

National Cancer Institute

UNDERSTANDING NCI CONTRACTS

A Guide for Principal Investigators and Project Directors

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Preface

This handbook is a general guide to assist Principal Investigators and/or Project Directors who are not familiar with the National Cancer Institute (NCI) acquisition process. In addition to furnishing information on the different types of contracts commonly awarded by the NCI, the structure of the contract document, routine and specialized contract administration procedures, and contract closeout, the handbook also provides a brief discussion on the difference between a contract and other assistance mechanisms utilized by the NCI (i.e., grants and cooperative agreements). A Glossary of Contract Terms is provided at the end of the handbook to assist the reader in understanding some of the more frequently used terms in the acquisition process.

The material in this handbook is subject to revision by statute, regulation, or through the decision-making processes. Accordingly, this handbook should be used only as a general reference guide and should not be considered all inclusive or authoritative, nor is it intended to replace the Federal Acquisition Regulation or the terms and conditions of any particular contract.

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SECTION I - THE CONTRACTING PROCESS

NCI's ROLE & MISSION

The National Cancer Institute (NCI), established under the National Cancer Act of 1937, is the Federal Government's principal agency for cancer research and control. The National Cancer Act of 1971 directs the Institute to "plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the NCI, related programs of other research institutes, and other Federal and non-Federal programs." To carry out this mission, the NCI utilizes a number of funding mechanisms including contracts, grants and cooperative agreements to conduct and support cancer-related activities on the nature, prevention, detection, diagnosis, and treatment of cancer.

CONTRACTS AND OTHER FUNDING MECHANISMS

As a general rule, the NCI utilizes contracts when the principal purpose of a transaction is to acquire goods or services for the direct benefit of the Federal Government, and grants or cooperative agreements when the principal purpose is to assist or support an organization that is performing a public purpose. These three types of legal instruments are described more fully below. Contracts are governed by the Federal Acquisition Regulation (48 CFR 1) and other statutes and regulations, and contain more extensive terms and conditions than grants or cooperative agreements.

Definitions:

- **Contract:** A mutually binding legal relationship obligating the "seller" (Contractor) to furnish supplies or services and the "buyer" (Government) to pay for them. The supplies or services are being acquired for the direct benefit of the Government.
- **Grant:** A financial assistance mechanism between the Government and a recipient. Performance responsibility rests primarily with the recipient and there is little or no Government involvement or participation in the performance of activities.
- **Cooperative Agreement:** An award instrument reflecting an assistance relationship between the Government and a recipient in which substantial programmatic involvement by the Government is anticipated during performance of the activity.

Differences Between Assistance Mechanisms and Contracts

Assistance mechanisms (e.g. Grants and Cooperative Agreements) are used to support and stimulate research, while a contract is used to procure research and supporting services to fulfill program objectives. **Grants** are appropriate for use when the Government does not anticipate being substantially involved in the project, thus allowing the recipient substantial freedom of action in carrying out the research project, and does not expect to receive a specific service or end product. **Cooperative Agreements** are the appropriate instrument when the principal purpose is to provide financial assistance to stimulate research, rather than to acquire specific research services, and when the Government anticipates being substantially involved in the research project. **Contracts**, on the other hand, offer competitive opportunities to all types of scientific sources and are used by the awarding agency as a means of fulfilling its program objectives. In contrast to assistance instruments, contracts are used to obtain specific goods or services under specific conditions. A contract is a legally binding agreement involving an offer and acceptance. Since the

Government defines the area of work to be undertaken by contract, offerors can compete for a commonly understood requirement, and contract proposals received in response to a solicitation are evaluated within the framework of technical evaluation criteria announced to all competing sources.

CONTRACT CLASSIFICATIONS

The NCI awards research and development (R&D) contracts to meet specific research objectives, and awards R&D support contracts to obtain special materials, resources, or services integral to performing R&D projects. The contractors include educational institutions, hospitals, non-profit organizations, and commercial firms. The contracts are classified as R&D/R&D support, and their identification numbers begin with the prefix "NO1".

The NCI also awards contracts whose purpose is incidental to R&D and whose contractors are generally industrial/commercial concerns. These contracts are classified as Non-R&D or Station Support and are coded with a prefix of "NO2".

The contract classifications are more broadly defined as follows:

Research and Development/Research and Development Support

- **Research and Development:** Systematic search or intensive study directed towards new or fuller scientific knowledge or understanding beyond the state of the art, and/or towards the practical application of knowledge/understanding to advance specific program objectives. Systematic use of knowledge and understanding gained from research, directed towards creating useful materials, devices, systems or methods to meet functional or economic feasibility requirements, including procedures to accomplish significant novel enhancements to existing equipment or systems.
- **Research and Development Support:** Procedures, techniques and activities directly supporting the conduct of R&D, involving innovative or standard methodologies to prepare or provide special materials, resources, or services integral to performing R&D projects, e.g., screen or test components for biological activity; collect, provide, analyze, or interpret experimental research data or information, or provide significant enhancements to existing equipment or systems.

Non-Research and Development

- **Non-Research and Development:** Routine purchase of commercially available items sold in substantial quantities to the general public with published price lists, including "off-the-shelf" laboratory or general equipment, materials, supplies, animals, or routine services. The conduct of program evaluations, public or technical information services or clearinghouses, scientific conference or logistics support, or other services not performing or directly supporting R&D. The performance of minor enhancements to existing equipment or systems.

TYPES OF CONTRACTS

A wide variety of contract types are available to the Government and contractors to provide needed flexibility in acquiring supplies and services. Contract types vary according to the degree and timing of the responsibility assumed by the contractor for the cost of performance; and the amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals.

Contract types most commonly used at the NCI can be grouped into three broad categories: **Fixed-Price** contracts, **Cost-Reimbursement** contracts, and **Indefinite-Delivery** contracts.

Fixed-Price Contract - A fixed price contract is appropriate for acquiring commercial items or for acquiring other supplies or services on the basis of reasonably definite functional or detailed specifications. This type of contract will provide maximum incentive for the contractor to control costs and perform effectively, and will impose a minimum administrative burden on the parties.

Types of Fixed Price Contracts

Due to the nature of the services typically required at the NCI, most contracts are not of the fixed-price type. However, the most frequently used fixed-price contract is the firm fixed price contract.

- **Firm Fixed-Price Contract.** This type of contract is appropriate when reasonable definite design and performance specifications are available, and a fair and reasonable price can be established at the onset of the requirement. A firm fixed-price contract provides for a price that is not subject to adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss.

Cost-Reimbursement Contract - A cost reimbursement contract is appropriate for use when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed price contract. This type of contract places less risk of performance on the contractor and minimum incentive to control costs, and requires Government surveillance during performance to ensure that efficient methods and effective cost controls are used.

Under a cost-reimbursement type contract, the statement of work may take one of two basic forms: **completion** or **term**. Briefly stated, a **completion form** statement of work establishes a definite goal, target or end product. Satisfactory completion of the project can be measured by objective standards and normally requires the contractor to complete and deliver a specified end product (e.g., interim progress and/or a final report, specific data sets, completion of a task or series of tasks with end results). A **term form (level of effort)** statement of work describes the requirement in general terms and requires the contractor to devote a specified level of effort for a stated period of time.

Types of Cost-Reimbursement Contracts:

- **Cost Contract.** In this type of contract, the contractor receives allowable costs but no fee. It is generally appropriate for R&D work with nonprofit educational institutions or other nonprofit organizations.
- **Cost-Sharing Contract.** In a cost-sharing contract, the contractor receives no fee and is reimbursed only for an agreed-upon portion of its allowable costs. This type of contract may be used when the contractor agrees to absorb a portion of the costs, in the expectation of substantial compensating benefits.
- **Cost-plus-fixed-fee Contract.** This contract, in addition to reimbursement of allowable costs, provides for payment to the contractor of a negotiated fee that is fixed upon the inception of the contract award. The fixed fee does not vary with actual cost, but may be adjusted as a result of changes in the work to be performed under the contract. This type of contract is generally awarded to a commercial organization (or a not-for-profit institution).

Indefinite-Delivery Contract - This type of contract is used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award. These types of contracts are generally reserved for Non-R&D or Station Support requirements.

Types of Indefinite-Delivery Contracts

- **Definite-quantity Contract.** This type of contract provides for delivery of a definite quantity of specific supplies or services for a fixed period, with deliveries or performance to be scheduled at designated locations upon placing an order. Generally, definite-quantity contracts are **fixed-price**.
- **Requirements Contract.** A requirements contract provides for filling all actual purchase requirements of designated Government activities for supplies or services during a specified contract period, with deliveries or performance to be scheduled by placing orders with the contractor. These contracts are also known as **Task Order or Delivery Order Contracts**. Requirements contracts may be either cost-reimbursement or fixed-price.
- **Indefinite-quantity Contract.** This contract provides for an indefinite quantity, within stated limits, of supplies or services to be furnished during a fixed period, with deliveries or performance to be scheduled by placing orders with the contractor. Indefinite-quantity contracts are also known as **Task Order or Delivery Order Contracts**. Contracting Officers are required to give preference to making multiple awards of indefinite-quantity contracts to the maximum extent practicable (i.e., to award two or more contracts for the same supplies or services). The multiple awardees subsequently compete for an NCI requirement, and the selected source is awarded a task order or delivery order.

PROPOSAL SUBMISSION AND EVALUATION PROCESS:

Once the Government has determined the need for a contract requirement, a Request for Proposal (RFP) is developed which contains all of the information necessary for offerors to prepare a contract proposal. The solicitation typically provides: (1) a statement of required work; (2) desired performance or delivery schedule; (3) available Government-furnished property, if any; (4) applicable contract clauses to be included in the contract as awarded, and if appropriate; (5) criteria that will be used by the Government to evaluate proposals that are submitted. The RFP also includes guidance to prospective offerors on how to prepare the technical and business/cost portions of their proposals. RFPs always specify the required date for submission of the offer, and all proposals must be mailed or delivered in a manner to ensure timely receipt by the Government at the exact location on/or before the deadline specified in the RFP.

The *Federal Business Opportunities* (FedBizOpps) has been designated the "Governmentwide point of entry (GPE)" and as such is the single point of universal electronic public access on the internet for government-wide Federal procurement opportunities. The GPE is located at: <http://www.fedbizopps.gov>. In addition, the NCI utilizes the *NIH Guide for Grants and Contracts* to announce R&D projects, and the *Cancer Letter*.

Proposals received in response to an RFP are evaluated from a technical point of view, including the offerors past performance on similar projects, and from the standpoint of cost and other business issues. The RFP will specify the relative importance of the technical aspects of the proposal versus the cost or price, as well as how past performance will be evaluated.

Sources responding to solicitations can be assured that their proposals will receive a competent, thorough and fair review by an NCI Technical Evaluation Panel (TEP). For R&D and R&D support requirements, the TEP will be composed of government and non-government members in scientific or technical disciplines

with expertise in the field of study associated with the contract requirement. As required by law, at least three-fourths of the members of the TEP for R&D and R&D support reviews must be non-government employees. For non-R&D requirements, the evaluations will be conducted by persons within the Government who have the appropriate expertise in the project area outlined in the requirement.

The technical evaluation will be conducted solely on the basis of the evaluation criteria set forth in Section M of the RFP. All proposals submitted for evaluation will be designated as either acceptable or unacceptable.

After the technical evaluation, the Contracting Officer will establish a competitive range comprised of all of the most highly rated proposals. Upon development of the competitive range, negotiations will be conducted with all offerors within the range and a source selected based on technical merit, past performance, and other cost and business considerations. This selected source will receive the contract award.

IMPORTANT DOCUMENTS OF INFORMATION

In order for the Principal Investigator or Project Director to effectively execute his or her duties under the contract, it is important that copies of the following documents be obtained from his or her own business office:

- Copy of the proposal (technical and business) and its revisions;
- Copy of the contract;
- Results of the negotiations, including a spreadsheet of negotiated costs, if available.

SECTION II - THE CONTRACT DOCUMENT

INTRODUCTION

The Federal Acquisition Regulation (FAR), which is applicable to all federal procurements, prescribes a recommended uniform contract format. This format is used by the NCI and NIH for most contracts. Each contract is divided into four broad parts which are further divided into eleven general sections. Specific terms and conditions unique to each contract are normally identified as an Article which is set forth within the applicable general section. This chapter will outline and describe each Part, the applicable general contract Sections that fall under each Part, and provide some examples of the kind of Articles that are generally found within.

PART I - THE SCHEDULE consists of the following eight sections:

Section A - Solicitation/Contract Form

This is the cover page of the contract which contains identifying information pertaining to the specific contract award. Standard Form (SF)-26 is normally used as the contract cover page.

Section B - Supplies or Services and Prices/Cost

Articles contained in this section include:

- **Brief Description of Supplies or Services**
- **Estimated Cost [and Fixed Fee]** - Cost-Reimbursement contracts will set forth a total estimated cost to accomplish the contract work. The contractor will be reimbursed for all allowable costs incurred in the performance of the work up to the estimated cost stipulated in the contract. This article also sets forth information on the payment of fee, the costs for options, provisions for providing incremental funding, and cost sharing parameters, as applicable.
- **Prices** - Fixed-Price contracts set forth the actual amount that the contractor will receive upon completion of the contract work. As applicable, this will include quantities, unit prices, total prices and time periods for options.
- **Provisions Applicable to Direct Costs** - This article is applicable to cost-reimbursement contracts only. It sets forth standard types of costs that are restricted from purchase under the contract without prior Contracting Officer approval. These costs include purchase or lease of real property; special rearrangement or alteration of facilities; purchase or lease of general office equipment; foreign travel; patient costs; accountable government property; and research funding.
- **Advance Understandings** - When the contracting officer and contractor have mutually agreed on special terms and conditions pertaining to contract performance in advance of contract award, these agreements will be included in the contract as advance understandings. Potential areas for advance understandings include ceilings on specified costs, consultants, travel, equipment, overtime, and subcontracts. It is important that both parties be familiar with any advance understandings included in the contract.

Section C - Description/Specifications/Work Statement

Articles contained in this section include:

- **Statement of Work** - The complete description of the work to be performed will be located here. Often the Statement of Work or Specifications will be referenced here and actually presented in its entirety as an attachment to the contract document.
- **Reporting Requirements** - All required *technical* reporting requirements are identified in this section. The scope and content of each required report is also described here.

Section D - Packaging and Marking

This section sets forth the specifications for the submission of contract deliverables. At a minimum, each contract deliverable (including technical progress reports) must be marked with the contract number and contractor name. When necessary, this section may include three Articles entitled, **Packaging, Marking,** and **Shipping** which will describe in detail the specific requirements in each of these areas.

Section E - Inspection and Acceptance

Satisfactory contract performance is dependent upon the Government's inspection/review and acceptance of the work product or services provided by the contractor. This Section sets forth the terms and conditions for inspection and acceptance.

Section F - Deliveries or Performance

This section of the contract specifies the requirements for time, place, and method of delivery or performance and contains the following Articles:

- **Period of Performance** - A contract which is buying services and/or labor hours (level of effort), includes a specific period of time for which work under the contract is authorized. This is the contract's period of performance which is identified here. If the contract is written with options for future work, the option periods will also be referenced here.
- **Deliveries** - This Article contains a consolidated listing of all technical deliverables required under the contract. In addition to listing the deliverables required, this article also identifies the quantity, delivery schedule and the delivery point for each work product. This Article is included in most contracts. Administrative and Financial reports required may also be listed here, but generally the submission requirements for these reports are contained in the section of the contract appropriate to the deliverable described. *Please note that often, it is the deliverable(s) that the Government is buying under contract. Therefore, satisfactory contract performance is contingent upon the submission of acceptable deliverables. Accordingly, an entire section of this book has been devoted to this topic. Please see SECTION III, entitled "Reporting Requirements/Deliverables."*
- **Level of Effort** - A Level of Effort contract requires the contractor to devote a specified amount/level of labor/effort within the time period identified in the **period of performance** Article. In essence, in this type of contract, the level of labor/effort is the deliverable, along with all technical progress and/or administrative/financial reports required. The Level of Effort Article (in lieu of a Deliveries Article) stipulates the actual "level of effort" required under the contract for each year, period, or option (if applicable). This article also sets forth parameters for determining whether or not the amount of effort has been/is being appropriately expended.

- **Clauses Incorporated By Reference** - This Article references Federal Acquisition Regulation (FAR) clauses which affect the conduct of actual work being performed under the contract. These clauses include: **Stop Work Order** (used in all contracts) which gives the Government the right to require the contractor to actually stop performance under the contract; **Government Delay of Work** (for fixed-price contracts only) which allows for a price adjustment when it has been shown that the Government has delayed the contract work; and, **Liquidated Damages** (for fixed-price contracts only) which requires the contractor to pay the Government damages when it has been shown that the contractor has delayed the contract work.

Section G - Contract Administrative Data

This is the section of the contract which sets forth all of the administrative performance requirements. Articles contained in this section may include:

- **Project Officer** - This Article identifies the person who will be representing the Government as the Project Officer. The duties and responsibilities of this individual are also set forth in this article. This article is contained in virtually all contracts.
- **Key Personnel** - As necessary, the Government may chose to identify key contractor personnel as essential for performance of the contract. This is usually the Principal Investigator or the Project Director as applicable. Prior Government approval must be obtained for the replacement of any individual who is identified as such under the contract.
- **Work Assignments** - When performance of the contract will be accomplished through individual work assignments, the contract will contain this article which describes the entire work assignment procedure.
- **Method of Ordering & Indefinite Delivery Payment Method** - Indefinite delivery Task Order contracts will contain these two articles. They stipulate the ordering procedure and payment method for accomplishing the contract work.
- **Recipients Reimbursement Procedures** - When a contractor supplies and receives payments for materials (i.e. a repository) furnished to an outside source, the contract will contain this article which outlines the procedures for charging, accounting under, and crediting the contract for payment received for these services.
- **Invoice Submission** - All contracts will contain this Article which provides all the information the contractor needs to receive payment for contract performance.
- **Contract Financial Report** - Almost all Cost-Reimbursement contracts will require the submission of a financial report on either a monthly or quarterly basis. This article sets forth the requirements and content for submission of this information. These requirements may be included as a part of invoice submission.
- **Government Property** - Most contracts contain this article. This article includes general guidelines on the use of government property under contract. As necessary, each contract will set forth specific government property schedules and accounting information depending upon the type and use of property under the contract.

- **Post-Award Evaluation of Past Performance** - Under most contracts, the Government will evaluate the contractor's performance during the course of, and upon completion of the contract. These evaluations will be provided to the contractor for review and comment as necessary. This evaluation process is described in this Article.

Section H - Special Contract Requirements

The type and nature of the contract work as well as the type and nature of the contractor's business may necessitate special requirements. The articles identified below represent some of these special requirements. This listing is not intended to be complete. Often, unique contract situations require their own special contract requirements.

- **Human Subjects** - There are several Articles that address the impact of Human Subjects on the contract. The use of human subjects: 1) may be expressly prohibited; 2) may be restricted until appropriate clearances or program input is obtained; 3) may be authorized at the time of contract award because assurance has already been obtained; and, 4) may require special contract provisions written expressly for the instant contract. Human embryo research continues to be banned from federal funding.
- **Animal Studies** - Similar to Human Subjects, there are articles that set forth the requirements for contracts involving animals. The use of animals may be restricted until appropriate clearances are obtained; specifically, any contract involving live vertebrate animals must have an approved Animal Welfare assurance. In addition, guidelines on the use of rodents and rodent products are expressly provided in contracts at the NIH.
- **Privacy Act** - Any contract that includes the design, development, or operation of a system of records on individuals will include an Article requiring compliance with the Privacy Act of 1974. This means that all records on individuals must be incorporated into an approved, published system of records. This System of Records will also be incorporated into the contract.
- **OMB Clearance** - When a contract requires the conduct of surveys or interviews on ten or more individuals, clearance must first be obtained from the Office of Management and Budget (OMB). If this clearance will be obtained during the period of contract performance, this article will stipulate no surveys or interviews may proceed prior to receiving a written approval from OMB.
- **Subcontracting Provisions** - All contracts (except those awarded to a small business) with a cost/price over \$500,000 are required to contain a small business subcontracting plan. This Article incorporates the plan agreed upon during negotiations, references the Federal requirements for compliance with the plan, and sets forth the requirements for reporting the progress made under the plan. Specifically, the contractor is required to set goals for subcontracting to small, small disadvantaged, HUBZone small businesses, and Women-owned businesses. These goals are expressed as dollars and percentages of the total cost/price of the contract.
- **Option Provision** - If a contract contains option(s) to extend or increase contract quantities or the performance period, this Article will be included. This Article explains the process for exercising options and identifies the parameters of the total option requirement by referencing the contract sections that contain specific option information, i.e. prices, period of performance, delivery schedule, Federal Acquisition Regulation (FAR) clause, etc.

- **Information Technology (IT)** - There are several Articles that may be included in any contract that requires the purchase or development of IT services or supplies. As applicable, the contract may contain requirements regarding; **IT Systems Security Specifications**; **EPA Energy Star Requirements** for computer equipment; and, **Year 2000 Compliance** requirements for all IT products and services purchased.
- **Information** - Many contracts require the development of information and/or the use of information provided by the Government. There are specific Articles which address the use and disclosure of this information. As applicable the contract may contain articles on the following: the **Confidentiality of Information** Article specifically identifies all information that the Government considers confidential and sets forth the approval process necessary prior to any public disclosure; the **Publication and Publicity** Article requires that any information disclosed must acknowledge the support of the NIH, NCI, and identify the specific contract number; and, the Article entitled, **Press Releases**, stipulates the information that must be included about all projects or programs which are funded in whole or in part by the Federal Government.

PART II - CONTRACT CLAUSES consists of the following section:

Section I - Contract Clauses

The Federal Acquisition Regulation (FAR), the Department of Health and Human Services Acquisition Regulation (HHSAR), and the National Institutes of Health set forth numerous requirements for any organization that receives federal funds through a contract. Most of these requirements are set forth in clauses that are applicable based on the type of work being performed under contract and/or the organizational structure of the contractor. Compliance with these clauses is mandatory and the obligation of Federal funds is predicated on the acceptance of the terms of these clauses that are set forth in each contract.

- **General Clauses** - Every contract will contain an Article listing general clauses applicable to the contract. This clause listing contains clauses that are applicable to the general type of work being performed and/or the contractor's type of business. For example, there are general clause listings for Fixed-Price Research and Development contracts, Negotiated Cost-Reimbursement Contracts with Educational Institutions, Cost-Reimbursement Supply Contracts, etc. There are a total of 17 General Clause Listings from which to choose which most appropriately fits the requirements of both contract and contractor.

Examples of some of the types of clauses contained in this Article are: Audit and Records; Allowable Cost and Payment; Fixed Fee; Authorization and Consent; Patent Rights; Rights in Data; Limitation of Cost; Prompt Payment; Disputes; Changes; Subcontracts; Government Property; Excusable Delays; Termination; etc. These clauses are incorporated into the contract by reference to the appropriate FAR, HHSAR, or NIH Clause Number. Copies of the full text of these clauses may be found on the internet at <http://www.arnet.gov/far/> or directly from the Contracting Officer upon request.

- **Authorized Substitutions of Clauses** - Although there are 17 general clause listings, it is understood that there may be instances where clauses that are generally applicable may not be applicable in the specific contract and *vice versa*. This Article considers the instant contract and substitutes, modifies, and/or deletes clauses as appropriate and necessary.

One of the most frequently substituted clauses in Cost-Reimbursement contracts is the ***Limitation of Cost/Limitation of Funds*** clause. This clause states in part that, "The parties estimate that performance of this contract, exclusive of any fee, will not cost the Government more than the estimated cost specified in the Schedule...." The Principal Investigator/Project Director, acting as an agent of the contractor, agrees to use his/her best efforts to perform the work specified in the schedule and meet all obligations under the contract within the estimated cost. If, at **any time**, the contractor has reason to believe that the costs which are expected to be incurred in the next 60 days (when added to all costs previously incurred will exceed **75 percent of the estimated costs** set forth in the Schedule, the Contracting Officer shall be notified. This notification should also include an estimate of cost to complete the work, if applicable. Except as required by other provisions of this contract specifically stated to be an exception from this clause, the Government shall **not** be obligated to reimburse the contractor for costs incurred in excess of the estimated cost specified in the contract schedule.

- **Additional Contract Clauses** - Because each contract and contracting organization is unique, it will almost always be necessary to include additional clauses which are applicable because of the specialized nature of the work to be performed, the anticipated total cost or price of the work, and/or requirements based on the contractor's business structure.

Examples of the kinds of clauses that are found in this Article are; Ordering; Option clauses; Limitations on Subcontracting; Small Business Participation Program; Privacy Act; Rights in Data Alternates; Taxes; Cost Accounting Standards; Privacy or Security Safeguards; Preference for U.S. Flag Air Carriers; Government Supply Sources; Safety and Health; Protection of Human Subjects; Care of Live Vertebrate Animals; Procurement of Certain Equipment; etc. These clauses are incorporated into the contract by reference to the appropriate FAR, HHSAR, or NIH Clause Number. Copies of the full text of these clauses may be found on the internet at <http://www.arnet.gov/far/> or directly from the Contracting Officer upon request.

- **Additional Federal Acquisition Regulation (FAR) Clauses Included in Full Text** - This Article is similar to the previous article, except, that some of the additional clauses required must contain information specific and unique to the contract, such as quantities, dollar amounts, percentage rates, etc. In these instances, these clauses must be included in full text.
- **Small Business Administration - 8(a) Program** - This Article will be included in any contract awarded to a Small Disadvantaged Business under the Small Business Administration's 8(a) program. It contains all clauses required for compliance with the program.
- **Service Contract Act** - This Article will be included in any contract subject to the Service Contract Act of 1965. It contains all clauses required by law.

PART III - LIST OF ATTACHMENTS consists of the following section:

Section J - List of Attachments

This section lists all documents which are attached to the contract. All Attachments are numbered, listed by title, date, number of pages and are expressly incorporated into the contract. The attachments identified below represent some of the kinds of documents attached to a contract. This listing is not intended to be complete. Often, unique contract situations require their own special contract attachments.

- **Statement of Work**
- **Invoice/Financing Request Instructions**
- **Financial Report of Individual Project/Contract**
- **Privacy Act System of Records No. _____**
- **Small Business Subcontracting Plan**
- **Government Property Schedule**

PART IV - REPRESENTATIONS AND INSTRUCTIONS consists of the following section:

Section K - Representations and Certifications

This section lists all solicitation provisions for which the contractor represented and certified itself at the time of proposal submission. These representations and certifications are incorporated and made a part of the contract by reference. In addition, this section includes the incorporation of any other certification information necessary for contract performance such as the approved Human Subjects Assurance, and the approved Animal Welfare Assurance.

SECTION III - REPORTING REQUIREMENTS/DELIVERABLES

INTRODUCTION

Successful contract performance is substantially determined by the review and evaluation of the reports and/or deliverables submitted by the contractor. Each contract stipulates exactly what is to be delivered, how it is to be delivered and when it is to be delivered. Normally, these deliverables fall into two basic categories, end items and reports. These categories of deliverables are discussed below. SECTIONS C and D of the contract may require one or several of the specific types of deliverables, along with any applicable packaging, marking and shipping requirements, described in this chapter.

END ITEMS

Many contracts require the delivery of distinct, precisely defined work products such as specific laboratory assays, epidemiologic analyses, the results of the conduct of a scientific conference, a system, data sets, etc. These types of products are referred to as End Items. The contract will identify performance or other specifications for each item. The contract will also identify the quantity of the described end items to be delivered, the schedule for delivery, and the specific delivery point. Once the delivery has been made, the Government will review and inspect the item(s) to determine whether or not it meets the specifications described in the contract.

As stated above, the description and specifications for the end item is set forth in SECTIONS C & D of the contract document. However, the delivery information, including quantities, delivery schedule(s), and point of delivery, is set forth in SECTION F of the contract.

As a general rule, Research and Development (R&D) type contracts do not lend themselves to the specificity necessary to describe and require delivery of an end item. However, non R&D contracts or contract work in support of R&D are more likely to include the delivery of an end item.

REPORTS

Most contracts require the preparation and submission of some type of report. Reporting requirements can be broken down into two categories, Technical Reporting, and Financial and Administrative Reporting. The type and nature of the contract will determine the kind of reporting that will be required. For example, a fixed-price contract which requires delivery of an end item normally requires little or no technical or financial reporting because the specifications and price are clearly identified. A cost-reimbursement contract will generally require extensive technical and financial reporting of the progress in both these areas, particularly if the contract is for Research & Development. The following sections detail the types of reports which are common to cost-reimbursement type contracts.

1. Technical Reporting

The contractor is responsible for the timely and satisfactory performance of the contract. Technical reports which are provided by the Principal Investigator/Project Director (PI/PD), to the Contracting Officer and Project Officer are one of the best ways to assess the quality and progress of the work being performed. The Statement of Work sets forth the technical work to be accomplished under the contract and is the standard by which the technical performance of the contractor is monitored and evaluated.

Frequently, the best way for the Project Officer to evaluate contract performance is by the review of Technical Reports submitted by the contractor. Technical reporting by the contractor may take many forms. An R&D contract will generally require the submission of interim progress reports plus a comprehensive final report upon completion of the contract. The specific content and format of these technical reports may vary considerably depending on the contract type, the type of data or other product that will be generated under the contract, and the information needs of the Project Officer's program area. Additionally, the way in which the technical progress of a contract may be reported can vary from informal (e.g., letters) to as formal as necessary. Reports may include, but are not limited to the following: the facilities devoted to the work; the number of staff-days expended for the direction of the work; pertinent experimental details; the kind and number of experiments being conducted; and in particular, the latest scientific data, observations, problems encountered with either technical aspects, financial matters, or personnel; predictions; and, plans for the next reporting period.

The specific technical reporting requirements are developed jointly by the Project Officer and the Contracting Officer and are tailored to meet the needs of the contract. The content, level of detail, and format of the technical reporting requirements should be agreed upon at the time of contract negotiation and confirmed as accurate at the beginning of contract performance.

The PI/PD is generally responsible for the timely preparation and submission of these reports. Examples of some of the technical reports that may be required in addition to the Interim or Final Technical Progress Reports are as follows:

- **Summary of Salient Results.** Usually submitted with the final report, this is a summary (not to exceed 200 words) of the results achieved during the performance of the contract.
- **Annual Technical Progress Report for Clinical Research Study Populations.** When the contract involves studies with human subjects, the submission of information about the inclusion of women and members of minority groups and their subpopulations will be required.
- **Invention Reporting.** The contract may require the submission of a report to disclose, confirm license, and certify government support of any invention developed under contract.

The specific requirements for these reports are set forth in SECTION C of the contract.

2. Financial and Administrative Reporting

Financial Reports are necessary for contract administration in cost-reimbursement contracts. Financial reports reveal the financial status of the contract and provide information which is helpful in anticipating cost overruns or underruns. This type of cost information provides both the Project Officer and the Contracting Officer with a check on the contractor's expenditure by cost element, and permits the matching of costs incurred with technical results achieved. This financial information provides the Principal Investigator/Project Director (PI/PD) as well as the Project Officer and Contracting Officer an indication of how the work being performed under the contract is progressing.

All cost-type contracts include specific procedures for financial reporting. Normally, the contractor's business office is responsible for the timely preparation and submission of financial reports and invoices. Frequently, financial reporting is included with the invoice. It is recommended, however, that the PI/PD request a copy of these reports because it is crucial that he/she be constantly aware of contract expenditures. Using the financial report, the PI/PD can compare the originally estimated costs with the costs actually incurred, and determine if technical performance is consistent with

expenditures and remaining funds. As a result of this kind of monitoring, it is often the PI/PD who is the first to notice potential problems such as insufficient funds to complete work, personnel problems, or other areas which may affect the cost or completion date of the contract. Once identified, these problems should be immediately communicated to the business office and the contracting officer. Any delay in this notification could affect the status of contract performance, especially if there is a problem of insufficient funds.

Administrative Reports are usually required in all contracts. There are numerous types of these reports. Some are required by law, some are required by policy, and some are required based on the needs of the individual contract. Examples of some of the administrative reports that may be required under a contract are set forth below:

- **Monthly Summary Sheet of Sales.** This report is required when a contractor is dispersing materials, i.e. animals, drugs, tissues, etc., for sale to others. This report provides an accounting of the monthly sales. The business office in conjunction with the Principal Investigator/Project Director generally prepares and submits this report.
- **Inventory Reports.** Some contracts maintain information, equipment, and/or other items. When applicable, the contract will normally require the submission of a report which documents the current inventory of items. The frequency of submission is dependent upon the need for this information.
- **Subcontracting Reports.** Any contract over \$500,000 is required by federal law to develop a Subcontracting Plan at the time of award. Semi-annual and Annual reports on the progress of this plan are required. It is generally the business office that will prepare and submit these reports.

REPORTING AND DELIVERABLE SUBMISSION

The contract is a legal, binding, document containing terms and conditions which must be adhered to by both the contractor and the government. The requirements regarding all deliverables (this includes end items and all technical, financial and administrative reports) identified in the delivery schedule and/or any other section of the contract are part of the contractual terms and conditions.

Delinquencies in the delivery of any item required under the contract can result in the enforcement of the Department of Health and Human Services Acquisition Regulation (HHSAR) Clause 352.232-9, entitled, Withholding of Payments set forth in SECTION I of the contract. Under the conditions of this clause, the government has the right to withhold all, or any part of an invoice submitted for reimbursement when a contractor is delinquent in delivering any required item stated in the contract. It is, therefore, extremely important for the Principal Investigator/Project Director (PI/PD) to make certain that any and all deliverable requirements are submitted in a timely manner. It is understood that the PI/PD will generally have direct involvement and/or responsibility for deliverables of a technical nature. However, it is also important for the PI/PD to know what other deliverables are required and who has responsibility for submission of those deliverables so he or she may coordinate, if necessary, to assure that contract performance is not adversely affected by delinquencies.

PROBLEM SITUATIONS

Any problems which may affect the contractor's ability to perform the work required by the contract should be communicated to the Project Officer and the Contracting Officer. If the Project Officer is not receiving required reports or receives a report that is unsatisfactory, the contractor is notified and the problem(s) are discussed. If the quality of performance is not improved, the Project Officer may request the Contracting Officer to take legal action. There are several legal actions that may be taken:

- The contract schedule may be extended.
- The contract may be terminated for default.
- The contract may be terminated for convenience of the government.

Upon completion of a technical and business review, the Contracting Officer may issue a notice of failure to perform to the contractor. The notice requires the contractor to inform the Contracting Officer of the cause(s) of the delinquency so that a proper determination can be made concerning continuation or termination of the contract. During this time, **only** the Contracting Officer should have contact with the Contractor.

SECTION IV - CONTRACT ADMINISTRATION

INTRODUCTION

The contract administration phase commences when the contract is awarded and ends when final payment is made. This section summarizes the functions that the Government performs during contract administration to ensure that the work scope and other promises and agreements contained in the contract are fulfilled. Most NCI contracts are awarded on a cost-reimbursable basis, and the section focuses on the functions that may be encountered under those types of contracts.

ROLE OF NCI PERSONNEL

Contract administration requires continuing teamwork by the Contracting Officer and the Project Officer. These officials have the respective responsibilities summarized below.

The Contracting Officer has the sole authority to negotiate modifications to the contract or to otherwise take action to change a contractual commitment on behalf of the Government. That official also has the ultimate authority to interpret the provisions of the contract, approve subcontractors and others costs or actions requiring Government approval, accept contract work, authorize payments, and formally evaluate the Contractor's performance. The Contracting Officer obtains advice and assistance from a variety of other Government staff, and particularly the Project Officer, in performing these responsibilities.

The Project Officer serves as the Government's expert on programmatic aspects of the contract and performs critical contract administration duties under authorities delegated by the Contracting Officer. These duties include monitoring the Contractor's performance, advising the Contracting Officer of any actual or potential problems, and serving as the primary recommending official on the acceptance of work, payment of invoices, and other Contracting Officer actions and decisions. Normally, the Project Officer is authorized to provide direction to, and answer questions from, the Contractor on matters that are within the scope of the contract and that do not affect the cost, period of performance, or terms and conditions of the contract

ROUTINE CONTRACT ADMINISTRATION ACTIONS

1. Prior Approval of Costs

Cost reimbursement contractors must obtain the Contracting Officer's prior approval for any proposed costs that are not included in the contract price, and for certain additional costs that are specifically identified as requiring prior approval. The costs requiring prior approval include but are not limited to the following:

a. Consultants

The Contracting Officer must approve the use of any consultant(s) that are not identified in the contract before they perform services under the contract. In such cases, the Contractor should provide the following information in writing to the Contracting Officer:

- name and credential information of the proposed consultants(s);

- a justification explaining why the services of a consultant are needed;
- an estimate of the duration of the services; and
- an estimate of the costs of the services. This includes data verifying the consultant's fee and any travel expenses.

The Contracting Officer and the Project Officer are responsible for reviewing such requests. If it is determined that the services are necessary and the estimated costs are reasonable, the Contracting Officer will approve the request and formalize the action by modifying the contract or issuing a Contracting Officer authorization (COA) letter.

b. Travel

Most NCI cost-reimbursement contracts include an estimated amount for travel, but the contract may require the Contractor to obtain the Contracting Officer's approval **before** undertaking specific trips (such as travel for general scientific meetings) or certain types of travel (particularly foreign travel). When this prior approval is required, the Contractor should submit a written request that includes the following information:

- Title of meeting(s), location or place(s) to be visited, purpose, dates and estimated costs;
- Names and titles of Contractor's proposed traveler(s), and their functions in the contract project;
- Discussion on the functions to be performed by the traveler(s) and how these will help to accomplish the objective(s) of the contract project; and
- Justification that absence of contract staff will not delay accomplishing the objectives of the contract project.

It is important that the request describe how the travel will benefit the performance of the contract. Invitations to contractor personnel to participate in a scientific meeting, or initiations by the contractor personnel, are not in themselves sufficient justification for travel.

The Contracting Officer will review the travel request in consultation with the Project Officer, and will issue a COA letter to the Contractor if the travel is approved.

c. Equipment

If the Contractor finds that it needs to purchase equipment not specifically authorized in the contract to perform contract work, it must normally obtain the Contracting Officer's prior approval for the purchase. This prior approval requirement applies to purchases of office furniture and office equipment of any dollar value, purchases of certain equipment identified and attached to the contract, and to purchases of other accountable property costing more than \$1,000. The Contracting Officer and Project Officer are responsible for reviewing the request and determining whether the proposed purchase is appropriate. The Contracting Officer will issue a COA for approved equipment purchases.

d. Overtime

The Contractor must obtain the Contracting Officer's approval before paying its employees overtime that will be charged to the contract. The only exceptions involve situations where the Government has agreed to pay overtime in an advance understanding that is incorporated in the contract.

Overtime requests must be submitted to the Contracting Officer in writing. These requests are reviewed by the Contracting Officer in consultation with the Project Officer. If the request is approved, the Contracting Officer issues a COA letter to the Contractor that specifies the circumstances and extent to which the Government will pay overtime charges.

e. Consent to Subcontracting

A subcontract is a contract between the Prime Contractor and a third party to provide a specified part of the work or materials required in the prime contract. While the Government does not have a direct legal relationship with subcontractors, it has a strong interest in ensuring that these organizations possess the capability and experience to perform the work. Accordingly, the provisions and/or clauses of the contract will identify specific subcontracts or categories of subcontracts which require the Government's consent prior to their award.

When Government consent is required, the Contractor typically will provide the Contracting Officer with a written request which includes:

- A description of the supplies or services to be provided under the subcontract;
- Identification of the proposed Subcontractor and an explanation of why and how the proposed organization was selected, including the degree of competition obtained;
- The Subcontractor's technical and business/cost proposals, together with the Prime Contractor's analysis of both proposals;
- Identification of the type of subcontract to be used and appropriate subcontract clauses; and
- A draft copy of the subcontract.

The Contracting Officer will review this request in consultation with the Project Officer. If the request is approved, the Contracting Officer will provide the Prime Contractor with written consent to enter into the proposed subcontract. It should be noted that the Government's review and consent does not relieve the Prime Contractor of any responsibility for managing the subcontractor's performance. It should also be noted that the Contracting Officer may properly ask to review the language of a proposed subcontract even when Government consent is not required.

2. Contract Modifications

A contract modification is a written change in the period of performance, work statement, price, funding, or other provision of a contract that is accomplished in accordance with a contract provision or by the mutual agreement of the parties. Some modifications involve simple administrative changes and others make basic changes in the contract. In either event, the Contracting Officer is the only

person that is authorized to modify a contract on behalf of the Government.

Contract modifications fall into one of two basic categories:

a. Unilateral

Unilateral modifications are effected by the Contracting Officer, without the signature or express concurrence of the Contractor, in accordance with the terms of the contract. These types of modifications are typically made for the following types of actions:

- Administrative changes;
- Change orders;
- Changes authorized by contract articles or clauses other than the changes clause (e.g., Option Clause, Project Officer Clause, Incremental Funding).
- Termination notices.

b. Bilateral

Bilateral modifications are referred to as supplemental agreements, and must be signed by both the Contracting Officer and the Contractor. These modifications must be used for any substantial changes to the contract that were not explicitly provided for in the contract. Bilateral modifications are most typically used to change the work scope, cost/price, government property, or other terms of the contract.

Normally, any changes to the work scope must be within the original scope of the contract. If the modification will materially increase the work scope, the Contracting Officer must approve a justification for awarding the additional work to the existing Contractor on a sole source basis, instead of competing it, before he/she executes the modification.

3. Post-Award Site Visits

The contract terms and conditions typically allow the Government to inspect the Contractor's or Subcontractor's facilities and work at any time during contract performance. Site visits are used to assist the Government in assessing the progress of an on-going contract and are typically conducted by the Contracting Officer and Project Officer. Visits are usually arranged in advance with the Contractor, but may occasionally be conducted without notice. Site visits are most commonly conducted for one or more of the following reasons:

- To check actual contract performance against scheduled and reported performance;
- To identify any scientific/technical problems or business/cost issues which could affect contract performance;
- To determine the adequacy of the facilities, working conditions, and accounting of government property, if applicable;
- To verify that the number of employees charged to a cost-reimbursement contract are actually performing the work.

The site visit findings are shared with the Contractor, and the Contractor is responsible for taking the appropriate actions needed to satisfy specific concerns that may be identified by the Government.

4. Processing Invoices and Reviewing Financial Reports

NCI contracts contain detailed instructions on submitting claims for payment and the submission of financial reports. Normally, the resulting invoices and/or financial reports must be carefully reviewed by both the Project Officer and the Contracting Officer before the NIH Office of Financial Management is authorized to make payment. These reviews include the allowability, allocability, and general reasonableness of the costs claimed. The Project Officer and Contracting Officer are also responsible for ensuring that the expenditure rate is consistent with contract performance, that all required deliverables have been received, and that the Contractor has furnished the required certifications and any required supporting documentation before they approve the invoice and/or financial report.

The invoice approval process operates differently for contractors that are paid through letters of credit and the DHHS Payment Management System. These contracts will contain specific instructions on that process. Regardless of the process followed, it is important that the Contractor submit complete invoices in accordance with the applicable instructions.

5. Evaluation of Contractor's Performance

The Government is required to prepare evaluations of Contractor performance on all contracts in excess of \$100,000. A final evaluation must be prepared following the completion of the contract, and interim evaluations must also be prepared on contracts with a period of performance exceeding one year. The Project Officer and Contracting Officer are responsible for drafting the evaluation, and will allow the Contractor 30 days to review the document and submit additional information or a rebutting statement. Decisions on the final content will be made at a level above the Contracting Officer when disagreements continue to exist. Any unincorporated rebuttal statement will be maintained with the evaluation. The resulting evaluation (with rebuttals) may be considered by NIH and other agencies in future contract competitions.

SPECIAL CONTRACT ACTIONS

1. Exercising Options

An option is a potential contract feature that allows the Government to unilaterally elect to purchase additional quantities of items or services or to extend the term of the contract. The option clause in the contract will specify a time period during which the Government must notify the Contractor that it intends to exercise an option for the extension of the term (e.g., at least 60 days prior to the expiration date of the contract), or for the purchase of additional quantities of items or services (usually a mutually agreed upon time frame). The Contracting Officer will formally exercise the option by issuing a contract modification which cites the option clause in the contract and makes related changes to the price and period of performance.

2. Issuing Delivery/Task Orders

The Contracting Officer must award a task or delivery order to procure work under an indefinite quantity contract or requirements contract. Each order must include a detailed description of the work to be performed, a set of deliverables, a performance period, and a price or estimated cost. Many NCI indefinite delivery contracts contain hourly rates for the various skills potentially required to perform orders under the contract (e.g., rates for a secretary, a conference coordinator, etc.). These hourly rates are utilized in the resulting orders, but the required number of hours of each skill must still be negotiated on an order-by-order basis.

In some cases, NCI will have two or more indefinite quantity contracts in place for the same type of services. In these cases, orders will be competed among the available contractors unless NCI justifies a sole source acquisition or already has adequate information on hand to make an objective selection.

3. Contract Termination

Normally, the Contractor provides acceptable performance and the Government pays the full anticipated amount and allows the contract to proceed to completion. On occasion, however, the Contracting Officer may exercise the right contained in Federal contracts to unilaterally terminate the contract for convenience or default. Both types of terminations can be complete or partial, that is, all or a part of the work can be terminated.

The two potential types of terminations are summarized below:

a. Termination for Convenience:

The Termination clause gives the Contracting Officer the right to cancel a contract whenever he/she determines that this is in the best interest of the Government. Normally, terminations for convenience occur because the Government's requirements have changed or because the full required funding is not available.

The Government is required to negotiate a fair settlement with the terminated Contractor. The Contracting Officer may determine the settlement amount when negotiations fail, but this decision is normally subject to the Disputes procedures. The Termination clause applicable to cost reimbursement contracts specifies that the determined amount shall include all allowable costs of performance incurred up to the effective date of the termination, certain continuing reimbursable costs, an appropriate portion of the fee (if applicable), and the reasonable costs of settling and terminating the contract.

b. Termination for Default:

The Termination clause also gives Contracting Officers the right to terminate a contract for default when the Contractor fails to perform its responsibilities for reasons that are essentially its own fault. The Contracting Officer must give the Contractor an opportunity to "cure" its performance problems before terminating the contract. The guidance on determining settlement amounts when cost reimbursement contracts are terminated for default closely parallels the guidance for terminations for convenience.

SECTION V - CONTRACT CLOSEOUT

A completed contract is one which is both physically complete i.e., all services have been performed and the products/services accepted, and the contract completion date has expired. Contract closeout of a completed contract typically includes such things as ensuring that the contractor has been paid, government property has been returned, all data and reports have been delivered and accepted, final audit has been performed, and any disputes have been resolved.

The contract closeout process begins once the contract has been completed. The process requires close coordination between the contractor, contracting office, program office, and the finance office. Prior to closure, the contracting office forwards a letter (typically thirty days prior to the contract completion date) to the contractor with detailed instructions for submitting an invoice, reports, and other forms necessary to close-out the contract. The contractor is responsible for submitting the close-out documents to the contracting officer, the closeout specialist, or the NIH property administrator as instructed in the letter. Generally, the contractor's business office in consultation with the Principal Investigator/Project Director will submit the documents. Contract closeout is completed when all the administrative actions have been completed, all disputes settled, and final payment has been made.

SECTION VI - GLOSSARY OF CONTRACT TERMS

Acquisition - The acquiring by contract with appropriated funds of supplies or services by and for the use of the Federal Government through purchases or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition includes solicitation and selection of sources, award of contracts, contract financing, contract performance, and contract administration. Acquisition is also synonymous with the word procurement.

Business/Cost Proposal Evaluation - The process of appraising an offeror's business/cost proposal to determine the reasonableness of costs proposed and the management capability of the offeror to perform the required work in a timely manner, e.g., facilities, reliability, past performance, cost realism.

Competitive Range - Based on the ratings of each proposal against all evaluation criteria, the contracting officer establishes a competitive range comprised of all the most highly rated proposals.

Completion Contract - A contract which clearly specifies in the statement of work the desired deliverables. The degree of effort is not measured in time allotted to the project but rather the percentage of completion.

Contract - A mutually binding legal relationship obligating the "seller" (contractor) to furnish the supplies or services and the "buyer" (Government) to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds, and except as otherwise authorized, are in writing (e.g., awards and notices of awards, letter contracts, purchase orders, bilateral contract modifications).

Contract Administration - The management of all facets of awarded contracts so as to assure that the contractor's total performance is in accordance with its contractual commitments and that the obligations to the government are fulfilled. Contract administration is conducted within the framework of delegated responsibility and authority by the contracting officer.

Contract Award - The official authorization to implement the contract and to obligate Federal funds. This authorization becomes effective on the date that the contracting officer signs the contract on behalf of the government.

Contract Modification - "Contract modification" means any written alteration in the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provision of an existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes: (a) bilateral actions such as supplemental agreements and (b) unilateral actions such as change orders, notices of termination, and notices of the exercise of an option.

Contract Specialist (Contract Negotiator) - A person who is subject to the general supervision of the contracting officer and who actually carries out most of the procedural steps, as contrasted with the approvals required to be taken by the contracting officer under applicable regulations.

Contracting Officer - The individual who is the government's authorized agent in dealing with the contractor. This individual has authority to negotiate, award and amend contracts on behalf of the government.

Contractor - An organization or person who has entered into a contract with the federal government to perform a specific task. The contractor is legally and financially responsible and accountable to the awarding agency for performance of the contract supported activity.

Cooperative Agreement - An award instrument reflecting an assistance relationship between the Government and a recipient in which substantial programmatic involvement by the Government is anticipated during performance of the activity.

Cost-Reimbursement - A cost reimbursement contract is appropriate for use when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed price contract. This type of contract places less risk of performance on the contractor and minimum incentive to control costs, and requires Government surveillance during performance to ensure that efficient methods and effective cost controls are used.

Federal Acquisition Regulation (FAR) - The regulation which applies to the NIH and all other civilian executive agencies. These regulations apply to procurements made within and outside of the United States.

Federal Business Opportunities (FedBizOpps) - The FedBizOpps is the single point of universal electronic public access on the internet for government-wide Federal procurement opportunities and as such has been designated the "Governmentwide point of entry (GPE)."

Firm Fixed-Price Contract - This type of contract is appropriate when reasonable definite design and performance specifications are available, and a fair and reasonable price can be established at the onset of the requirement. A firm fixed-price contract provides for a price that is not subject to adjustment on the basis of the contractor's cost experience in performing the contract. This contract type places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss.

Grant - A financial assistance mechanism between the Government and a recipient. Performance responsibility rests primarily with the recipient and there is little or no Government involvement or participation in the performance of activities.

Department of Health and Human Services Acquisition Regulation (HHSAR) - This the Department's regulation which supplements the FAR.

Incrementally Funded Contract - The total effort of the contract as described over a period of multiple years, under which funds are allotted as they become available, usually annually to cover increments of performance.

Key Personnel - Employees of the contractor who are engaged in the contract project and who are considered as essential resources in the selection process. (The government shall review the qualifications of any substitution of these individuals.)

Level of Effort - A description included in the work statement identifying the type of effort to be expended by the contractor within the given time period. Also, a tabulation of the specific types and numbers of staff hours (or staff months) to be devoted to the project.

Negotiation - This term refers to contracts for supplies or services without the use of formal advertising. Under negotiated contracts, the lowest price offeror may not necessarily receive the award. Award is made on the basis of the proposal that offers the greatest advantage to the government, price and other factors considered. Typically, when contracting for Research and Development, technical competence is primary.

NIH Guide for Grants & Contracts - An electronic publication issued by NIH on a regular basis which includes announcements of contract opportunities for services and/or products from educational and nonprofit organizations.

Non-Research & Development or Station Support Requirements - The routine purchase of commercial items sold in substantial quantities to the general public with published price lists, including "off-the-shelf" laboratory or general equipment, materials, supplies, animals, or routine services. The conduct of program evaluations, public or technical information services or clearinghouses, scientific conference or logistics support, or other services not performing or directly supporting Research and Development. The performance of minor enhancements to existing equipment or systems.

Option - An option is a unilateral right by which, for a specified time, the Government may elect to purchase additional supplies or services called for by the contract, or may elect to extend the term of the contract.

Phasing - The dividing of the contractual effort into phases (areas or stages) of accomplishment, each of which must be completed and approved before the contractor may proceed to the next phase.

Principal Investigator(PI)/Project Director (PD) - A qualified individual designated by the contractor's organization to direct the project or program being supported by the contract. This individual has primary responsibility for guiding and/or performing the work as described in the contract work statement.

Project Officer (PO) - The "Project Officer" is the person representing the government for the purpose of technical monitoring of the contract. However, the project officer has no authority to obligate the government or change the terms of the contract (only the contracting officer has that authority).

Request for Proposal (RFP) - The government's invitation to prospective offerors to submit a proposal based on the terms and conditions set forth in the RFP. The RFP is also called the solicitation.

Research and Development Requirements - Systematic search or intensive study directed towards new or fuller scientific knowledge or understanding beyond the state of the art, and/or towards the practical application of knowledge/understanding to advance specific program objectives. Systematic use of knowledge and understanding gained from research, directed towards creating useful materials, devices, systems or methods to meet functional or economic feasibility requirements, including procedures to accomplish significant novel enhancements to existing equipment or systems.

Research and Development Support Requirements - Procedures, techniques and activities directly supporting the conduct of Research and Development, involving innovative or standard methodologies to prepare or provide special materials, resources, or services integral to performing Research and Development projects, e.g., screen or test components for biological activity; collect, provide, analyze, or interpret experimental research data or information, or provide significant enhancements to existing equipment or systems.

Statement of Work - The document which states the technical objectives, level of effort, and requirements of the contracts. This document is normally found in Section "C" or included as an attachment in Section "J" of the RFP and contract.

Site Visit - The process used to evaluate and determine an offeror's capability of performing the requirements set forth in the RFP (pre-award), or to determine if sufficient progress is being made on an ongoing contract (post-award); this process is normally performed at the contractor's facility.

Subcontract - An agreement between a prime contractor of an original contract and a third party to provide all or a specified part of the work or materials required in the original contract.

Supplemental, Agreement - A modification of an existing contract which is accomplished by the mutual action of both parties. A supplemental agreement is also called a bilateral agreement.

Technical Proposal Evaluation - The process which is used to measure a technical proposal against the technical evaluation criteria which are included in the RFP (Request for Proposal) and are used for rating the proposals.

Technical Evaluation Panel - A group of government and non government experts qualified by training and experience in particular scientific or technical fields who will be responsible for providing expert advice on the scientific and technical merits of contract proposals under evaluation, identifying strengths and weaknesses, determining their technical acceptability or unacceptability, and recommending technically acceptable offerors for the competitive range and source selection.