS SUPPORT PRIVILEGES
- H.33. OVERSEAS COST DIFFERENTIAL
- H.34. REIMBURSEMENT FOR WAR-HAZARD LOSSES
- H.35. PERFORMANCE OF SERVICES DURING CRISIS DECLARED BY THE NATIONAL COMMAND AUTHORITY OR OVERSEAS COMBATANT COMMANDER
- H.36. CONTRACTOR SUPPORT OF DEPLOYED OPERATIONS

SECTION I – CONTRACT CLAUSES

The following clause is hereby incorporated by reference:

- I.1 52.228-3 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984)

The following clause is hereby incorporated in full text: (See attached page 11)

- I.4 252.228-7003 CAPTURE AND DETENTION (DEC 1991)

(End of Summary of Changes)

H.31. COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND LOCAL REQUIREMENTS INCLUDING OCONUS PERFORMANCE LOCATIONS

In performing work under this contract, the Contractor shall comply with all applicable federal, state and local statutes, ordinances, laws and regulations to include those in OCONUS locations. This includes all overseas labor laws.

H.32. LOGISTICS SUPPORT PRIVILEGES

Approved 30 Jan 98 – USSOCOM Senior Procurement Executive

a. Logistics Support privileges may be authorized for Contractor personnel in overseas areas with prior approval of the overseas component commander. Authorized logistics support privileges will be within the discretion of the Contracting Officer but in no event will such support exceed that permitted under the Applicable Statute of Forces Agreement (SOFA), or other controlling regulations. Such support may include the following:

- (1) Commissary (includes rationed items)
- (2) AFFES Facility (Military Exchange) (includes rationed items)
- (3) Military Banking Facility
- (4) Military Postal Services – APO (Personal Mail Only)
- (5) Petroleum and Oil Products
- (6) Officer's or UCO/EM Club
- (7) Armed Forces Recreation Facilities
- (8) Class VI (Alcoholic beverages, includes rationed items)
- (9) Customs Exemption
- (10) Legal Assistance
- (11) Local government transportation for official Government business (nontactical vehicle)
- (12) Local Morale/Welfare Recreation Services
- (13) Mortuary Services
- (14) Transient Billets
- (15) POV (privately-owned vehicle) license/registration

b. The contractor/contractor personnel shall be responsible for the return of all logistics support items (i.e. ID cards, ration cards, POV tags and registration, POV and GOV operator's licenses, etc.) prior to the departure from an overseas area of operation.

H.33. OVERSEAS COST DIFFERENTIAL

* Approved 30 Jan 98 by USSOCOM Senior Procurement Executive

a. In special or unusual situation where the contractor is required to work assignment outside the continental U.S. (OCONUS) locations, a foreign differential rate for OCONUS hires may be authorized by the Contracting Officer. The differential percentage will be applied to the contract rate, Schedule B, of the labor category of the individual being assigned. The assigned contractor personnel must meet all requirements of this contract as far as key personnel and/or resume requirements if applicable. Per diem will not authorized at the same time the cost differential is invoked in the task order.

b. The Contracting Officer will utilize the U.S. Department of State Indexes of Living Costs Abroad, Quarters Allowances, and Hardship Differentials in effect at time of task order negotiations to determine the applicable differential cost to be authorized.

H.34. REIMBURSEMENT FOR WAR-HAZARD LOSSES

*Approved 30 Jan 98 – USSOCOM Senior Procurement Executive

- (a) Costs for providing employee war-hazard benefits are allowable if the Contractor—
 - (1) Submits proof of loss files to support payment or denial of each claim;
 - (2) Subject to Contracting Officer approval, makes lump sum final settlement of any open claims and obtains necessary release documents within one year of the expiration or termination of this contract, unless otherwise extended by the Contracting Officer; and
 - (3) Provides the Contracting Officer at the time of final settlement of this contract-
 - (I) An investigation report and evaluation of any potential claim; and
 - (II) An estimate of the dollar amount involved should the potential claim mature.
- (b) The cost of insurance for liabilities reimbursable under this clause is not allowable.
- (c) The Contracting Officer may require the Contractor to assign to the Government all right, title, and interest to any refund, rebate, or recapture arising out of any claim settlements.
- (d) The Contractor agrees to- -
 - (1) Investigate and promptly notify the Contracting Officer in writing of any occurrence which may give rise to a claim or potential claim, including the estimated amount of the claim;
 - (2) Give the Contracting Officer immediate written notice of any suit or action filed which may result in a payment under this clause; and
 - (3) Provide assistance to the Government in connection with any third party suit or claim relating to this clause which the Government elects to prosecute or defend in its own behalf.

H.35. PERFORMANCE OF SERVICES DURING CRISIS DECLARED BY THE NATIONAL COMMAND AUTHORITY OR OVERSEAS COMBATANT COMMANDER

DoDI 3020.37, Continuation of Essential DoD Contractor Services During Crises, is mandatory for contracts containing mission-essential tasks. DoDI 3020.37 defines essential contractor services as: "A service provided by a firm or an individual under contract to the DoD to support vital systems or operate in support of activities including installation, garrison and base support services considered of utmost importance to the U.S. mobilization and wartime mission." Contractors providing services designated as essential by a DoD Component are expected to use all means at their disposal to continue to provide such services, in accordance with the terms and conditions of the contract during periods of crisis, until appropriately released or evacuated by military authority.

H.36 Contractor Support of Deployed Operations.**a. Management.**

- (1) The contractor shall ensure that all personnel hired by or for the contractor comply with all guidance, instructions, and general orders applicable to U.S. Armed Forces and DoD civilians as issued by the Theater Commander or his/her representative. This shall include any and all guidance and instructions issued based upon the need to ensure mission accomplishment, force protections, and safety.

(2) The contractor shall ensure that all deployed employees, subcontractors, subcontractors employees, invitees and agents comply with pertinent Service and Department of Defense directives, policies, and procedures, as well as federal statutes, judicial interpretations and international agreements (e.g., Status of Forces Agreements, Host Nation Support Agreements, etc.) applicable to U.S. Armed Forces or U.S. citizens in the area of operations. Host Nation laws and existing Status of Forces Agreements may take precedence over contract requirements.

(3) The contracting officer shall resolve disputes. The contractor shall provide the contracting officer copies, if requested, of any documents relating to the dispute. The contractor shall promptly resolve, to the satisfaction of the contracting officer, all contractor employee conduct problems.

(4) The contracting officer may direct the contractor, at the contractor's expense, to remove or replace any contractor employee failing to adhere to instructions and general orders issued by the Theater Commander or his/her designated representative.

b. Risk Assessment and Mitigation.

(1) The contractor shall brief its employees regarding the potential danger, stress, physical hardships and field living conditions.

(2) The contractor shall require all its employees to acknowledge in writing that they understand the danger, stress, physical hardships and field living conditions that are possible if the employee deploys in support of military operations.

(3) The contractor shall ensure that all deployable employees are medically and physically fit to endure the rigors of deployment in support of a military operation. If an employee is unable to perform, the contractor shall replace the employee.

(4) If a contractor employee departs an area of operations without permission, the contractor shall ensure continued performance in accordance with the terms and conditions of the contract. If the contractor replaces an employee who departs without permission, the replacement is at contractor expense and must be complete within 72 hours of notification, or as directed by the contracting officer.

(5) The contractor shall designate and provide contact information for a point of contact and back up for all its plans and operations and control the contractor deployment process and resolve operations issues with the deployed force.

c. Force Protection.

(1) While performing duties IAW the terms and conditions of the contract, the Service Theater Commander shall provide force protection to contractor employees commensurate with that given to Service/Agency (e.g., Army, Navy, Air Force, Marine, DLA) civilians in the operations area.

(2) Contractor personnel accompanying U.S. Armed Forces may be subject to hostile actions. If captured, the status of contractor personnel will depend on the type of conflict, applicability of any relevant international agreements, and the nature of the hostile force. The full protections, granted to Prisoners of War (POW) under the Geneva (1949) and Hague (1907) Conventions apply only during international armed conflicts between the signatories to these conventions. Therefore, contractor personnel status will depend on the specific circumstances of an operation.

d. Central Processing and Departure Point.

(1) For any contractor employee determined by the government at the deployment-processing site to be non-deployable for debilitating health problems or failure to have a security clearance when one is required, the contractor shall promptly remedy the problem. If the problem cannot be remedied in time for

deployment, a replacement having equivalent qualifications and skills shall be provided in time for scheduled deployment.

(2) The Government will identify to the contractor all required mission training and the location of the required training. The contractor shall ensure that all deploying personnel receive required mission training and successfully complete the training.

(3) Contractor employees who fail to meet entrance standards set by the command surgeon, or who become unfit through their own actions (pregnancy, alcohol or drug abuse, etc.) will be removed from the AO at the contractor's expense.

e. Standard Identification Cards

(1) As part of the processing of Contractor personnel, the Government will provide the following distinct forms of identification:

(a) DD Form 1173 (Uniformed Services Identification and Privilege Card). This card is required for access to facilities and use of privileges afforded to the military, Government civilians, and military dependents.

(b) DD Form 489 (Geneva Conventions Identity Card for Persons Who Accompany the Armed Forces.) This card identifies one's status as a contractor employee accompanying the U.S. Armed Forces. This card must be carried at all times when in the theater of operations.

(c) International Driver's Permit/License. The contractor may be required to drive military vehicles in the performance of their duties.

(d) Personal Identification Tags. These tags should be worn at all times when in the theater of operations.

(e) Other Cards. In addition, other identification cards, courier cards, badges, etc., may be issued depending upon the situation.

(2) The Government will coordinate issuance of required identification cards and tags for all contractor employees not processing through a CONUS Replacement Center.

(3) The contractor shall ensure that all deploying individuals have the required identification tags and cards prior to deployment.

(4) See Section 9.11 for passports, visas, or other documents necessary to enter and/or exit any area(s).

(5) Upon redeployment, the contractor shall return all issued controlled identification cards and tags to the government.

f. Medical.

(1) The Government will provide the contractor with all physical and medical requirements and standards necessary for deployment.

(2) The contractor shall provide employees who meet the physical standards and medical requirements for job performance in the designated theater of operations.

(3) Prior to deployment, the contractor shall provide the following as required:

- (a) Immunization record of each employee that is going to be deployed. Moreover, the government may require medical screening at the CONUS Replacement Center for FDA approved immunizations.
- (b) Dental Panograph, as required.
- (c) DNA sampling as required.
- (d) HIV Testing, as required.

(4) For any deployed contractor employee determined by the government to be medically unfit, the contractor shall promptly remedy the problem. If the problem cannot be remedied, a replacement having equivalent qualifications and skills shall be provided as determined by the contracting officer.

(5) The government will provide to contractor employees deployed in the theater of operations, on a cost reimbursable basis, emergency medical and dental care commensurate with the care provided to Department of Defense civilian deployed in the theater of operations. This does not include local nationals under normal circumstances.

(6) Deploying civilian contractor personnel shall carry with them a minimum of a 90-day supply of any medication they require, with 180 days preferred, two pairs of eyeglasses, if required (contacts are not recommended in a field environment), spare hearing aid batteries, sunglasses, insect repellent containing DEET, sunscreen, and any supplies related to their individual physical requirements.

g. Clothing and Equipment Issue.

(1) The contractor shall ensure that contractor personnel possess the necessary personal clothing and safety equipment to execute contract performance in the theater of operations in accordance with the statement of work. Clothing should be distinctive and unique and not imply that the contractor is a military member, while at the same time not adversely affecting the Government's tactical position in the field.

(2) Unless otherwise authorized, the contractor shall ensure that his employees do not wear military clothing.

(3) If determined by the Combatant Commander to be necessary, the government will issue to the contractor all required theater specific equipment and military unique Organizational Clothing and Individual Equipment (OCIE).

(4) The task order shall identify to the contractor the OCIE issue point and issue items.

(5) Upon receipt of OCIE, the contractor shall assume responsibility and accountability for these items.

(6) The contractor or contractor employee shall sign for all issued OCIE, thus acknowledging receipt and acceptance of responsibility for the proper maintenance and accountability of issued organizational clothing and individual equipment.

(7) The contractor shall return all OCIE to the government. Upon return of organizational clothing and individual equipment to the government, the contractor shall request, maintain, and provide to the contracting officer documentation demonstrating the return of issued organizational clothing and individual equipment to government control.

(8) The contracting officer shall require the contractor to reimburse the government for OCIE lost or damaged due to contractor negligence.

h. Weapons and Training.

(1) In no event shall the contractor or contractor personnel be required to perform Combat Related Tasks.

(2) The Government may provide government furnished weapons and ammunition (M9 Pistols) for self-defense purposes to contractor employees in the Area of Operations (AO). Only military issued ammunition may be used in Government issued weapons. Contractor personnel shall not possess personally owned firearms in the AO. Acceptance of weapons by contractor employees is at the discretion of the contractor and the contractor employees. When accepted, the contractor employee's shall use the weapon in accordance with the applicable rules governing the use of force. Contractor personnel may incur civil and criminal liability, both under host nation law or U.S. criminal and civil law, for improper or illegal use of the weapons.

(3) Prior to issuing any weapons to contractor employees, the government may provide the contractor employees with weapons familiarization training commensurate to training provided to Department of Defense civilian employees.

(4) The contractor shall adhere to all guidance and orders issued by the Theater Commander or his/her representative regarding possession, use, safety, and accountability of weapons and ammunition.

(5) Upon redeployment or notification by the government, the contractor shall return all government issued weapons and ammunition.

(6) Contractors shall screen employees, and subcontractors, to ensure that employees may be issued a weapon in accordance with U.S. or applicable host nation laws. Evidence of screening shall be presented to the government.

i. Vehicle and Equipment Operation.

(1) The contractor shall ensure that deployed employees possess the required civilian licenses to operate the equipment necessary to perform the contract in the theater of operations in accordance with the statement of work.

(2) Before operating any military owned or leased equipment, the contractor employee shall provide proof of license (issued by an appropriate governmental authority) to the unit or agency issuing the equipment.

(3) The government, at its discretion, may train and license contractor employees to operate military owned or leased equipment.

(4) The contractor may be held liable for all damages resulting from willful misconduct in the operation of military owned or leased equipment.

j. Passports, Visas, Customs, and Travel.

(1) The contractor shall obtain all passports, visas, or other documents necessary to enter and/or exit any area(s) identified by the contracting officer for contractor employees.

(2) All contractor employees subject to the customs, processing procedures, laws, agreements and duties of the country to which they are deploying and the procedures, laws, and duties of the United States upon re-entry.

(3) The Government will supply the contractor with letters of travel when necessary to perform the contract in a deployed situation.

k. Reception, Staging, Onward Movement and Integration.

Upon arrival in the area of operations, contractor employees shall receive Reception, Staging, Onward movement and Integration, as directed by the government.

l. Living under Field Conditions. The government, at its discretion, may provide to contractor employees deployed in the theater of operations the equivalent field living conditions, subsistence, emergency medical and dental care, sanitary facilities, mail delivery, laundry service, and other available support afforded to government employees and military personnel in the theater of operations, unless otherwise specified in the contract.

m. Morale, Welfare, Recreation.

The government, at its discretion, may provide to contractor employees (US citizens only) deployed in the theater of operations; morale, welfare, and recreation services commensurate with that provided to Department of Defense civilians and military personnel deployed in the theater of operations.

n. Status of Forces Agreement.

(1) Contractor personnel shall have Status of Forces Agreement (SOFA) protection where included in the SOFAA for the area of deployment.

(2) The contractor is responsible for providing to its employees all necessary legal advice concerning the content, meaning, application, etc., of any applicable SOFAs and similar agreements.

(3) The contractor shall adhere to all relevant provisions of the applicable Status of Forces Agreements (SOFA) and other similarly related agreements.

(4) The contractor shall provide the government the required documentation to acquire invited contractor or technical expert status, if required by SOFA.

o. Pay. In the event the contractor must pay additional compensation above that contemplated under the contract, to retain or obtain personnel to perform in a theater of operations during a declared contingency, the contractor must obtain prior approval by the Procuring Contracting Officer before incurring any additional compensation costs. The contractor shall furnish proper data to the contracting officer to substantiate any adjustment to the contract.

p. Health and Life Insurance. The contractor shall ensure that worker's compensation insurance under the Defense Base Act is provided to its employees in the theater of operations.

q. Next of Kin Notification. Before deployment, the contractor shall ensure that each contractor employee completes a DD Form 93, Record of Emergency Data Card, and returns the completed form to the designated government official.

r. Return Procedures.

(1) Upon notification to the contractor of redeployment, the contracting officer at his/her discretion may authorize contractor employee travel from the theater of operations to the designated CONUS Replacement Center (CRC) or individual redeployment site.

(2) The contractor shall return all government-issued clothing and equipment provided to the contractor or the contractor's employees upon completion of the deployment.

(3) The contractor shall provide the contracting officer with documentation, annotated by the receiving government official, of all clothing and equipment returns.

s. Legal Assistance.

- (1) The contractor will ensure its personnel deploying to or in a theater of operations are furnished the opportunity and assisted with making wills and other estate planning instruments as well as with any necessary powers of attorney prior to deployment processing and/or deployment.
- (2) Contractor personnel processing for deployment at the CONUS Replacement Center (CRC) or deployed in the theater of operations, generally will not be eligible to receive legal assistance from military lawyers. Where available, the government may provide legal assistance in accordance with the following conditions and as permissible under Military Department Regulations:

- (a) The legal assistance is in accordance with applicable international or host nation agreements.

- (b) The legal assistance is limited in nature (for example, witnessing signatures on documents and providing notary services), legal counseling (to include review and discussion of legal correspondence and documents), and legal documents preparation (limited to powers of attorney and advanced medical directives), and help retaining non-DoD civilian attorneys, or on as available basis.

t. Special Legal. Public Law 106-523, Military Extra-Territorial Jurisdiction Act of 2000 (METJA), Amended Title 18, US Code, to establish Federal Jurisdiction over certain criminal offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses, and for other purposes applies to contractor employees deployed OCONUS. The contractor is responsible for ensuring his employees are briefed that they are potentially subject to the criminal jurisdiction of the United States under the METJA.

u. Media. The contractor shall request guidance from the government media operations center if, and when, reporters seeking interviews or information on their participation in the mission/operation approach them.

v. Other.

- (1) The Government will provide cultural awareness training for the theater if it is being provided to military personnel.
- (2) Contractor employees shall fill-out the DD Form 93, "Record of Emergency Data."
- (3) DoD Instruction Number 3020.37 is hereby incorporated in its entirety by reference.
- (4) The contractor shall ensure that information on contractor-employee benefits due to war exigencies, under 33 U.S.C. 901 and 42 U.S.C. 1651 and 1701 is fully developed and provided in writing to all affected contractor employees.

SECTION I – CONTRACT

I.4 252.228-7003 CAPTURE AND DETENTION (DEC 1991)

(a) As used in this clause--

(1) *Captured person* means any employee of the Contractor who is--

(i) Assigned to duty outside the United States for the performance of this contract; and

(ii) Found to be missing from his or her place of employment under circumstances that make it appear probable that the absence is due to the action of the force of any power not allied with the United States in a common military effort; or

(iii) Known to have been taken prisoner, hostage, or otherwise detained by the force of such power, whether or not actually engaged in employment at the time of capture; provided, that at the time of capture or detention, the person was either--

(A) Engaged in activity directly arising out of and in the course of employment under this contract; or

(B) Captured in an area where required to be only in order to perform this contract.

(2) A *period of detention* begins with the day of capture and continues until the captured person is returned to the place of employment, the United States, or is able to be returned to the jurisdiction of the United States, or until the person's death is established or legally presumed to have occurred by evidence satisfactory to the Contracting Officer, whichever occurs first.

(3) *United States* comprises geographically the 50 states and the District of Columbia.

(4) *War Hazards Compensation Act* refers to the statute compiled in chapter 12 of title 42, U.S. Code (sections 1701-1717), as amended.

(b) If pursuant to an agreement entered into prior to capture, the Contractor is obligated to pay and has paid detention benefits to a captured person, or the person's dependents, the Government will reimburse the Contractor up to an amount equal to the lesser of--

(1) Total wage or salary being paid at the time of capture due from the Contractor to the captured person for the period of detention; or

(2) That amount which would have been payable if the detention had occurred under circumstances covered by the War Hazards Compensation Act.

(c) The period of detention shall not be considered as time spent in contract performance, and the Government shall not be obligated to make payment for that time except as provided in this clause.

(d) The obligation of the Government shall apply to the entire period of detention, except that it is subject to the availability of funds from which payment can be made. The rights and obligations of the parties under this clause shall survive prior expiration, completion, or termination of this contract.

(e) The Contractor shall not be reimbursed under this clause for payments made if the employees were entitled to compensation for capture and detention under the War Hazards Compensation Act, as amended.

(End of clause)