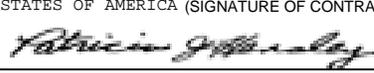


| | | | | | | | | |
|--|------------------------------------|--|--|---|--|--|--|---|
| SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30</i> | | | | 1. REQUISITION NUMBER SEE SCHEDULE | | PAGE 1 OF 30 | | |
| 2. CONTRACT NO. W912DR-04-P-0027 | | 3. AWARD/EFFECTIVE DATE 30-Oct-2003 | 4. ORDER NUMBER | | 5. SOLICITATION NUMBER DACW31-03-T-0137 | | 6. SOLICITATION ISSUE DATE 22-Sep-2003 | |
| 7. FOR SOLICITATION INFORMATION CALL: | | a. NAME GLORIA J FROST | | | b. TELEPHONE NUMBER (No Collect Calls) 410-962-3534 | | 8. OFFER DUE DATE/LOCAL TIME 11:00 AM 07 Oct 2003 | |
| 9. ISSUED BY USAED - BALTIMORE 10 SOUTH HOWARD STREET BALTIMORE MD 21201 | | CODE W912DR | 10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV. BUSINESS <input type="checkbox"/> 8(A) SIC: 6531 SIZE STANDARD: \$1.5 MILLION | | | 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE | | 12. DISCOUNT TERMS NET 30 |
| TEL: FAX: | | | | | | 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING | | |
| 15. DELIVER TO RE DIV APPRAISAL BRANCH RICHARD MCCARTER PO BOX 1715 BALTIMORE MD 21203-1715 | | CODE E1N0200 | 16. ADMINISTERED BY SEE ITEM 9 | | | | | CODE |
| 17a. CONTRACTOR/ OFFEROR MCGUIRE ASSOCIATES ALBERT F. CHANESE 547 SUMMIT AVENUE JERSEY CITY NJ 07306-2701 | | CODE 1TAZ5 | 18a. PAYMENT WILL BE MADE BY USACE FINANCE CENTER ATTN: DISBURSING 5722 INTEGRITY DRIVE MILLINGTON TN 38054-5005 | | | | | CODE TOB0200 |
| TEL. (201)963-4444 | | FACILITY CODE 1TAZ5 | | | | | | |
| <input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER | | | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM | | | | | |
| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/ SERVICES | | | | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
| SEE SCHEDULE | | | | | | | | |
| 25. ACCOUNTING AND APPROPRIATION DATA See Schedule | | | | | | | 26. TOTAL AWARD AMOUNT \$96,800.00 | |
| <input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1. 52.212-4. FAR 52.212-3. 52.212-5 ARE ATTACHED. | | | | | | ADDENDA | <input type="checkbox"/> ARE | <input type="checkbox"/> ARE NOT ATTACHED |
| <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. | | | | | | ADDENDA | <input type="checkbox"/> ARE | <input type="checkbox"/> ARE NOT ATTACHED |
| 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>0</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN. | | | | 29. AWARD OF CONTRACT: REFERENCE WRITTEN <input checked="" type="checkbox"/> OFFER DATED <u>06-Oct-2003</u> . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: SEE SCHEDULE | | | | |
| 30a. SIGNATURE OF OFFEROR/CONTRACTOR | | | | 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)  | | | 31c. DATE SIGNED 31-Oct-2003 | |
| 30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT) | | 30c. DATE SIGNED | | 31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) PATRICIA J HENSLEY / ADDED BY SUMI TEL: 410-962-7718 EMAIL: | | | | |
| 32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED | | | | 33. SHIP NUMBER PARTIAL <input type="checkbox"/> FINAL <input type="checkbox"/> | | 34. VOUCHER NUMBER | | 35. AMOUNT VERIFIED CORRECT FOR |
| 32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE | | 32c. DATE | | 36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | | | 37. CHECK NUMBER | |
| 41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT | | | | 38. S/R ACCOUNT NUMBER | | 39. S/R VOUCHER NUMBER | | 40. PAID BY |
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER | | 41c. DATE | | 42a. RECEIVED BY (Print) | | | | |
| | | | | 42b. RECEIVED AT (Location) | | | | |
| | | | | 42c. DATE REC'D (YY/MM/DD) | | 42d. TOTAL CONTAINERS | | |

Section SF 1449 - CONTINUATION SHEET

| ITEM NO | SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---------|--|----------|----------|-------------|-------------|
| 0001 | APPRAISAL SERVICES OF NATURAL RESOURCES FFP P.O.C.:RICHARD MCCARTER @ 410-962-3205 BUYER: GLORIA FROST @ 410-962-3534 VENDOR REP.: ALBERT F. CHANESE @ 201-963-4444 PROVIDE APPRAISALS OF NATURAL RESOURCES (LAND IN NEW JERSEY) PER THE ENCLOSED STATEMENT OF WORK: (THE PRICE REFLECTS A 10% B & A ANALYSIS OF \$4,800.00 AND AN APPRAISAL FEE OF \$48,000.00 FOR THE THIRTY-FOUR (34) PROPERTIES) ATTACHMENTS: 1. STATEMENT OF WORK 2. EXHIBIT A (PROPERTY LIST) 3. MAPS 4. WAGE DETERMINATION DECISION NO.:94-2347 (REV. 15) DATED JUNE 5, 2002 OF THE SECRETARY OF LABOR IS APPLICABLE FOR THIS REQUIREMENT. PURCHASE REQUEST NUMBER: W81W3G-3246-9132 | 1 | Lump Sum | \$52,800.00 | \$52,800.00 |
| | | | | NET AMT | \$52,800.00 |
| | ACRN AA Funded Amount | | | | \$52,800.00 |

FOB: Destination

| ITEM NO | SUPPLIES/SERVICES | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---------|-------------------|----------|----------|-------------|-------------|
| 0002 | | 1 | Lump Sum | \$44,000.00 | \$44,000.00 |

APPRAISAL SERVICES

FFP

PROVIDE APPRAISAL SERVICES FOR THE VARIOUS LOCATIONS IN THE NEW JERSEY AREA PER THE ENCLOSED SCOPE OF WORK/PROPERTY LISTING/MAPS:

(PRICE REFLECTS A 10% B & A ANALYSIS FEE OF \$4,000.00 AND A PRICE OF \$40,000.00 FOR THE APPRAISAL OF THIRTY-ONE PROPERTIES)

PURCHASE REQUEST NUMBER: W81W3G-3248-9536

| | |
|---------|-------------|
| NET AMT | \$44,000.00 |
|---------|-------------|

ACRN AA Funded Amount

\$44,000.00

FOB: Destination

INSPECTION AND ACCEPTANCE TERMS

Supplies/services will be inspected/accepted at:

| CLIN | INSPECT AT | INSPECT BY | ACCEPT AT | ACCEPT BY |
|------|------------|------------|-----------|-----------|
| 0001 | N/A | N/A | N/A | N/A |
| 0002 | N/A | N/A | N/A | N/A |

DELIVERY INFORMATION

| CLIN | DELIVERY DATE | QUANTITY | SHIP TO ADDRESS | UIC |
|------|-----------------------------------|----------|---|---------|
| 0001 | POP 03-NOV-2003 TO 09-JAN-2004 | N/A | RE DIV APPRAISAL BRANCH RICHARD MCCARTER PO BOX 1715 BALTIMORE MD 21203-1715 410-962-3205 FOB: Destination | E1N0200 |
| 0002 | POP 03-NOV-2003 TO 09-JAN-2004 | N/A | (SAME AS PREVIOUS LOCATION) FOB: Destination | E1N0200 |

ACCOUNTING AND APPROPRIATION DATA

AA: 96 X 3122.0000 08 2420 099993 96181 2520 BLFC7G
 AMOUNT: \$96,800.00

CLAUSES INCORPORATED BY REFERENCE

| | | |
|--------------|---|----------|
| 52.222-3 | Convict Labor | AUG 1996 |
| 52.222-21 | Prohibition Of Segregated Facilities | FEB 1999 |
| 52.222-26 | Equal Opportunity | APR 2002 |
| 52.222-35 | Equal Opportunity For Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans | DEC 2001 |
| 52.222-36 | Affirmative Action For Workers With Disabilities | JUN 1998 |
| 52.222-37 | Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era and Other Eligible Veterans | DEC 2001 |
| 52.225-13 | Restrictions on Certain Foreign Purchases | JUL 2000 |
| 52.233-3 | Protest After Award | AUG 1996 |
| 52.237-3 | Continuity Of Services | JAN 1991 |
| 52.242-15 | Stop-Work Order | AUG 1989 |
| 52.243-5 | Changes and Changed Conditions | APR 1984 |
| 52.253-1 | Computer Generated Forms | JAN 1991 |
| 252.204-7003 | Control Of Government Personnel Work Product | APR 1992 |
| 252.219-7011 | Notification to Delay Performance | JUN 1998 |
| 252.225-7001 | Buy American Act And Balance Of Payments Program | MAR 1998 |
| 252.225-7002 | Qualifying Country Sources As Subcontractors | DEC 1991 |
| 252.225-7016 | Restriction On Acquisition Of Ball and Roller Bearings | DEC 2000 |
| 252.243-7001 | Pricing Of Contract Modifications | DEC 1991 |

CLAUSES INCORPORATED BY FULL TEXT

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH
 CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of the \$25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs). The notice must include the following:

- (1) The name of the subcontractor.
 - (2) The Contractor's knowledge of the reasons for the subcontractor being on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.
- (End of clause)

52.212-4 CONTRACT TERMS AND CONDITIONS-- COMMERCIAL ITEMS (FEB 2002)

- (a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.
- (c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.
- (d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.
- (f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement or any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice. The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized,) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this

purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

(End of clause)

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (APR 2001) (DEVIATION)

(a) Comptroller General Examination of Record. The Contractor agrees to comply with the provisions of this paragraph (a) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-5, Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times, the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made

available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of form. This does not require the Contractor to create or maintain any record that the contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(b) The Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components –

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212);

(3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately-Owned U.S.- Flag Commercial Vessels (46 U.S.C. 1241)(flow down not required for subcontracts awarded beginning May 1, 1996).

(5) 52.222-41, the Service Contract Act as Amended (41 U.S.C. 351, et seq.) Subcontracts for certain commercial services may be exempt from coverage if they meet the criteria in FAR 22.1103-4(c) or (d) (see DoD class deviation number 2000-O0006).

(End of clause)

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term “EFT” refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered

into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Contractor EFT arrangements. If the Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

(f) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(g) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(h) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(j) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

52.246-1 CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the supplies or services furnished under this contract conform to contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any Government inspection and testing required in the contract's specifications, except for specialized inspections or tests specified to be performed solely by the Government.

(End of clause)

52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996)

(a) Definitions. "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(End of clause)

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://farsite.hill.af.mil>

(End of clause)

252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)

(a) Definitions.

As used in this clause--

(1) Central Contractor Registration (CCR) database means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) Registered in the CCR database means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

(End of clause)

252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (APR 2001) (DEVIATION)

(a) In addition to the clauses listed in paragraph (b) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items (DEVIATION) clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

| | |
|--------------|---|
| 252.225-7014 | Preference for Domestic Specialty Metals, Alternate I (MAR 1998) (10 U.S.C. 2533a). |
| 252.247-7023 | Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631) |
| 252.247-7024 | Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631) |

(End of clause)

SCOPE OF WORK

SCOPE OF WORK

GROUP D

REAL ESTATE APPRAISAL

**PASSAIC RIVER FLOOD DAMAGE REDUCTION PROJECT
PRESERVATION OF NATURAL STORAGE AREAS (PRFDR)**

GROUP D

EAST HANOVER, MONTVILLE, PEQUANNOCK TOWNSHIPS, MORRIS COUNTY, NEW JERSEY
SEPTEMBER 2003

PURPOSE OF THE APPRAISAL:

The Passaic River Flood Damage Reduction (PRFDR) Project has identified numerous properties within a three county area of the Passaic River watershed in northern New Jersey. This Scope will focus on thirty-one (31) tracts of land involving seventeen (17) tax map blocks. Twenty-six of the subject tracts are located in East Hanover Township in an area generally known as the Hatfield Swamp lying south of US Route 46 and on either side of I-280. Three of the tracts are located in Pequannock Township along the Pompton River between Routes 23 and 202. The remaining two tracts are located in Montville Township situated in the Bog and Vly Meadows area, east of Jacksonville Rd. and north of Route 202. The 31 tracts are controlled by a total of 21 individual private ownerships (Reference Exhibit B). The project expects to mitigate flood damage that occurs in the Passaic River watershed through the acquisition of conservation easements and/or fee simple title in land. Once acquired, the conservation easement and/or fee simple title would enable the Government to preclude any further development of land and, thereby, enhance critical floodplain storage in the project area. The project involves no physical construction of flood prevention structures and only entails the purchase of real estate.

The portion of the project addressed by this Scope entails the purchase of perpetual conservation easements and/or fee simple interest of the properties within the twenty-nine tracts. Of the 21 individual ownership entities, five (5) hold common interest in two or more tracts. While certain tracts may be held in common ownership they may not necessarily abut or lie immediately contiguous to each other.

The appraisals of these properties will provide the primary opinion on which to base decisions regarding compensation. The government will be acquiring either a permanent easement (see definition below) or the fee simple interest in all of the identified properties. In order to provide the government with flexibility in negotiating the acquisition of the required estate and as the value of the permanent easement may approximate the value of the fee simple estate in some or all of the subject properties, the appraiser must provide a detailed, stand alone, valuation analysis of the fee simple estate and conclude to a fee simple value before addressing the value of the permanent estate to be acquired in each of the appraisals.

An initial analysis by Baltimore District does not indicate that a Before and After (B & A) analysis is necessarily required. The selected appraiser, upon a field inspection and further analysis, may determine that a B&A analysis may be pertinent. The appraiser must consult with the COE Appraisal Branch Project Coordinator if, in his inspection and due diligence, he determines a Before and After analysis is required. The primary determinant as to the requirement of a B&A analysis will be whether there is a damage to the remainder. The appraiser is strongly encouraged to preliminarily inspect the immediate environs of the subject properties to determine whether a potential for a damage to the remainder exists for those assemblages of properties in which a B & A analysis is possible.

While it is not anticipated that re-locations will be required if, for any reason such would be the case, they will be subject to PL 91-646 and the regulations promulgated to implement this law.

SCOPE:

- A. The appraisal reports are to be prepared in compliance with *Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA)*, 2000 Edition, and the *Uniform Standards of Professional Appraisal Practice (USPAP)*, as amended.

The minimum reporting standards and the report format shall be prepared in compliance with include Section A 1 through 39 DATA DOCUMENTATION AND APPRAISAL REPORTING STANDARDS pages 7 through 27 of *UASFLA* (see also Appendix B, pages 117 and 118). An Internet download copy of the *Uniform Appraisal Standards for Federal Land Acquisitions* is available at <http://www.usdoj.gov/enrd/land-ack>. **It is the responsibility of each offeror to read and understand the UASFLA.**

- B. The reports shall include the following value estimates:

1. *Fee Simple* - Narrative Appraisal Reports wherein the fee simple title is subject, however, to existing easements for public roads, highways, public utilities, railroads, pipelines, etc.
2. *Perpetual Conservation Easement*- Narrative Appraisal Reports.
3. *Perpetual Conservation Easement* with a *Before & After Format* Narrative Appraisal for those properties that the selected appraiser, after consultation with the Appraisal Branch Project Coordinator, determines that a *Before & After* analysis is necessary. The *Before & After* analysis will entail an *As is* value estimate of lands, buildings and improvements that form the subject property *Before and After* imposition of a Perpetual Conservation Easement. As previously indicated, the primary determinant of whether a B&A analysis is necessary will be the conclusion that damages accrue to the remainder. Such a determination should only be made after consultation with the COE Appraisal Branch Project Coordinator.

[All questions regarding the valuation of the above estates, should be directed to the COE point of contact (POC) before commencing.]

C. Terminology: **The following definitions shall be included in all reports where applicable.**

1. *Perpetual Conservation Easement* - The perpetual and assignable right and easement in, upon, over and across (the land described in Schedule "A") (Tract No. __) for the purpose of terminating and extinguishing all developmental rights for other than park purposes; and, that the Grantor covenants that they shall neither be used or transferred to any portion of any other property nor be used for the purpose of calculating permissible lot yield of the property or any other property; and, that prohibits removal or destruction of any tree, shrub, or other vegetation now existing on the property, except as approved in writing by the Grantee; and, that prohibits excavation, dredging, removal, or placement of topsoil, sand, gravel, loam, rock or other mineral substance from or on the property, except as approved in writing by the Grantee; and, that prohibits the construction of any building, structure, or road on the property, except as approved in writing by the Grantee; and, that prohibits dumping or placing of landfill material, trash, waste, or unsightly or offensive materials on the property.

2. *Market Value*¹ - Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.

3. *Damages/Uneconomic Remnants (so called severance damages)* as a result of the project must be valued on a Before and After basis. If, in the opinion of the contract appraiser, an easement will result in a permanent damage to the remainder of the property (that portion of the greater whole which is not acquired), the appraisal will be in the Before and After format. This methodology will estimate the value of the estate taken as well as any permanent loss to the remainder. A damage that is considered temporary in nature does not require the Before and After (B & A) format. Damages that are curable due to the passage of time or by other mitigating circumstances (ten years or less for both) may use economic rent (income) as a basis for estimating a short-term damage.

It is imperative that the value of the property to be acquired is clearly identified and presented separate from the value concluded for damages. The value of the damage to the remainder and a clear explanation as to the makeup and justification for the conclusion of the damage is to be presented separately from the value of the property taken.

D. Legal Description and Sales History - In addition to other requirements, it is the responsibility of the contractor to include in the report a copy of the last deed of record and a 10-year chain of title. In the event that the subject parent tract is the product of an assemblage or other combining of lots, the last deed of record for each lot shall be included.

E. The appraisal shall include analyses of Highest and Best Use that provides written reasoning to the extent and detail required that support the opinions of value. All Highest and Best Use Analyses' conclusions must be for an economic use. So called "public interest value" including, but not limited to, preservation and conservation or any non-economic highest and best use is not acceptable. Sales to and from public or quasi-public agencies are not acceptable as comparables unless the contractor can demonstrate that the

¹ Source: *Uniform Appraisal Standards for Federal Land Acquisitions, 2000 Edition, Washington, D.C.*,

transfers were at arms length, free from any threat of condemnation or inducement, including, but not limited to, tax incentives not available to the general public.

- F. Emergent Wetlands, Ponding Water, Drainage & Floodways, Floodplains & Hydric Soils: When preparing analyses of the Highest and Best Use and wherever a reasonable person would conclude that site conditions, reasonably quantifiable by these publications, would impact the development potential and/or Highest and Best Use of the property being appraised, the selected appraiser is responsible for securing copies of and reviewing the following publications as pertaining to East Hanover Township: Soil Survey of Morris County (published by USDA), FEMA Flood Insurance Rate Maps, National Inventory of Wetlands, State of New Jersey Freshwater Wetland mapping, State of New Jersey Floodway mapping, and topography mapping. Furthermore, and to this end, solicited appraisers are provided digitized copies of mapping of the assembled subject parcels depicting the following:

1. Contours
2. FEMA Flood Zone
3. Hazardous Waste
4. NJ Land Use Map
5. Site Layout
6. Soils
7. Soil Classification
8. Freshwater Wetlands

As the great majority of the subject parcels are impacted by FEMA flood hazard areas and within NJ designated freshwater wetlands, the appraiser must quantify site conditions, in a detailed discussion of these factors, of the property being appraised and the resultant impact on the Highest and Best Use of the property being appraised. Pertinent copies of this mapping, annotated with the location of the subject property being appraised, shall be included in the report.

- G. Hazardous, Toxic, Radioactive Wastes (HTRW) - In the event that the Contractor, through ordinary and usual means available to real estate appraisers and/or as provided by USACE, determines that the subject site(s) is impacted or contaminated by HTRW, value estimates shall be reported as follows:
1. HTRW regulated under CERCLA shall be estimated on an As Remediated or As Clean basis if the Purpose of the Appraisal above is for crediting purposes or as stipulated by the government for cause.
 2. If the Purpose of the Appraisal is to acquire an interest from a private land owner or if it is found that a project owned parcel(s) is impacted by an HTRW not regulated by CERCLA, the appraisal estimate shall be on an As Is basis.
 3. The contractor shall provide to the Appraisal Branch the basis for any determination as to HTRW. Contact Frank Palmer, Chief Appraiser, Real Estate Division, Baltimore District USACE, before proceeding if you have any questions regarding this paragraph.
- H. In order for the reviewer to understand the basis for all value conclusions, the report shall clearly and fully describe, define and explain the basis for all analyses and conclusions. Appraisals must be well-supported documents that follow a logical and factual sequence to arrive at an estimate of value. Each report will be reviewed for its completeness, comprehensiveness and consistency. Appraisals shall clearly and fully describe, define and explain the basis for analyses and conclusions. Each report shall be able to enable a far-removed reviewer to clearly understand and explain, if necessary, the rationale and methodology used to arrive at the value estimate. Discussions, explanations, analyses should be concise but presented in sufficient detail clearly to convince the reader that the resulting conclusions are reasonable and probable.

- I. Tangible personal property not defined as realty shall not be included in value estimates.
- J. Cost to Cure estimates, if any, shall not exceed the estimated damage(s) from any Before and After appraisal and report. Estimates of costs to cure a damage shall include direct and indirect costs, and effects of delay and entrepreneurial profit, if applicable.
- K. The description of subject land and buildings, if any, shall include a discussion of deficiencies and insufficiencies that affect value. By example, wetlands, drainage ways, etc. normally can not be developed for an economic use and can not be included in density calculations for land use in most jurisdictions. Therefore, undevelopable land, for any reason, can not be appraised as equivalent with upland areas when estimating value. Another example would include improved properties that contain elements of functional obsolescence or super-adequacies that affect value. An item of functional obsolescence may diminish the value of a property while a super-adequacy, by definition, is an over improvement that would not increase the overall value of the property in an amount that would equal or exceed the cost of the over improvement when installed new.
- L. All market analyses utilizing the Sales Comparison Approach will include an adjustment grid that, in terms of dollar or percentage adjustments, measures the relative differences between the subject and each comparable cited. All adjustments must be explained and appropriately supported. Each must be consistent and logical. Gross adjustments in either dollars or percentages that exceed 30% are not acceptable unless it can be clearly demonstrated that the comparable is critical to the final value conclusion and there are no available substitute sales that are more comparable to the subject.

The appraiser must be prepared to justify and support adjustments when requested. While the Government does not intend to contest each adjustment, request for further support of adjustments may be required from time to time at the Government's discretion. Every item of variance existing between the comparables and the subject on the report's adjustment grid must be either individually adjusted for variance or commented on or both. As an example in residential properties, this includes significant differences in style and design, quality, condition, age, size, basement or below grade finish and heating/cooling of the improvements.

- M. Verification of data - The sales and/or rental data must be reported with the date and name of person contacted to verify the data as well as the transactional relationship of the person contacted for verification.
- N. If the subject has sold and closed escrow within a reasonable time frame of the date of value, it should be used as a comparable sale unless it is found to be a non-market transaction, in which case it should be discussed as such.
- O. Ownership – Value estimates will be furnished for a contiguous area of land owned by the same person, entity. Land will be deemed contiguous even though portions thereof are separated by roads, railroad rights-of-way, streams, etc, if interests held by the owner(s) are uniform and a reasonable likelihood exists for a near term integrated unitary purpose.
- P. A permanent easement is an estate in but not a fee acquisition of a part taken. Therefore, a value estimate of less than fee for a permanent easement is required. The location and extent of a permanent easement

may leave a landowner with little remaining utility. The appraiser is to be guided by that understanding applying No.3 of "C." above as required.

PROPERTY LOCATIONS:

The townships of East Hanover, Montville, and Pequannock in Morris County, New Jersey.

OWNER OF RECORD/SUBJECT IDENTIFIERS/LAND AREA:

See EXHIBIT A attached. Please note that at this time, as the acquisition of the permanent easement involves a definable interest based on multiple assessor lots under the same ownership, no survey will be prepared for the parcels, nor will one be provided to the selected appraiser. The collective land areas identified for each subject Tax Block is based upon the best information available and is not necessarily accurate. Therefore, the selected appraiser shall rely upon the land area as provided on Exhibit A. The selected appraiser **will not** be provided a legal description or a tract survey for each affected parcel. The appraiser is expected to verify public information which is supplied in Exhibit A and, if applicable, notify the project coordinators identified in the Point of Contact section of this document of the inconsistency(s) and resolve with the coordinator a satisfactory resolution in order to complete the appraisal.

FORMAT:

NARRATIVE APPRAISAL REPORT

Valuation of the fee simple estate as well as the permanent easement is required on all thirty-one (31) tracts (Reference Exhibit A). The appraisal shall be written in a Narrative Appraisal Report format. Given the nature of the properties included in Group D the use of a Project Appraisal Report format as defined in and in accordance with Section D-17 of the UASFLA would be acceptable by the Government if agreeable to the successful bidder (Reference Exhibit C). A separate easement value (part taken) as well as an analysis of the remainder (if any) in order to determine whether a damage to the remainder would apply is required. All reports shall include those addenda listed below. The appraiser shall also include additional information and exhibits that enhances a report's credibility.

Required Addenda:

1. Certification
2. Limiting Conditions
3. Multi-Purpose Supplemental Addendum
4. Sketch with interior partitions and door openings, if applicable
5. Photos (front and rear views of each major site improvement, street scene showing neighborhood improvements, any other view considered to affect value (up or down))
6. Plot Plan (assessor's plat map/record plat/site survey)
7. Area and Neighborhood Map
8. Comparable Photos
9. Comparable Location Map with subject referenced
10. Assessor card for subject property and MLS printout as applicable.
11. Assessor card and MLS printout of comparables, if applicable
12. Comparable Photos
13. **The Scope of Work is required as an exhibit.**
14. **The 3-page Checklist is required as an exhibit.**
15. Where the property being appraised is impacted by FEMA flood hazard areas, hydric soils, Floodways, freshwater wetlands, and/or floodways, the appraiser shall include a copy of the pertinent portion of the published mapping, showing the location of the subject, for the following mapping publications:

- a. New Jersey Freshwater Mapping
- b. New Jersey Floodway Mapping
- c. FEMA Flood Insurance Rate Mapping
- d. Soil Survey of Morris County

In order to meet the requirements as an *Appraisal Report*, the report must comply with Standard Rule 2-2 of the *Uniform Standards of Professional Appraisal Practice* as amended. **A *Restricted Report* is not acceptable. A report identified as *Limited* means that the *Departure Provision* has been invoked. Any appraisal that invokes the *Departure Provision* must be approved in advance.** If approved, a prominent section at the beginning of the report must be included that clearly identifies the extent of the appraisal process, the *departure(s)* taken, and the reason for the *departure(s)*.

ORIGINALS/COPIES:

One original and one copy with original signatures and photographs of the subject and its comparables must be included for each appraisal. **In addition, one CD copy of the complete report including all photographs and other exhibits in the order presented in the report shall be provided in Adobe Acrobat or, if in another format, it must be readable and printable by Adobe Acrobat.**

The appraisal must comply with the Reporting Standards of Uniform Appraisal Standards for Federal Land Acquisitions and Uniform Standards of Professional Appraisal Practice.

SUPPLIED MATERIAL:

- A. The following materials are supplied with the Scope of Work.
 - € Exhibit A, Property list.
 - € Exhibit B, General location map of Group D properties, by tax block.
 - € Exhibit C, Section D-17 of the UASFLA.
 - €

- B. Upon issuance of a Notice to Proceed by USACE, the following materials will be supplied.
 - € Owner's telephone numbers (if available)
 - € Copy of the title
 - € digitized copies of mapping of the assembled subject parcels depicting the following:
 - a) Contours
 - b) FEMA Flood Zone
 - c) Hazardous Waste
 - d) NJ Land Use Map
 - e) Site Layout (subject tract superimposed on tax map)
 - f) Soils
 - g) Soil Classification
 - h) Freshwater Wetlands

INSPECTIONS:

The appraiser is required to personally speak with the owner(s), their agents or representative securing their permission to inspect the subject property. Per federal regulations, *"The owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property."*

The preferred method of contact is to have the contract appraiser telephone the property owner to set up an inspection and state that a confirmatory letter on company letterhead (see enclosed sample) will be sent via certified mail to confirm the date of inspection. The appraiser will invite the owner or his designated representative to

accompany him/her in the detailed inspection of the property and to give careful, considerate attention to all information and comments offered. The owner may be a prime source of detailed information of importance. To satisfy this requirement for purposes of the appraisal review, the contract appraiser should include:

1. a copy of the confirmatory letter to the property owner and,
2. a copy of the receipt for certified mail within the body of the appraisal. Also, there shall be a statement in the appraisal indicating the date of the inspection and whether or not the owner, or his agent, was present at the inspection.

Additionally, an on-site visit with the selected appraiser and any and all contributing appraisers in the firm, Baltimore District review appraiser, and other Corps personnel to discuss project features and appraisal issues may be required within two weeks of the notice of award. At the time of the on-site visit, the Baltimore District appraiser will present the Notice to Proceed (NTP).

DELIVERY:

Time is of the essence with regard to the appraisal of the subject properties. The contractor(s) must agree to provide the Baltimore District Appraisal Branch a draft of the appraisal report(s) for an In Progress Review (IPR) in accordance with the schedule of delivery described below. The purpose of the IPR is to verify and confirm the appraisal methodology, reporting format and compliance with the provisions contained in the Scope of Work. A draft of the first appraisal report is required to be submitted and received via electronic mail to the Corps within twenty (20) calendar days from the notice to proceed for IPR. Upon approval of the draft the final, complete, version of the first narrative appraisal report shall be received in electronically not later than fifteen (15) calendar days following the notification of approval of the draft. Complete electronic versions of the appraisal reports for all remaining tracts to be appraised under the contract shall be received not later than sixty-five (65) calendar days following the official notice to proceed.

All final hard bound reports, including the CD versions, shall be received not later than eighty-five (85) calendar days following the official notice to proceed.

POINT OF CONTACT (POC):

The Appraisal Branch Project Coordinator for this project is Richard McCarter, who can be reached at (410) 962-3205 (voice) and (410) 962-0866 (facsimile), e-mail: Richard.T.McCarter@nab02.usace.army.mil and Gloria J. Frost who can be reached at 410-962-3534 (voice) and 410-962-0933 (facsimile), email: gloria.frost@nab02.usace.army.mil.

Frank N. Palmer
Real Estate Division Appraisal Branch
10 South Howard Street, 7th Floor
Baltimore, MD 21201
ATTN: Richard McCarter

Gloria J. Frost
Contracting Division
10 South Howard Street
Baltimore, MD 21201

APPRAISER LICENSING and QUALIFICATIONS:

The **responsible appraiser** must be licensed as a New Jersey **Certified General Appraiser** and shall submit a copy of a current license with the bid proposal. For the residential form reports, where applicable, the appraiser of record must minimally be licensed as a Certified Residential Appraiser with the responsible appraiser signing as the Supervisory Appraiser. In addition, the Corps, Baltimore District, will require evidence of professional appraiser qualifications from appraisers who have not previously provided appraisal services to and with whom the Baltimore District, Appraisal Branch is unfamiliar. Professional qualifications must include two examples of completed appraisal reports involving the appraisal of real property involving wetlands and the

valuation of both fee simple and permanent easement estates as well as before and after technique in cases of partial takes.

CONFERENCES:

Contractor shall make himself/herself available for conferences, either by phone, at the office of the contractor, at the subject sites, or the office of the US Army Corps of Engineers. Said conferences are without additional cost to the contract.

MODIFICATIONS TO THE CONTRACT:

Contractor shall modify or supplement any appraisal report where additional data is discovered that was known or should have been known to be in existence prior to the delivery of the report and which data would reasonably be considered to have materially affected the conclusions and opinion of values(s) contained in the report. Where application of principles of law relating to real estate appraisals require the modification or supplementing of such an appraisal report; the requirements of either Uniform Appraisal Standards for Federal Land Acquisitions or Uniform Standards of Professional Appraisal Practice have not been met. This service shall be rendered without additional cost to the contract.

REVIEW PROCESS:

The Baltimore District Appraisal Branch will conduct a review of all appraisal reports required and received under the contract. The primary goal of the review process is to check for compliance with all necessary regulations and each applicable item must be satisfactorily completed in order for any appraisal to be approved. It is imperative that all appraiser recognize that the reports they prepare have the potential for use in condemnation proceedings in which case it is essential to have a credible report that meets all regulations.

PAYMENT:

The sum set out in the contract for the appraisal report(s) shall constitute full payment to the contractor and shall include costs of all supplies, material, and equipment and transportation incidental to preparing the delivering the report(s). The contract price shall be due and payable for acceptable appraisal reports in toto upon delivery and acceptance of such reports accompanied by a properly certified invoice.

APPRAISAL REPORTS TO BE CONFIDENTIAL:

All information contained in the appraisal report to be made hereunder and all parts thereof are to be treated as strictly confidential. The contractor shall take all necessary steps to ensure that no member of staff or organization divulge any information concerning such appraisal reports to any person other than a duly authorized representative of the US Army Corps of Engineers.

EXHIBIT B - MAPS OF GROUP D

SEE ENCLOSED MAPS

WAGE DETERMINATION DECISION

WAGE DETERMINATION DECISION

OF THE SECRETARY OF LABOR

The following wage determination will be used to conform with the requirements of the Service Contract Act of 1965 (29 CFR 4) of the General Provisions:

Decision No. 94-2353 (Rev. 18) dated 5 June 2002

State(s): New Jersey

Areas: New Jersey COUNTIES OF Essex, Hudson, Morris,
Sussex, Union

WAGE DETERMINATION NO: 94-2353 REV (18) AREA: NJ,NEWARK

WAGE DETERMINATION NO: 94-2353 REV (18) AREA: NJ,NEWARK

REGISTER OF WAGE DETERMINATIONS UNDER | U.S. DEPARTMENT OF LABOR
 FOR OFFICIAL USE ONLY BY FEDERAL AGENCIES PARTICIPATING IN MOU WITH DOL
 WASHINGTON D.C. 20210

| | | |
|-----------------|---------------------|-----------------------------------|
| William W.Gross | Division of | Wage Determination No.: 1994-2353 |
| Director | Wage Determinations | Revision No.: 18 |
| | | Date Of Last Revision: 06/05/2002 |

State: New Jersey
 Area: New Jersey Counties of Essex, Hudson, Morris, Sussex, Union

Fringe Benefits Required Follow the Occupational Listing

| OCCUPATION TITLE | MINIMUM WAGE RATE |
|---|-------------------|
| Administrative Support and Clerical Occupations | |
| Accounting Clerk I | 11.87 |
| Accounting Clerk II | 13.99 |
| Accounting Clerk III | 14.18 |
| Accounting Clerk IV | 17.35 |
| Court Reporter | 17.00 |
| Dispatcher, Motor Vehicle | 16.86 |
| Document Preparation Clerk | 14.45 |
| Duplicating Machine Operator | 13.14 |
| Film/Tape Librarian | 15.22 |
| General Clerk I | 11.70 |
| General Clerk II | 13.09 |
| General Clerk III | 14.45 |
| General Clerk IV | 18.34 |
| Housing Referral Assistant | 19.03 |
| Key Entry Operator I | 12.11 |
| Key Entry Operator II | 13.03 |
| Messenger (Courier) | 11.70 |
| Order Clerk I | 12.39 |
| Order Clerk II | 16.01 |
| Personnel Assistant (Employment) I | 12.97 |
| Personnel Assistant (Employment) II | 15.05 |
| Personnel Assistant (Employment) III | 17.00 |
| Personnel Assistant (Employment) IV | 18.38 |
| Production Control Clerk | 18.38 |
| Rental Clerk | 15.92 |
| Scheduler, Maintenance | 15.54 |
| Secretary I | 16.14 |
| Secretary II | 19.18 |
| Secretary III | 19.92 |
| Secretary IV | 22.47 |
| Secretary V | 22.76 |
| Service Order Dispatcher | 16.82 |
| Stenographer I | 17.19 |
| Stenographer II | 18.50 |
| Supply Technician | 21.39 |
| Survey Worker (Interviewer) | 15.85 |
| Switchboard Operator-Receptionist | 13.40 |
| Test Examiner | 17.53 |
| Test Proctor | 17.53 |
| Travel Clerk I | 12.64 |
| Travel Clerk II | 13.72 |

| | |
|---|-------|
| Travel Clerk III | 14.84 |
| Word Processor I | 12.92 |
| Word Processor II | 14.50 |
| Word Processor III | 16.18 |
| Automatic Data Processing Occupations | |
| Computer Data Librarian | 13.66 |
| Computer Operator I | 15.71 |
| Computer Operator II | 16.38 |
| Computer Operator III | 20.06 |
| Computer Operator IV | 22.37 |
| Computer Operator V | 24.78 |
| Computer Programmer I (1) | 17.88 |
| Computer Programmer II (1) | 21.26 |
| Computer Programmer III (1) | 26.69 |
| Computer Programmer IV (1) | 27.62 |
| Computer Systems Analyst I (1) | 24.88 |
| Computer Systems Analyst II (1) | 27.62 |
| Computer Systems Analyst III (1) | 27.62 |
| Peripheral Equipment Operator | 15.05 |
| Automotive Service Occupations | |
| Automotive Body Repairer, Fiberglass | 22.38 |
| Automotive Glass Installer | 22.49 |
| Automotive Worker | 22.49 |
| Electrician, Automotive | 22.47 |
| Mobile Equipment Servicer | 20.54 |
| Motor Equipment Metal Mechanic | 24.46 |
| Motor Equipment Metal Worker | 22.49 |
| Motor Vehicle Mechanic | 24.48 |
| Motor Vehicle Mechanic Helper | 19.81 |
| Motor Vehicle Upholstery Worker | 21.52 |
| Motor Vehicle Wrecker | 22.49 |
| Painter, Automotive | 23.62 |
| Radiator Repair Specialist | 22.49 |
| Tire Repairer | 17.92 |
| Transmission Repair Specialist | 24.63 |
| Food Preparation and Service Occupations | |
| Baker | 12.59 |
| Cook I | 11.57 |
| Cook II | 12.59 |
| Dishwasher | 9.45 |
| Food Service Worker | 10.40 |
| Meat Cutter | 15.93 |
| Waiter/Waitress | 9.98 |
| Furniture Maintenance and Repair Occupations | |
| Electrostatic Spray Painter | 20.95 |
| Furniture Handler | 15.93 |
| Furniture Refinisher | 20.95 |
| Furniture Refinisher Helper | 17.68 |
| Furniture Repairer, Minor | 19.20 |
| Upholsterer | 20.95 |
| General Services and Support Occupations | |
| Cleaner, Vehicles | 9.45 |
| Elevator Operator | 11.57 |
| Gardener | 13.95 |
| House Keeping Aid I | 11.21 |
| House Keeping Aid II | 11.96 |
| Janitor | 12.41 |
| Laborer, Grounds Maintenance | 12.59 |
| Maid or Houseman | 11.21 |
| Pest Controller | 14.02 |
| Refuse Collector | 11.96 |
| Tractor Operator | 14.95 |
| Window Cleaner | 12.22 |
| Health Occupations | |
| Dental Assistant | 14.52 |
| Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver | 12.72 |

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|---|-------|
| Licensed Practical Nurse I | 10.12 |
| Licensed Practical Nurse II | 16.18 |
| Licensed Practical Nurse III | 18.12 |
| Medical Assistant | 12.98 |
| Medical Laboratory Technician | 12.98 |
| Medical Record Clerk | 12.98 |
| Medical Record Technician | 14.85 |
| Nursing Assistant I | 7.68 |
| Nursing Assistant II | 8.95 |
| Nursing Assistant III | 9.92 |
| Nursing Assistant IV | 11.11 |
| Pharmacy Technician | 12.79 |
| Phlebotomist | 11.09 |
| Registered Nurse I | 17.99 |
| Registered Nurse II | 26.88 |
| Registered Nurse II, Specialist | 26.88 |
| Registered Nurse III | 32.53 |
| Registered Nurse III, Anesthetist | 32.53 |
| Registered Nurse IV | 38.87 |
| Information and Arts Occupations | |
| Audiovisual Librarian | 23.59 |
| Exhibits Specialist I | 19.56 |
| Exhibits Specialist II | 24.16 |
| Exhibits Specialist III | 26.28 |
| Illustrator I | 16.83 |
| Illustrator II | 20.78 |
| Illustrator III | 22.61 |
| Librarian | 26.65 |
| Library Technician | 15.85 |
| Photographer I | 19.12 |
| Photographer II | 19.35 |
| Photographer III | 23.90 |
| Photographer IV | 26.00 |
| Photographer V | 31.05 |
| Laundry, Dry Cleaning, Pressing and Related Occupations | |
| Assembler | 8.42 |
| Counter Attendant | 8.42 |
| Dry Cleaner | 10.68 |
| Finisher, Flatwork, Machine | 8.42 |
| Presser, Hand | 8.42 |
| Presser, Machine, Drycleaning | 8.42 |
| Presser, Machine, Shirts | 8.42 |
| Presser, Machine, Wearing Apparel, Laundry | 8.42 |
| Sewing Machine Operator | 11.40 |
| Tailor | 12.08 |
| Washer, Machine | 9.48 |
| Machine Tool Operation and Repair Occupations | |
| Machine-Tool Operator (Toolroom) | 18.22 |
| Tool and Die Maker | 27.34 |
| Material Handling and Packing Occupations | |
| Forklift Operator | 15.63 |
| Fuel Distribution System Operator | 16.97 |
| Material Coordinator | 17.74 |
| Material Expediter | 17.74 |
| Material Handling Laborer | 11.22 |
| Order Filler | 12.45 |
| Production Line Worker (Food Processing) | 16.77 |
| Shipping Packer | 13.34 |
| Shipping/Receiving Clerk | 12.89 |
| Stock Clerk (Shelf Stocker; Store Worker II) | 14.24 |
| Store Worker I | 11.47 |
| Tools and Parts Attendant | 18.10 |
| Warehouse Specialist | 18.10 |
| Mechanics and Maintenance and Repair Occupations | |
| Aircraft Mechanic | 21.74 |
| Aircraft Mechanic Helper | 18.78 |

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| Aircraft Quality Control Inspector | 26.11 |
| Aircraft Servicer | 20.39 |
| Aircraft Worker | 21.32 |
| Appliance Mechanic | 20.95 |
| Bicycle Repairer | 17.92 |
| Cable Splicer | 27.96 |
| Carpenter, Maintenance | 26.29 |
| Carpet Layer | 20.07 |
| Electrician, Maintenance | 25.75 |
| Electronics Technician, Maintenance I | 15.18 |
| Electronics Technician, Maintenance II | 23.05 |
| Electronics Technician, Maintenance III | 24.00 |
| Fabric Worker | 19.20 |
| Fire Alarm System Mechanic | 23.66 |
| Fire Extinguisher Repairer | 18.55 |
| Fuel Distribution System Mechanic | 23.66 |
| General Maintenance Worker | 16.60 |
| Heating, Refrigeration and Air Conditioning Mechanic | 23.66 |
| Heavy Equipment Mechanic | 23.66 |
| Heavy Equipment Operator | 24.62 |
| Instrument Mechanic | 23.66 |
| Laborer | 12.49 |
| Locksmith | 20.95 |
| Machinery Maintenance Mechanic | 18.97 |
| Machinist, Maintenance | 19.79 |
| Maintenance Trades Helper | 14.62 |
| Millwright | 23.66 |
| Office Appliance Repairer | 20.95 |
| Painter, Aircraft | 20.95 |
| Painter, Maintenance | 24.09 |
| Pipefitter, Maintenance | 23.83 |
| Plumber, Maintenance | 20.95 |
| Pneudraulic Systems Mechanic | 23.66 |
| Rigger | 23.66 |
| Scale Mechanic | 20.07 |
| Sheet-Metal Worker, Maintenance | 20.87 |
| Small Engine Mechanic | 20.07 |
| Telecommunication Mechanic I | 23.66 |
| Telecommunication Mechanic II | 24.58 |
| Telephone Lineman | 23.66 |
| Welder, Combination, Maintenance | 18.97 |
| Well Driller | 23.66 |
| Woodcraft Worker | 23.66 |
| Woodworker | 18.55 |
| Miscellaneous Occupations | |
| Animal Caretaker | 10.51 |
| Carnival Equipment Operator | 11.85 |
| Carnival Equipment Repairer | 12.37 |
| Carnival Worker | 10.14 |
| Cashier | 9.74 |
| Desk Clerk | 11.86 |
| Embalmer | 20.00 |
| Lifeguard | 10.59 |
| Mortician | 22.00 |
| Park Attendant (Aide) | 13.34 |
| Photofinishing Worker (Photo Lab Tech., Darkroom Tech) | 11.86 |
| Recreation Specialist | 16.52 |
| Recycling Worker | 13.94 |
| Sales Clerk | 10.59 |
| School Crossing Guard (Crosswalk Attendant) | 10.27 |
| Sport Official | 10.59 |
| Survey Party Chief (Chief of Party) | 18.93 |
| Surveying Aide | 12.55 |
| Surveying Technician (Instr. Person/Surveyor Asst./Instr.) | 17.21 |
| Swimming Pool Operator | 13.85 |
| Vending Machine Attendant | 12.12 |

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| Vending Machine Repairer | 13.85 |
| Vending Machine Repairer Helper | 12.12 |
| Personal Needs Occupations | |
| Child Care Attendant | 11.78 |
| Child Care Center Clerk | 14.82 |
| Chore Aid | 9.69 |
| Homemaker | 18.18 |
| Plant and System Operation Occupations | |
| Boiler Tender | 23.66 |
| Sewage Plant Operator | 20.95 |
| Stationary Engineer | 23.66 |
| Ventilation Equipment Tender | 17.68 |
| Water Treatment Plant Operator | 20.95 |
| Protective Service Occupations | |
| Alarm Monitor | 14.87 |
| Corrections Officer | 22.50 |
| Court Security Officer | 23.99 |
| Detention Officer | 23.64 |
| Firefighter | 24.77 |
| Guard I | 10.89 |
| Guard II | 14.31 |
| Police Officer | 28.67 |
| Stevedoring/Longshoremen Occupations | |
| Blocker and Bracer | 19.16 |
| Hatch Tender | 19.16 |
| Line Handler | 19.16 |
| Stevedore I | 17.74 |
| Stevedore II | 19.30 |
| Technical Occupations | |
| Air Traffic Control Specialist, Center (2) | 29.93 |
| Air Traffic Control Specialist, Station (2) | 20.64 |
| Air Traffic Control Specialist, Terminal (2) | 22.73 |
| Archeological Technician I | 17.63 |
| Archeological Technician II | 19.81 |
| Archeological Technician III | 24.47 |
| Cartographic Technician | 22.37 |
| Civil Engineering Technician | 23.06 |
| Computer Based Training (CBT) Specialist/ Instructor | 27.80 |
| Drafter I | 10.77 |
| Drafter II | 19.56 |
| Drafter III | 19.81 |
| Drafter IV | 24.47 |
| Engineering Technician I | 15.65 |
| Engineering Technician II | 17.60 |
| Engineering Technician III | 21.45 |
| Engineering Technician IV | 23.37 |
| Engineering Technician V | 25.55 |
| Engineering Technician VI | 30.52 |
| Environmental Technician | 21.65 |
| Flight Simulator/Instructor (Pilot) | 27.62 |
| Graphic Artist | 21.02 |
| Instructor | 23.12 |
| Laboratory Technician | 19.85 |
| Mathematical Technician | 24.47 |
| Paralegal/Legal Assistant I | 17.45 |
| Paralegal/Legal Assistant II | 21.79 |
| Paralegal/Legal Assistant III | 23.79 |
| Paralegal/Legal Assistant IV | 27.36 |
| Photooptics Technician | 23.37 |
| Technical Writer | 26.25 |
| Unexploded (UXO) Safety Escort | 19.02 |
| Unexploded (UXO) Sweep Personnel | 19.02 |
| Unexploded Ordnance (UXO) Technician I | 19.02 |
| Unexploded Ordnance (UXO) Technician II | 23.01 |
| Unexploded Ordnance (UXO) Technician III | 27.58 |
| Weather Observer, Combined Upper Air and Surface Programs (3) | 18.66 |

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| Weather Observer, Senior (3) | 20.72 |
| Weather Observer, Upper Air (3) | 18.66 |
| Transportation/ Mobile Equipment Operation Occupations | |
| Bus Driver | 15.07 |
| Parking and Lot Attendant | 8.91 |
| Shuttle Bus Driver | 13.32 |
| Taxi Driver | 11.02 |
| Truckdriver, Heavy Truck | 19.60 |
| Truckdriver, Light Truck | 13.32 |
| Truckdriver, Medium Truck | 15.19 |
| Truckdriver, Tractor-Trailer | 19.60 |

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$2.15 an hour or \$86.00 a week or \$372.67 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, 4 weeks after 15 years, and 5 weeks after 25 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of eleven paid holidays per year: New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) **APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL:** An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.
- 3) **WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY:** If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordinance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges. A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and

hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444

{ SF 1444 } }

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 ©(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation) and computes a proposed rate).
- 2) After contract award, the contractor prepares a written report listing in order proposed

classification title), a Federal grade equivalency (FGE) for each proposed classification), job description), and rationale for proposed wage rate), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
 - 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
 - 5) The contracting officer transmits the Wage and Hour decision to the contractor.
 - 6) The contractor informs the affected employees.
- Information required by the Regulations must be submitted on SF 1444 or bond paper. When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

REVISED EXHIBIT A - PROPERTY L

SEE ENCLOSED REVISED PROPERTY LISTING

EXPLANATION ON HAZARDOUS WASTE

Hazardous, Toxic, Radioactive Wastes (HTRW) - In the event that the Contractor, *through ordinary and usual means available to real estate appraisers* and/or as provided by USACE, determines that the subject site(s) is impacted or contaminated by HTRW, value estimates shall be reported as follows:

4. HTRW regulated under CERCLA shall be estimated on an As Remediated or As Clean basis if the Purpose of the Appraisal above is for crediting purposes or as stipulated by the government for cause.
5. If the Purpose of the Appraisal is to acquire an interest from a private land owner or if it is found that a project owned parcel(s) is impacted by an HTRW not regulated by CERCLA, the appraisal estimate shall be on an As Is basis.

6. The contractor shall provide to the Appraisal Branch the basis for any determination as to HTRW. Contact Frank Palmer, Chief Appraiser, Real Estate Division, Baltimore District USACE, before proceeding if you have any questions regarding this paragraph.

EXHIBIT B - Group D Location Map (1 of 2)



EXHIBIT B - Group D Location Map (2 of 2)



49 C.F.R. 24.102 requires an agency to provide a property owner with an initial written offer of purchase together with a written statement explaining the basis of the offer. The Department of Justice strongly recommends that, during the negotiation process, agencies not disclose the contents of appraisal reports beyond what is required by 49 C.F.R. 24.102, because early disclosure of an appraisal report tends to weaken its viability and the viability of the appraiser in litigation. Agencies must recognize that early disclosure of appraisal reports may result in a Justice Department determination that it is in the best interest of the government for neither the appraisal report or the appraiser to be used for trial purposes. Such a determination will necessitate the procurement of a new appraiser and appraisal report for trial purposes.

Once a case has been referred to the Department of Justice for the filing of an action, agencies shall not divulge the contents of an appraisal report to anyone, without authorization from the Department.

Appraisers must use extreme caution in choosing what information to cite in developing their opinions of value. While it is common practice for appraisers in non-litigation appraisals to report that they have relied upon confidential information⁴³⁵ in addition to the supporting data reported, in developing their opinion of value, such a reference in a litigation report may subject the information to discovery. Appraisers should not reference such information in litigation reports unless they are prepared to reveal the information, often by order of the court.

D-17. Project Appraisal Reports. Some government projects require the acquisition of a large number of parcels of real property, and individual appraisers are assigned to appraise a number of these parcels at the same time. On occasion, it is logical to include the appraisal of more than one parcel in a single report. Thus, under certain circumstances, such *project* or *multiple parcel* appraisal reports may be appropriate. Project appraisal reports are not appraisal shortcuts; they are clerical shortcuts. Assuming that the criteria set forth herein is met, project appraisal reports may be acceptable for the purposes of negotiated purchase, and for initial review purposes by the Department of Justice, and even for trial purposes.

In preparation for trial, appraisal reports are generally exchanged between the parties or become subject to discovery. They are sometimes also used as exhibits during trial. Project appraisal reports may not be conducive to these purposes, and their use by trial attorneys is cumbersome. To introduce a project report as a court exhibit is to introduce a myriad of collateral issues. Also, the disclosure of an entire project report often discloses the estimated values of properties owned by persons not parties to the lawsuit, a disclosure which the government may not be prepared to make. For these reasons, agencies and appraisers should recognize that project appraisal reports for trial purposes may be unacceptable to the Department of Justice. However, given the high percentage of parcels within a project which are acquired short of trial, they can save valuable time and money for agencies engaged in larger projects.

When appraisal reports are updated for trial purposes, appraisers should be prepared to develop a totally self-contained narrative appraisal report for the individual parcel being updated, in accordance with Section A of these Standards.

Project appraisal reports are appropriate when 1) all of the parcels appraised are total acquisitions, or partial acquisitions of a nominal and/or consistent nature; 2) all parcels are vacant or have similar improvements; 3) all parcels are located within a relatively homoge-

435. E.g., information learned in the conduct of other appraisals, or information provided to the appraiser by market participants on the condition that it not be disclosed.

neous geographical area; 4) all parcels have the same, or a similar, highest and best use; 5) the most relevant method of valuation is the same for all parcels, and; 6) the same array of market data will be relied on in the valuation of each parcel.

The project appraisal report should consist of three major parts: 1) introduction, factual data, and analysis relating to all properties included in the report; 2) individual parcel reports; and 3) addenda and exhibits relating to all properties included in the report.

Part I—Introduction, General Factual Data and Analysis

1. Title Page. This should include the government project title, the number of individual parcels included in the report, the name and address of the individual(s) making the report, and the date on which the appraisals were prepared.

2. Letter of Transmittal. This should include the date of the letter, identification of the government project, the number of parcels included in the appraisal report, statement of the range of effective dates of the appraisals, identification of any hypothetical conditions, extraordinary assumptions, limiting conditions or legal instructions relating to all parcels included in the report, and the appraiser's signature.

3. Table of Contents. The major parts of the appraisal report and their subheadings shall be listed. The location of each individual parcel report shall be specifically identified and items in the addenda of the report shall be individually listed in the table of contents.

4. Summary of Findings. The appraiser should report the value findings for each parcel appraised. These findings should include the agency-assigned parcel number, the owner of the property, the effective date of the value estimate(s) and the value conclusion(s). In the case of partial acquisitions, the before value, after value, and difference should be shown.

If the project appraisal encompasses a larger number of parcels, it is desirable to include a second summary listed alphabetically, by owners' names.

5. Statement of Assumptions and Limiting Conditions.⁴³⁶ All assumptions and limiting conditions that universally apply to the appraisal of all parcels in the project appraisal report shall be listed. Assumptions and limiting conditions that are not applicable to all parcels included in the project appraisal report should not be included in this section, but rather should be noted in the individual parcel reports.

6. Scope of the Appraisal.⁴³⁷

7. Purpose of the Appraisal.⁴³⁸

8. Summary of Appraisal Problems.⁴³⁹ The appraiser should describe the principal appraisal problems encountered in estimating the market value of all parcels included in the report. Emphasis should be placed on general appraisal problems common to all parcels, leaving the appraisal problems specific to individual parcels for discussion in the individual parcel reports.

436. For content requirements, see Section A-7 of these Standards.

437. For content requirements, see Section A-8 of these Standards.

438. For content requirements, see Section A-9 of these Standards.

439. For general content requirements, see Section A-10 of these Standards.

If mineral and/or timber values are involved in a number of the parcels included in the project report, the treatment of those values is to be discussed. If the appraiser has relied on a project or multiple parcel mineral and/or timber appraisal, this appraisal shall be included in the addenda of the project report. If individual parcel mineral/timber appraisals were prepared, they shall be included in the addenda of the individual parcel reports.

9. Area, City and Neighborhood Data.⁴⁴⁰ In the case of partial acquisitions, this discussion should be clearly broken down into two subsections: before the acquisitions and after the acquisitions.

10. Zoning and Other Land Use Regulations. Include a general discussion of the zoning and other land use regulations that affect all parcels in the report. General trends in land use regulations in the area and recent zoning activity should be discussed.

In the case of partial acquisitions, this discussion should be clearly broken down into two subsections: before the acquisitions and after the acquisitions.

11. Analysis of Highest and Best Use.⁴⁴¹ Inasmuch as all parcels in the report will have the same or similar highest and best use, the appraiser should discuss and develop the highest and best use of the parcels in this section. If, after in-depth analysis, an appraiser determines that the highest and best use of a parcel is not the same as or similar to that of the other parcels to be included in the report, the unique parcel should be excluded from the project report and a separate narrative appraisal report should be prepared for this unique parcel in accordance with Section A of these Standards.

In the case of partial acquisitions, this discussion should be clearly divided into two subsections: before the acquisitions and after the acquisitions.

12. Discussion of Approaches to Value. The appraiser should discuss the standard approaches to value and their applicability or non-applicability to the parcels under appraisal in the project report. If any modification to the typical application of the approaches to value is required, such modification should be discussed.

In the case of partial acquisitions, this discussion should be clearly broken down into two subsections: before the acquisitions and after the acquisitions.

13. Land Valuation. The appraiser should identify, describe, and discuss all comparable land sales that will be used in the individual parcel reports. A discussion of how the comparable sales will be used in the individual reports can be included in this section of the report. Reference should be made to comparable sales data sheets, photos and a comparable sales map, which shall be included in the addenda of the report.

Universal adjustments to the comparables should be discussed and developed in this section of the report. Adjustments classified as universal would include such adjustments as time, or market condition, adjustments and cash equivalency adjustments; those adjustments that are not subject property dependent. Also, the general results of any study relating to land value (e.g., a size adjustment study) developed under item 17 (special studies) should be discussed.

If a parcel requires land valuation by means other than comparable sales, as a general rule, that parcel is not appropriate for inclusion in a project report. In the case of partial

440. For content requirements, see Section A-12 of these Standards.

441. For general content requirements, see Sections A-14 and A-23 of these Standards.

acquisitions, this discussion should clearly be divided into two subsections: before the acquisitions and after the acquisitions.

14. Cost Approach. The appraiser should describe the methodology used to develop reproduction or replacement cost and depreciation estimates. If a national cost service has been used in estimating reproduction or replacement costs, that publication should be specifically identified. If entrepreneur's profit has been included in reproduction or replacement cost, its derivation should be explained.

If depreciation studies using the market extraction or sales comparison method⁴⁴² have been developed, their content and development should be discussed and the general conclusions reached should be reported. Discussion of partial acquisitions should clearly be divided into two subsections: before the acquisitions and after the acquisitions.

15. Sales Comparison Approach. The appraiser should identify, describe and discuss all comparable improved property sales that will be used in the individual parcel reports. A discussion of how the comparable sales will be used in the individual reports can be included in this section of the report. Reference should be made to comparable sales data sheets, photos, and a comparable sales map, which shall be included in the addenda of the report. Universal adjustments to the comparables should be discussed and developed in this section of the report. Adjustments classified as universal would include such adjustments as time, or market conditions, adjustments and cash equivalency adjustments; i.e., those adjustments that are not subject property dependent. The discussion of partial acquisitions should clearly be divided into two subsections: before the acquisitions and after the acquisitions.

16. Income Capitalization Approach. The appraiser should identify, describe, and discuss all comparable rental properties to be used in the individual parcel reports. A discussion of how the comparable rentals will be used in the individual reports can be included in this section of the report. Reference should be made to comparable rental data sheets, photos, and a comparable rentals map, which shall be included in the addenda of the report.

Because a high degree of similarity exists between all individual parcels included in the project report, capitalization rates applicable to each should be the same, or fit into a relatively narrow bracket. Therefore, the development of applicable capitalization rates should be presented in this section of the report. Discussion of partial acquisitions should clearly be broken down into two subsections: before the acquisitions and after the acquisitions.

17. Special Studies. This section of the report should be used to present any special studies that are appropriate and apply to all, or most, of the individual parcels included in the project appraisal report. Such studies might include (in addition to the capitalization rate, time, or market conditions, entrepreneurial profit, depreciation, and cash equivalency studies previously mentioned) easement studies,⁴⁴³ size adjustment studies, proximity studies,⁴⁴⁴ landlock studies, special benefit studies, and project influence studies. These studies may relate to the before situation, the after situation, or both.

442. For discussion of this method of estimating depreciation, see *The Appraisal of Real Estate*, 11th ed. (Chicago: Appraisal Institute, 1996), 371–374.

443. The impact of easements on encumbered areas and abutting unencumbered areas.

444. The impact on remainder property values by reason of their proximity to various public improvements.

Part II—Individual Parcel Report

Each individual parcel report should contain the following information. In the case of partial acquisitions, item 26 through 34 should be repeated in the after situation.⁴⁴⁵

18. Title Page.⁴⁴⁶

19. Table of Contents.⁴⁴⁷

20. Appraiser's Certification.⁴⁴⁸

21. Summary of Salient Facts and Conclusions.⁴⁴⁹

22. Photographs of Subject Property.⁴⁵⁰

23. Statement of Assumptions and Limiting Conditions. The appraiser should state that the assumptions and limiting conditions stated in item 5 of Part I of the project report are applicable to this parcel. If any additions, modifications or deletions to the general assumptions and limiting conditions are necessary, they shall be noted.

24. Scope of the Appraisal. The appraiser should state that the scope of the appraisal stated in item 6 of Part I of the project report is applicable to this parcel. If any additions, modifications or deletions to the general discussion are necessary, that shall be noted.

25. Summary of Appraisal Problem. The appraiser should discuss any specific appraisal problem unique to the individual parcel under appraisal and briefly describe its treatment.

26. Legal Description.⁴⁵¹

27. Area, City and Neighborhood Data. The appraiser should reference the area, city and neighborhood data in item 9 of Part I of the project report, discuss the parcel's location within the neighborhood and note any specific neighborhood factors uniquely affecting the subject parcel.

28. Property Data:

- a. Site.⁴⁵²
- b. Improvements.⁴⁵³
- c. Fixtures.⁴⁵⁴

445. For a general discussion of after situation item content requirements, see Section A, Parts IV, V, and VI of these Standards.

446. For content requirements, see Section A-1 of these Standards.

447. For content requirements, see Section A-3 of these Standards.

448. For content requirements, see Section A-4 of these Standards.

449. For content requirements, see Section A-5 of these Standards.

450. For content requirements, see Section A-6 of these Standards.

451. For content requirements, see Sections A-11, A-20, and D-5 of these Standards.

452. For content requirements, see Sections A-13a and A-22a of these Standards.

453. For content requirements, see Sections A-13b and A-22b of these Standards.

454. For content requirements, see Sections A-13c and A-22c of these Standards.

- d. Use History.⁴⁵⁵
- e. Sales History.⁴⁵⁶
- f. Rental History.⁴⁵⁷
- g. Assessed Value and Annual Tax Load.⁴⁵⁸
- h. Zoning and Other Land Use Regulations. The appraiser should reference the discussion of zoning and other land use regulations in Part I, item 10 of the project report. If additions, modifications, or deletions from that general discussion are required as they relate to the specific parcel, that should be noted.

29. Analysis of Highest and Best Use. The appraiser should reference the discussion of highest and best use in Part I, item 11 of the project report and relate that discussion specifically to the parcel under appraisal. The appraiser shall specifically state the highest and best use of the property, both in the before and after situations if a partial acquisition, and thoroughly explain the reasoning that led to the conclusion.

30. Land Valuation.⁴⁵⁹ The appraiser should reference the data and discussion of land sales in Part I, item 13 of the project report and shall specifically identify which of those sales are most comparable to the parcel under appraisal and have been relied upon in estimating the parcel's value. A comparative analysis between each of the selected comparable sales and the subject property shall be included.

If adjustments are based on universal adjustments and/or studies discussed and developed in Part I of the appraisal, the discussion or study should be specifically referenced and related to the subject property.

31. Value Estimate by Cost Approach.⁴⁶⁰ The appraiser should reference the general discussion of the cost approach in Part I, item 14 of the project report. If computations or estimates are based on studies discussed and developed in Part I of the appraisal, the studies should be specifically referenced and related to the subject parcel.

32. Value Estimate by the Sales Comparison Approach.⁴⁶¹ The appraiser should reference the data and discussion of the whole property sales in Part I, item 15 of the project report and shall specifically identify which of these sales are most comparable to the parcel under appraisal and have been relied upon in estimating the parcel's value. A comparative analysis between each of the selected comparable sales and the subject property shall be included.

If adjustments are based on universal adjustments and/or studies discussed and developed in Part I of the appraisal, the discussion or study should be specifically referenced and related to the subject property.

33. Value Estimate by the Income Capitalization Approach.⁴⁶² The appraiser should reference the data and discussion of whole property rentals in Part I, item 16

455. For content requirements, see Sections A-13d and A-22d of these Standards.

456. For content requirements, see Sections A-13e and A-22d of these Standards.

457. For content requirements, see Sections A-13f and A-22d of these Standards.

458. For content requirements, see Sections A-13g and A-22e of these Standards.

459. For content requirements, see Sections A-15 and A-24 of these Standards.

460. For content requirements, see Section A-16 of these Standards.

461. For content requirements, see Section A-17 of these Standards.

462. For content requirements, see Section A-18 of these Standards.

of the project report and shall specifically identify which of those rentals are most comparable to the parcel under appraisal and have been relied upon in estimating the parcel's economic, or market, rent. A comparative analysis between each of the selected comparable rentals and the subject property shall be included.

If the capitalization rate selected for the subject property is based on studies discussed and developed in Part I of the appraisal, the study should be specially referenced and related to the subject property.

34. Correlation and Final Value Estimate.⁴⁶³

35. Acquisition Analysis. In the case of a partial acquisition, the appraisal report shall include an analysis of the government's acquisition in accordance with the requirements of Part VI (Sections A-29, A-30 and A-31) of these Standards.

36. Exhibits and Addenda:

- a. Neighborhood Map.⁴⁶⁴
- b. Comparable Data Maps. If the comparable data maps included in Part III of the project report are not clear enough to insure complete understanding of the relationship between the subject property and the comparable data relied on in the individual parcel report, comparable data maps should be included in the addenda of the individual parcel reports.⁴⁶⁵
- c. Detail of Comparative Data. Detailed comparable data sheets must be included in Part III of the project report. Those comparable data sheets relating to the specific comparables relied on in estimating the value of the individual parcel may also be included here for ease of reference.
- d. Plot Plan.⁴⁶⁶
- e. Floor Plan.⁴⁶⁷
- f. Title Evidence Report.⁴⁶⁸
- g. Other Pertinent Exhibits.⁴⁶⁹

Part III—General Exhibits and Addenda

Exhibits and addenda items should relate to all, or most of the parcels included in the project appraisal report. Exhibits and addenda items relating only to one, or a small portion of the parcels appraised, should be included in the addenda of the individual parcel reports.

37. Location Map. (Within the City or area). All maps should include a north arrow and the identification of the subject parcels.

38. Comparable Data Maps. These maps might include, among others things a comparable land sales map, a comparable improved sales map, and a rental comparables map. The maps should include a north arrow, and show the locations of the comparables and of the

463. For content requirements, see Sections A-19 and A-28 of these Standards.

464. For content requirements, see Section A-32 of these Standards.

465. For content requirements, see Section A-33 of these Standards.

466. For content requirements, see Section A-35 of these Standards.

467. For content requirements, see Section A-36 of these Standards.

468. For content requirements, see Section A-37 of these Standards.

469. For content requirements, see Section A-38 of these Standards.

parcels appraised. If this requires use of a map that is not of a readable scale, secondary maps, showing the specific location of each comparable relied on in making the individual parcel appraisals should be included in the addenda of the individual parcel reports.

39. Detail of Comparative Data.⁴⁷⁰

40. Other Pertinent Exhibits. These would include, for example, any written instructions given the appraiser by the agency or its legal counsel relating to all parcels in the project report, environmental studies relating to all parcels, fixture, timber and/or mineral appraisals relating to multiple parcels, and any charts or illustrations that may have been referenced in the body of the report and relate to all, or most, of the parcels in the project report.

41. Qualifications of Appraiser.⁴⁷¹

D-18. Responsibility of the Appraiser in Litigation. All appraisals should be made with recognition of the possibility that the question of value may be litigated, since it is not possible to predetermine how many tracts within an area will be acquired by voluntary conveyance.⁴⁷² The fact that an appraisal may require revision prior to trial to bring the effective date of valuation into conformance with the legally required date of value does not excuse an ill-prepared initial appraisal. All appraisal reports are often subject to discovery, and thus the appraiser may be embarrassed and the government's case weakened, by poorly prepared initial appraisals.

It is the responsibility of the appraiser to expend an adequate amount of time and effort to be thoroughly prepared for trial. Prior to undertaking this preparation and any necessary updating of the appraisal report, the appraiser should participate in a conference with the trial attorney. The attorney will often provide the appraiser with observations made by the Department of Justice Appraisal Unit and recommendations regarding the strengthening of the appraisal report. While appraisers should give serious consideration to the recommendations made by the attorney, they must also recognize that the recommendations are just that: recommendations. They are not *instructions*, and if the appraiser concludes that the adoption of the recommendations would jeopardize the objectivity, or the appearance of objectivity, of the appraisal report, they should be disregarded. The appraiser/attorney conference is also an opportunity for the appraiser to advise the attorney of any information that would be helpful in updating the report, or that would strengthen it, that was not previously available to the appraiser.⁴⁷³ The attorney may be able to procure this information from the property owner's legal counsel or, if necessary, obtain the information during the discovery process.

Appraisers have the responsibility to see that their appraisal reports conform to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure.⁴⁷⁴ In addition, it is possible that the particular court in which the condemnation case will be held has adopted *local rules* in regard to the content of expert reports. During the above noted appraiser/attorney conference, government's legal counsel should advise the appraiser of any such local rules.⁴⁷⁵

470. For content requirements of comparable data sheets, see Section A-17 of these Standards.

471. For content requirements, see Section A-39. See also Section D-2.

472. Appraisers should recognize that even strictly voluntary acquisitions may lead to litigation by third parties over matters of valuation and/or sufficiency of appraisals. E.g., see *Desert Citizens Against Pollution v. Bisson*, 231 F.3d 1172 (9th Cir. 2000).

473. E.g., historical income and expense information for the property which the property owner has refused to furnish to the appraiser, or verification of the price, terms, and conditions of an historical sale of the property under appraisal.

474. See Section D-2 of these Standards.

475. Appraisers would be well advised to ask government counsel to check these local rules if he or she has not done so.

During the preparation of the initial appraisal report, the appraiser may have had comparable sales verified by personnel from his or her office. Although this procedure is permissible under these Standards, appraisers *must personally verify* all comparable sales prior to testifying in deposition or at trial.

The importance of sound appraisals for litigation purposes cannot be overemphasized. Federal court is not the place for appraisers to attempt to try out new, untested, methods of valuation. The Federal Rules of Evidence “assign to the trial judge the task of ensuring that an expert’s testimony both rests on a reliable foundation and is relevant to the task at hand.”⁴⁷⁶ This task has been referred to as the court’s “gate-keeping obligation” in regard to the admissibility of expert testimony, and the following factors have been identified as bearing on the judge’s gate-keeping determination:

Whether a “theory or technique . . . can be (and has been) tested”; whether it “has been subjected to peer review and publications”; whether, in respect to a particular technique, there is a high “known or potential rate of error” and whether there are “standards controlling the technique’s operation”; and whether the theory or technique enjoys “general acceptance” within a “relevant scientific [appraisal] community.”⁴⁷⁷

It is incumbent upon appraisers to insure the techniques and methodologies they have employed in their valuations meet the above four tests applied by the federal courts in determining the admissibility of expert testimony. In order to be properly prepared to testify as to value in court, and to render the utmost assistance to counsel in preparation for trial, the appraiser needs to consider all *relevant* methods of valuation when making an appraisal for purposes of eminent domain. However, that does not give the appraiser license to experiment in federal court with valuation theories and techniques that have not received general acceptance in the appraisal profession.

Appraisers must recognize that condemnation cases are adversarial proceedings and attorneys are advocates for their clients’ interests. That truism applies both to government attorneys and property owners’ attorneys. That role of client advocate is exclusively reserved to the attorney. Appraisers must avoid being influenced by the attorney’s enthusiasm for the client’s interest. The appraiser is employed to express an opinion of value, which must be supported by factual data to warrant being accorded weight.⁴⁷⁸ While it is important that appraisers testify with the conviction that their valuations are correct, they also must bear in mind that it is neither their property nor their money and their only function is to testify to their impartial opinion of market value.

Appraisers must exercise sound judgment based on known pertinent facts and circumstances, and it is their responsibility to obtain knowledge of all pertinent facts and circumstances that can be acquired with diligent inquiry and search. They must then weigh and consider the relevant facts with good judgment and make their decision, entirely on their own, in a sound professional manner, completely unbiased by any consideration favoring either the owner or the government.⁴⁷⁹ In the determination of what facts and circumstances may be relevant, an attorney may request that an appraiser gather and become knowledgeable about facts and circumstances which, in the appraiser’s opinion, are not pertinent or relevant to the appraiser’s estimate of market value. Appraisers must bear in mind that government attorneys essentially have two cases for which to prepare: their direct case in support of the government’s value estimate, and their rebuttal case in opposi-

476. *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 597 (1993).

477. *Kumho Tire Company, Ltd. v. Carmichael*, 526 U.S. 137, 149-150 (1999) (quoting from *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 592-594 (1993)).

478. *Washington v. United States*, 214 F.2d 33, 43 (9th Cir. 1954) cert. denied, 348 U.S. 862.

479. It is for this reason that it is inappropriate for an appraiser to state in an appraisal report or in testimony that he or she gave the *benefit of the doubt* to either the government or the property owner.

tion to the property owner's claim of value.⁴⁸⁰ Under such circumstances, appraisers must recognize that the request from the attorney may not be directly relevant to the appraiser's estimate of value, but nonetheless is a legitimate request from the attorney for additional pretrial and trial support. It is the appraiser's responsibility to provide that additional support if the request is made in a timely manner.

Appraisers should also recognize that, though not directly relevant to the estimate of market value, the additional facts gathered and knowledge gained by the appraisers may better prepare the appraiser to withstand the rigors of cross-examination, which will form an important part of the appraiser's testimony. "It has been said that 'cross-examination takes the place in our legal system that torture occupied in the medieval systems of civilization.' From the attorney's point of view, the ultimate goal of cross-examination is to destroy the effect of the witness's direct testimony completely. If as a by-product the witness's professional reputation is tarnished or destroyed, so be it. This is, after all, an adversarial proceeding. Appraisers have sagely been advised that '[c]ross examination is the anvil of truth and you must be prepared for a thorough hammering.'"⁴⁸¹

480. E.g., An attorney may ask an appraiser to investigate the typical value and market demand for one-acre lots in the area after the appraiser has concluded that the existing zoning for the property under appraisal, which requires a five-acre minimum lot size, cannot be changed. The purpose of the request, of course, may well be because the owner's appraiser has applied a development approach to value, after concluding that there was an existing probability for a rezoning to one-acre lots and that the highest and best use of the property was for development into one acre-lots.

481. J. D. Eaton, *Real Estate Valuation in Litigation*, 2nd ed. (Chicago: Appraisal Institute, 1995), 494, (citations omitted).