

SECTION A - SOLICITATION/CONTRACT FORM

**SECTION B OF NNG09297780R
SUPPLIES OR SERVICES AND PRICES/COSTS**

B.1 1852.216-78 FIRM FIXED PRICE. (DEC 1988)

The total firm fixed price of this contract is \$_____.

(End of clause)

B.2 SUPPLIES AND/OR SERVICES TO BE PROVIDED 001

The Contractor shall provide all resources (except as may be expressly stated in the contract as furnished by the Government) necessary to deliver and/or perform the items below in accordance with the Description/Specifications/Statement of Work incorporated:

<u>Item</u>	<u>Description</u>	<u>Reference</u>	<u>Quantity</u>	<u>Delivery Date</u>
1a	Initial Telescope Design Model and Package	Attachment A & B	1	75 calendar days after Contract Award
1b	Final Telescope Design Model and Package	Attachment A & B	1	150 calendar days after Contract Award
2	Final Report and Presentation	Clause H.2 and Attachment A & B	1	150 calendar days after Contract Award
3	Administrative Reports: (a) New Technology Report	Clause G.1	1	Per Clause Instructions

(End of Clause)

B.3 MILESTONE PAYMENT SCHEDULE

(a) Subject to other limitations and conditions specified in this contract, milestone payment shall be made to the Contractor upon delivery and acceptance of the milestone events described under paragraph (b).

(b) The payment schedule amount shall be calculated by the application of the contract percentage established per milestone event to the to the fixed price amount indicated under contract clause B.2 (a), entitled "Firm-Fixed Price".

MILESTONE EVENT	QTY	CONTRACT PERCENTAGE	AMOUNT
Initial Telescope Design Model and Package	1	50%	
Final Report & Presentation	1	50%	
TOTAL		100%	

(c) The Contractor may submit requests for payment not more frequently than monthly, in a form and manner acceptable to the Contracting Officer. Unless otherwise authorized by the Contracting Officer, all milestone payments in any period for which payment is being requested shall be included in a single request, appropriately itemized and totaled.

(d) The Contractor shall not be entitled to payment of a request for milestones payment prior to successful accomplishment and acceptance by the Government of the milestone event. The Contracting Officer shall determine whether the milestone event or performance criterion for which payment is requested has been successfully accomplished and accepted by the Government in accordance with the terms of the contract. The Contracting Officer may, at any time, require the Contractor to substantiate the successful performance of any event or performance criterion, which has been or is represented as being payable.

(End of Clause)

**SECTION C OF NNG09297780R
DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK**

**C.1 GSFC 52.227-90 LIMITED RIGHTS DATA OR RESTRICTED COMPUTER SOFTWARE
(MAR 2008)**

In accordance with the delivery requirements of this contract, all software data rights shall be delivered in accordance with the Rights in Data – General clause, specified elsewhere in this contract, except for the following: **NONE**

(End of clause)

**SECTION D OF NNG09297780R
PACKAGING AND MARKING**

THERE ARE NO CLAUSES IN THIS SECTION

**SECTION E OF NNG09297780R
INSPECTION AND ACCEPTANCE**

E.1 52.246-9 INSPECTION OF RESEARCH AND DEVELOPMENT (SHORT FORM) (APR 1984)

E.2 52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

E.3 ACCEPTANCE—LOCATION (GSFC 52.246-93) (APR 2008)

The Contracting Officer or authorized representative will accomplish acceptance at the following location(s):

<u>Authorized Item</u>	<u>Location</u>	<u>Representative</u>
See Clause B.2	NASA/GSFC	Mark Melton

The Contracting Officer reserves the right to designate other Government agents as authorized representatives. The Contractor will be notified by a written notice or by a copy of the delegation letter if other agents are authorized.

This is a fixed price type contract, therefore, acceptance shall be deemed to have occurred constructively--for the sole purpose of computing an interest penalty that might be due the Contractor under the Prompt Payment Act--on the 30th day after the Contractor has delivered the supplies or services in accordance with the terms and conditions of the contract. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the date of the actual acceptance.

(End of clause)

E.4 INSPECTION SYSTEM RECORDS (GSFC 52.246-102) (OCT 1988)

The Contractor shall maintain records evidencing inspections in accordance with the Inspection clause of this contract for seven years after delivery of all items and/or completion of all services called for by the contract.

(End of clause)

E.5 CLAUSES INCORPORATED BY REFERENCE -- SECTION E

Clauses E.1 and E.2 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

**SECTION F OF NNG09297780R
DELIVERIES OR PERFORMANCE**

F.1 52.242-15 STOP-WORK ORDER. (AUG 1989)

F.2 52.247-34 F.O.B DESTINATION (NOV 1991)

F.3 SHIPPING INSTRUCTIONS--CENTRAL RECEIVING (GSFC 52.247-94) (JUN 2006)

Shipments of the items required under this contract shall be to:

Receiving Officer
Building 16W
Code 279
Goddard Space Flight Center
Greenbelt, Maryland 20771

Marked for:

Technical Officer: Mark Melton, Mail Code 446
Building: 23, Room E125
Contract Number: TBD

Compliance with this clause is necessary to assure verification of delivery and acceptance and prompt payment.

This is a fixed price type contract; delivery--for purposes of the Prompt Payment Act--must be through the above shipping address unless another location has been authorized by the Contracting Officer. If delivery is made to other than Receiving, Building 16W, Code 279, and shipment to that other location has not been authorized by the Contracting Officer, a delivery for the purposes of the Prompt Payment Act has not occurred and no interest penalty under the Act shall result. Shipment to other than Receiving, Building 16W, Code 279, will be construed as contract noncompliance.

(End of clause)

F.4 CLAUSES INCORPORATED BY REFERENCE -- SECTION F

Clauses F.1 and F.2 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

**SECTION G OF NNG09297780R
CONTRACT ADMINISTRATION DATA**

G.1 1852.227-70 NEW TECHNOLOGY. (MAY 2002)

G.2 1852.227-72 DESIGNATION OF NEW TECHNOLOGY REPRESENTATIVE AND PATENT REPRESENTATIVE. (JUL 1997)

(a) For purposes of administration of the clause of this contract entitled "New Technology" or "Patent Rights - Retention by the Contractor (Short Form)," whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office Code	Address (including zip code)
New Technology Representative	504	Goddard Space Flight Center Greenbelt, MD 20771
Patent Representative	503	Goddard Space Flight Center Greenbelt, MD 20771

(b) Reports of reportable items, and disclosure of subject inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquires or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This clause shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights - Retention by the Contractor (Short Form)" clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives are set forth in 1827.305-370 of the NASA FAR Supplement.

(End of clause)

G.3 INVOICES - SUBMISSION OF (GSFC 52.232-95) (AUG 2008)

Invoices shall be prepared in accordance with the Prompt Payment clause of this contract and submitted to the NASA Shared Services Center (NSSC), Financial Management Division (FMD) – Accounts Payable, Bldg 1111, C. Road, Stennis Space Center, MS 39529, Email: NSSC-AccountsPayable@nasa.gov. For purposes of the Prompt Payment Act, the above office is considered to be the "Designated Billing Office" and the "Designated Payment Office".

(End of clause)

G.4 CLAUSES INCORPORATED BY REFERENCE -- SECTION G

Clause G.1 at the beginning of this Section is incorporated by reference, with the same force

and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

**SECTION H OF NNG09297780R
SPECIAL CONTRACT REQUIREMENTS**

H.1 1852.208-81 RESTRICTIONS ON PRINTING AND DUPLICATING. (NOV 2004)

H.2 1852.235 FINAL SCIENTIFIC AND TECHNICAL REPORTS. (DEC 2006)

H.3 1852.225-70 EXPORT LICENSES. (FEB 2000)

(a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at [*insert name of NASA installation*], where the foreign person will have access to export-controlled technical data or software.

(c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

(d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

(End of clause)

H.4 GSFC 52.227-99 RIGHTS IN DATA (MAR 2008)

The default Data Rights clause under this contract is FAR 52.227-14 RIGHTS IN DATA-GENERAL as modified by NASA FAR Supplement 1852.227-14—Alternate II and Alternate III and GSFC 52.227-90. Any exceptions to this clause will be covered by FAR 52.227-17 RIGHTS IN DATA--SPECIAL WORKS as modified by NASA FAR Supplement 1852.227-17, and, if applicable, GSFC 52.227-93.

(End of clause)

H.5 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFEROR

The completed provision 52.204-8, Annual Representations and Certifications, including any amended representation(s) made at paragraph (b) of the provision; and other representations, certifications and other statements contained in Section K completed and submitted as part of the offer are hereby incorporated by reference in this resulting contract.

(End of Clause)

H.6 CLAUSES INCORPORATED BY REFERENCE -- SECTION H

Clauses H.1 and H.2 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

**SECTION I OF NNG09297780R
CONTRACT CLAUSES**

I.1 52.202-1 DEFINITIONS. (JUL 2004)

I.2 52.203-3 GRATUITIES. (APR 1984)

I.3 52.203-5 COVENANT AGAINST CONTINGENT FEES. (APR 1984)

I.4 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT. (SEP 2006)

I.5 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

I.6 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

I.7 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY. (JAN 1997)

I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (SEP 2007)

I.9 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER. (AUG 2000)

I.10 52.204-7 CENTRAL CONTRACTOR REGISTRATION. (APR 2008)

I.11 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT. (SEP 2006)

I.12 52.215-2 AUDIT AND RECORDS - NEGOTIATION. (MAR 2009)

I.13 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT. (OCT 1997)

I.14 52.215-14 INTEGRITY OF UNIT PRICES. (OCT 1997)

I.15 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS. (MAY 2004)

I.16 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES. (FEB 1997)

I.17 52.222-3 CONVICT LABOR. (JUN 2003)

I.18 52.222-21 PROHIBITION OF SEGREGATED FACILITIES. (FEB 1999)

I.19 52.222-26 EQUAL OPPORTUNITY. (MAR 2007)

I.20 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)

- I.21 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)**
- I.22 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS. (SEP 2006)**
- I.23 52.222-50 COMBATING TRAFFICKING IN PERSONS. (FEB 2009)**
- I.24 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)**
- I.25 52.223-6 DRUG-FREE WORKPLACE. (MAY 2001)**
- I.26 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES. (JUN 2008)**
- I.27 52.227-1 AUTHORIZATION AND CONSENT. (DEC 2007) ALT I (APR 1984)**
- I.28 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT. (DEC 2007)**
- I.29 52.227-11 PATENT RIGHTS--OWNERSHIP BY THE CONTRACTOR. (DEC 2007) AS MODIFIED BY NASA FAR Supplement 1852.227-11**
- I.30 52.227-16 ADDITIONAL DATA REQUIREMENTS. (JUN 1987)**
- I.31 52.229-3 FEDERAL, STATE, AND LOCAL TAXES. (APR 2003)**
- I.32 52.232-2 PAYMENTS UNDER FIXED PRICE RESEARCH AND DEVELOPMENT CONTRACTS. (APR 1984)**
- I.33 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS. (APR 1984)**
- I.34 52.232-17 INTEREST. (OCT 2008)**
- I.35 52.232-23 ASSIGNMENT OF CLAIMS. (JAN 1986)**
- I.36 52.232-25 PROMPT PAYMENT. (OCT 2008)**
- I.37 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION. (MAY 1999)**
- I.38 52.233-1 DISPUTES. (JUL 2002) - ALTERNATE I (DEC 1991)**
- I.38 52.233-3 PROTEST AFTER AWARD. (AUG 1996)**
- I.40 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM. (OCT 2004)**
- I.41 52.242-13 BANKRUPTCY. (JUL 1995)**
- I.42 52.243-1 CHANGES - FIXED-PRICE. (AUG 1987) - ALTERNATE V (JUN 2007)**
- I.43 52.244-2 SUBCONTRACTS. (JUN 2007) - ALTERNATE I (JUN 2007)**

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: Professional and consultant costs as defined at FAR 31.205-33 (j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: None.

I.44 52.244-5 COMPETITION IN SUBCONTRACTING. (DEC 1996)

I.45 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS. (MAR 2009)

I.46 52.246-23 LIMITATION OF LIABILITY. (FEB 1997)

I.47 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE). (MAY 2004)

I.48 52.249-9 DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT). (APR 1984)

I.49 52.2222-39 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)

(a) *Definition.* As used in this clause—

“United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) Except as provided in paragraph (e) of this clause, during the term of this contract, the Contractor shall post a notice, in the form of a poster, informing employees of their rights concerning union membership and payment of union dues and fees, in conspicuous places in and about all its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the information pertaining to National Labor Relations Board shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended ([45 U.S.C. 151-188](#))).

Notice to Employees

Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to

pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address or toll free number:

National Labor Relations Board
Division of Information
1099 14th Street, N.W.
Washington, DC 20570
1-866-667-6572
1-866-316-6572 (TTY)

To locate the nearest NLRB office, see NLRB's website at <http://www.nlr.gov>.

(c) The Contractor shall comply with all provisions of Executive Order 13201 of February 17, 2001, and related implementing regulations at 29 CFR Part 470, and orders of the Secretary of Labor.

(d) In the event that the Contractor does not comply with any of the requirements set forth in paragraphs (b), (c), or (g), the Secretary may direct that this contract be cancelled, terminated, or suspended in whole or in part, and declare the Contractor ineligible for further Government contracts in accordance with procedures at 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures. Such other sanctions or remedies may be imposed as are provided by 29 CFR Part 470, which implements Executive Order 13201, or as are otherwise provided by law.

(e) The requirement to post the employee notice in paragraph (b) does not apply to—

- (1) Contractors and subcontractors that employ fewer than 15 persons;
- (2) Contractor establishments or construction work sites where no union has been formally recognized by the Contractor or certified as the exclusive bargaining representative of the Contractor's employees;
- (3) Contractor establishments or construction work sites located in a jurisdiction named in the definition of the United States in which the law of that jurisdiction forbids enforcement of union-security agreements;
- (4) Contractor facilities where upon the written request of the Contractor, the Department of Labor Deputy Assistant Secretary for Labor-Management Programs has waived the posting requirements with respect to any of the Contractor's facilities if the Deputy Assistant Secretary finds that the Contractor has demonstrated that—

(i) The facility is in all respects separate and distinct from activities of the Contractor related to the performance of a contract; and

(ii) Such a waiver will not interfere with or impede the effectuation of the Executive order; or

(5) Work outside the United States that does not involve the recruitment or employment of workers within the United States.

(f) The Department of Labor publishes the official employee notice in two variations; one for contractors covered by the Railway Labor Act and a second for all other contractors. The Contractor shall—

(1) Obtain the required employee notice poster from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Download a copy of the poster from the Office of Labor-Management Standards website at <http://www.olms.dol.gov>; or

(3) Reproduce and use exact duplicate copies of the Department of Labor's official poster.

(g) The Contractor shall include the substance of this clause in every subcontract or purchase order that exceeds the simplified acquisition threshold, entered into in connection with this contract, unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs on account of special circumstances in the national interest under authority of 29 CFR 470.3(c). For indefinite quantity subcontracts, the Contractor shall include the substance of this clause if the value of orders in any calendar year of the subcontract is expected to exceed the simplified acquisition threshold. Pursuant to 29 CFR Part 470, Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures, the Secretary of Labor may direct the Contractor to take such action in the enforcement of these regulations, including the imposition of sanctions for noncompliance with respect to any such subcontract or purchase order. If the Contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

I. 50 RIGHTS IN DATA-GENERAL (52.227-14) (DEC 2007) as modified by NASA FAR Supplement 1852.227-14—ALTERNATE II (DEC 2007) AND ALTERNATE III (DEC 2007)

(a) *Definitions.* As used in this clause-

"Computer database" or "database means" a collection of recorded information in a form capable of, and for the purpose of, being stored in, processed, and operated on by a computer. The term does not include computer software.

"Computer software"-

(1) Means

(i) Computer programs that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and

(ii) Recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.

(2) Does not include computer databases or computer software documentation.

"Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

"Data" means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

"Form, fit, and function data" means data relating to items, components, or processes that are sufficient to enable physical and functional interchangeability, and data identifying source, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements. For computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithms, processes, formulas, and flow charts of the software.

"Limited rights" means the rights of the Government in limited rights data as set forth in the Limited Rights Notice of paragraph (g)(3) if included in this clause.

"Limited rights data" means data, other than computer software, that embody trade secrets or are commercial or financial and confidential or privileged, to the extent that such data pertain to items, components, or processes developed at private expense, including minor modifications.

"Restricted computer software" means computer software developed at private expense and that is a trade secret, is commercial or financial and confidential or privileged, or is copyrighted computer software, including minor modifications of the computer software.

"Restricted rights," as used in this clause, means the rights of the Government in restricted computer software, as set forth in a Restricted Rights Notice of paragraph (g) if included in this clause, or as otherwise may be provided in a collateral agreement incorporated in and made part of this contract, including minor modifications of such computer software.

"Technical data" means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer databases and computer software documentation). This term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration. The term includes recorded information of a scientific or technical nature that is included in computer databases (See [41 U.S.C. 403\(8\)](#)).

"Unlimited rights" means the rights of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

(b) Allocation of rights.

(1) Except as provided in paragraph (c) of this clause, the Government shall have unlimited rights in-

(i) Data first produced in the performance of this contract;

(ii) Form, fit, and function data delivered under this contract;

(iii) Data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and

(iv) All other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software in accordance with paragraph (g) of this clause.

(2) The Contractor shall have the right to-

(i) Assert copyright in data first produced in the performance of this contract to the extent provided in paragraph (c)(1) of this clause;

(ii) Use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, unless provided otherwise in paragraph (d) of this clause;

(iii) Substantiate the use of, add, or correct limited rights, restricted rights, or copyright notices and to take other appropriate action, in accordance with paragraphs (e) and (f) of this clause; and

(iv) Protect from unauthorized disclosure and use those data that are limited rights data or restricted computer software to the extent provided in paragraph (g) of this clause.

(c) Copyright-

(1) Data first produced in the performance of this contract.

(i) Unless provided otherwise in paragraph (d) of this clause, the Contractor may, without prior approval of the Contracting Officer, assert copyright in scientific and technical articles based on or containing data first produced in the performance of this contract and published in academic, technical or professional journals, symposia proceedings, or similar works. The prior, express written permission of the Contracting Officer is required to assert copyright in all other data first produced in the performance of this contract.

(ii) When authorized to assert copyright to the data, the Contractor shall affix the applicable copyright notices of [17 U.S.C. 401 or 402](#), and an acknowledgment of Government sponsorship (including contract number).

(iii) For data other than computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform publicly

and display publicly by or on behalf of the Government. For computer software, the Contractor grants to the Government, and others acting on its behalf, a paid-up, nonexclusive, irrevocable, worldwide license in such copyrighted computer software to reproduce, prepare derivative works, and perform publicly and display publicly (but not to distribute copies to the public) by or on behalf of the Government.

(2) *Data not first produced in the performance of this contract.* The Contractor shall not, without the prior written permission of the Contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract unless the Contractor-

(i) Identifies the data; and

(ii) Grants to the Government, or acquires on its behalf, a license of the same scope as set forth in paragraph (c)(1) of this clause or, if such data are restricted computer software, the Government shall acquire a copyright license as set forth in paragraph (g)(4) of this clause (if included in this contract) or as otherwise provided in a collateral agreement incorporated in or made part of this contract.

(3) *Removal of copyright notices.* The Government will not remove any authorized copyright notices placed on data pursuant to this paragraph (c), and will include such notices on all reproductions of the data.

(d) *Release, publication, and use of data.* The Contractor shall have the right to use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this contract, except-

(1) As prohibited by Federal law or regulation (e.g., export control or national security laws or regulations);

(2) As expressly set forth in this contract; or

(3) If the Contractor receives or is given access to data necessary for the performance of this contract that contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless specifically authorized otherwise in writing by the Contracting Officer.

(i) The Contractor agrees not to establish claim to copyright, publish or release to others any computer software first produced in the performance of this contract without the Contracting Officer's prior written permission.

(ii) If the Government desires to obtain copyright in computer software first produced in the performance of this contract and permission has not been granted as set forth in paragraph (d)(3)(i) of this clause, the Contracting Officer may direct the contractor to assert, or authorize the assertion of, claim to copyright in such data and to assign, or obtain the assignment of, such copyright to the Government or its designated assignee.

(iii) Whenever the word "establish" is used in this clause, with reference to a claim to copyright, it shall be construed to mean "assert".

(e) *Unauthorized marking of data.*

(1) Notwithstanding any other provisions of this contract concerning inspection or acceptance, if any data delivered under this contract are marked with the notices specified in paragraph (g)(3) or (g) (4) if included in this clause, and use of the notices is not authorized by this clause, or if the data bears any other restrictive or limiting markings not authorized by this contract, the

Contracting Officer may at any time either return the data to the Contractor, or cancel or ignore the markings. However, pursuant to [41 U.S.C. 253d](#), the following procedures shall apply prior to canceling or ignoring the markings.

(i) The Contracting Officer will make written inquiry to the Contractor affording the Contractor 60 days from receipt of the inquiry to provide written justification to substantiate the propriety of the markings;

(ii) If the Contractor fails to respond or fails to provide written justification to substantiate the propriety of the markings within the 60-day period (or a longer time approved in writing by the Contracting Officer for good cause shown), the Government shall have the right to cancel or ignore the markings at any time after said period and the data will no longer be made subject to any disclosure prohibitions.

(iii) If the Contractor provides written justification to substantiate the propriety of the markings within the period set in paragraph (e)(1)(i) of this clause, the Contracting Officer will consider such written justification and determine whether or not the markings are to be cancelled or ignored. If the Contracting Officer determines that the markings are authorized, the Contractor will be so notified in writing. If the Contracting Officer determines, with concurrence of the head of the contracting activity, that the markings are not authorized, the Contracting Officer will furnish the Contractor a written determination, which determination will become the final agency decision regarding the appropriateness of the markings unless the Contractor files suit in a court of competent jurisdiction within 90 days of receipt of the Contracting Officer's decision. The Government will continue to abide by the markings under this paragraph (e)(1)(iii) until final resolution of the matter either by the Contracting Officer's determination becoming final (in which instance the Government will thereafter have the right to cancel or ignore the markings at any time and the data will no longer be made subject to any disclosure prohibitions), or by final disposition of the matter by court decision if suit is filed.

(2) The time limits in the procedures set forth in paragraph (e)(1) of this clause may be modified in accordance with agency regulations implementing the Freedom of Information Act ([5 U.S.C. 552](#)) if necessary to respond to a request thereunder.

(3) Except to the extent the Government's action occurs as the result of final disposition of the matter by a court of competent jurisdiction, the Contractor is not precluded by paragraph (e) of the clause from bringing a claim, in accordance with the Disputes clause of this contract, that may arise as the result of the Government removing or ignoring authorized markings on data delivered under this contract.

(f) Omitted or incorrect markings.

(1) Data delivered to the Government without any restrictive markings shall be deemed to have been furnished with unlimited rights. The Government is not liable for the disclosure, use, or reproduction of such data.

(2) If the unmarked data has not been disclosed without restriction outside the Government, the Contractor may request, within 6 months (or a longer time approved by the Contracting Officer in writing for good cause shown) after delivery of the data, permission to have authorized notices placed on the data at the Contractor's expense. The Contracting Officer may agree to do so if the Contractor-

(i) Identifies the data to which the omitted notice is to be applied;

- (ii) Demonstrates that the omission of the notice was inadvertent;
- (iii) Establishes that the proposed notice is authorized; and
- (iv) Acknowledges that the Government has no liability for the disclosure, use, or reproduction of any data made prior to the addition of the notice or resulting from the omission of the notice.

(3) If data has been marked with an incorrect notice, the Contracting Officer may-

(i) Permit correction of the notice at the Contractor's expense if the Contractor identifies the data and demonstrates that the correct notice is authorized; or

(ii) Correct any incorrect notices.

(g) Protection of limited rights data and restricted computer software.

(1) The Contractor may withhold from delivery qualifying limited rights data or restricted computer software that are not data identified in paragraphs (b)(1)(i), (ii), and (iii) of this clause. As a condition to this withholding, the Contractor shall-

(i) Identify the data being withheld; and

(ii) Furnish form, fit, and function data instead.

(2) Limited rights data that are formatted as a computer database for delivery to the Government shall be treated as limited rights data and not restricted computer software.

(3) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of limited rights data, or the Contracting Officer may require by written request the delivery of limited rights data that has been withheld or would otherwise be entitled to be withheld. If delivery of that data is required, the Contractor shall affix the following "Limited Rights Notice" to the data and the Government will treat the data, subject to the provisions of paragraphs (e) and (f) of this clause, in accordance with the notice:

Limited Rights Notice (Dec 2007)

(a) These data are submitted with limited rights under Government Contract No. ___TBD___ (and subcontract ___TBD___, if appropriate). These data may be reproduced and used by the Government with the express limitation that they will not, without written permission of the Contractor, be used for purposes of manufacture nor disclosed outside the Government; except that the Government may disclose these data outside the Government for the following purposes, if any; provided that the Government makes such disclosure subject to prohibition against further use and disclosure:

(i) Use (except for manufacture) by support service contractors.

(ii) Evaluation by nongovernment evaluators.

(iii) Use (except for manufacture) by other contractors participating in the Government's program of which the specific contract is a part.

(iv) Emergency repair or overhaul work.

(v) Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation, or for emergency repair or overhaul work by

the foreign government.

(vi) or any other legitimate government use

(b) This notice shall be marked on any reproduction of these data, in whole or in part.

(End of notice)

(4)(i) Notwithstanding paragraph (g)(1) of this clause, the contract may identify and specify the delivery of restricted computer software, or the Contracting Officer may require by written request the delivery of restricted computer software that has been withheld or would otherwise be entitled to be withheld. If delivery of that computer software is required, the Contractor shall affix the following "Restricted Rights Notice" to the computer software and the Government will treat the computer software, subject to paragraphs (e) and (f) of this clause, in accordance with the notice:

Restricted Rights Notice (Dec 2007)

(a) This computer software is submitted with restricted rights under Government Contract No. _____ (and subcontract _____, if appropriate). It may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b) of this notice or as otherwise expressly stated in the contract.

(b) This computer software may be-

(1) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(2) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(3) Reproduced for safekeeping (archives) or backup purposes;

(4) Modified, adapted, or combined with other computer software, *provided* that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restricted rights;

(5) Disclosed to and reproduced for use by support service Contractors or their subcontractors in accordance with paragraphs (b)(1) through (4) of this notice; and

(6) Used or copied for use with a replacement computer and other legitimate government use.

(c) Notwithstanding the foregoing, if this computer software is copyrighted computer software, it is licensed to the Government with the minimum rights set forth in paragraph (b) of this notice.

(d) Any other rights or limitations regarding the use, duplication, or disclosure of this computer software are to be expressly stated in, or incorporated in, the contract.

(e) This notice shall be marked on any reproduction of this computer software, in whole or in part.

(End of notice)

(ii) Where it is impractical to include the Restricted Rights Notice on restricted computer software, the following short-form notice may be used instead:

Restricted Rights Notice Short Form (Jun 1987)

Use, reproduction, or disclosure is subject to restrictions set forth in Contract No. _____ (and subcontract, if appropriate) with _____ (name of Contractor and subcontractor).

(End of notice)

(iii) If restricted computer software is delivered with the copyright notice of [17 U.S.C. 401](#), it will be presumed to be licensed to the Government without disclosure prohibitions, with the minimum rights set forth in paragraph (b) of this clause.

(h) *Subcontracting*. The Contractor shall obtain from its subcontractors all data and rights therein necessary to fulfill the Contractor's obligations to the Government under this contract. If a subcontractor refuses to accept terms affording the Government those rights, the Contractor shall promptly notify the Contracting Officer of the refusal and shall not proceed with the subcontract award without authorization in writing from the Contracting Officer.

(i) *Relationship to patents or other rights*. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government.

(End of clause)

I.51 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): Federal Acquisition Regulation (FAR) clauses:

<http://www.acqnet.gov/far/>

NASA FAR Supplement (NFS) clauses:

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

(End of clause)

I.52 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES. (APR 1984)

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the date of the clause.

(b) The use in this solicitation or contract of any NASA FAR Supplement (48 CFR 18) clause with an authorized deviation is indicated by the addition of (DEVIATION) after the name of the regulation.

(End of clause)

I.53 1852.215-84 OMBUDSMAN. (OCT 2003)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the contracting officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution.

(b) If resolution cannot be made by the contracting officer, interested parties may contact the installation ombudsman, Judith N. Bruner, Business Phone 301-286-7679, and email address: Judith.N.Bruner@nasa.gov.. Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman, the Director of the Contract Management Division, at 202-358-0445, facsimile 202-358-3083, e-mail james.a.balinskas@nasa.gov. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer or as specified elsewhere in this document.

(End of clause)

I.54 1852.237-73 RELEASE OF SENSITIVE INFORMATION. (JUN 2005)

(a) As used in this clause, "Sensitive information" refers to information, not currently in the public domain, that the Contractor has developed at private expense, that may embody trade secrets or commercial or financial information, and that may be sensitive or privileged.

(b) In accomplishing management activities and administrative functions, NASA relies heavily on the support of various service providers. To support NASA activities and functions, these service providers, as well as their subcontractors and their individual employees, may need access to sensitive information submitted by the Contractor under this contract. By submitting this proposal or performing this contract, the Contractor agrees that NASA may release to its service providers, their subcontractors, and their individual employees, sensitive information submitted during the course of this procurement, subject to the enumerated protections mandated by the clause at 1852.237-72, Access to Sensitive Information.

(c) (1) The Contractor shall identify any sensitive information submitted in support of this proposal or in performing this contract. For purposes of identifying sensitive information, the Contractor may, in addition to any other notice or legend otherwise required, use a notice similar to the following:

Mark the title page with the following legend:

This proposal or document includes sensitive information that NASA shall not disclose outside the Agency and its service providers that support management activities and administrative functions. To gain access to this sensitive information, a service provider's contract must contain

the clause at NFS 1852.237-72, Access to Sensitive Information. Consistent with this clause, the service provider shall not duplicate, use, or disclose the information in whole or in part for any purpose other than to perform the services specified in its contract. This restriction does not limit the Government's right to use this information if it is obtained from another source without restriction. The information subject to this restriction is contained in pages [*insert page numbers or other identification of pages*]. Mark each page of sensitive information the Contractor wishes to restrict with the following legend:

Use or disclosure of sensitive information contained on this page is subject to the restriction on the title page of this proposal or document.

(2) The Contracting Officer shall evaluate the facts supporting any claim that particular information is "sensitive." This evaluation shall consider the time and resources necessary to protect the information in accordance with the detailed safeguards mandated by the clause at 1852.237-72, Access to Sensitive Information. However, unless the Contracting Officer decides, with the advice of Center counsel, that reasonable grounds exist to challenge the Contractor's claim that particular information is sensitive, NASA and its service providers and their employees shall comply with all of the safeguards contained in paragraph (d) of this clause.

(d) To receive access to sensitive information needed to assist NASA in accomplishing management activities and administrative functions, the service provider must be operating under a contract that contains the clause at 1852.237-72, Access to Sensitive Information. This clause obligates the service provider to do the following:

(1) Comply with all specified procedures and obligations, including the Organizational Conflicts of Interest Avoidance Plan, which the contract has incorporated as a compliance document.

(2) Utilize any sensitive information coming into its possession only for the purpose of performing the services specified in its contract.

(3) Safeguard sensitive information coming into its possession from unauthorized use and disclosure.

(4) Allow access to sensitive information only to those employees that need it to perform services under its contract.

(5) Preclude access and disclosure of sensitive information to persons and entities outside of the service provider's organization.

(6) Train employees who may require access to sensitive information about their obligations to utilize it only to perform the services specified in its contract and to safeguard it from unauthorized use and disclosure.

(7) Obtain a written affirmation from each employee that he/she has received and will comply with training on the authorized uses and mandatory protections of sensitive information needed in performing this contract.

(8) Administer a monitoring process to ensure that employees comply with all reasonable security procedures, report any breaches to the Contracting Officer, and implement any necessary corrective actions.

(e) When the service provider will have primary responsibility for operating an information technology system for NASA that contains sensitive information, the service provider's contract shall include the clause at 1852.204-76, Security Requirements for Unclassified Information Technology Resources. The Security Requirements clause requires the service provider to implement an Information Technology Security Plan to protect information processed, stored, or transmitted from unauthorized access, alteration, disclosure, or use. Service provider personnel requiring privileged access or limited privileged access to these information technology systems are subject to screening using the standard National Agency Check (NAC) forms appropriate to the level of risk for adverse impact to NASA missions. The Contracting Officer may allow the service provider to conduct its own screening, provided the service provider employs substantially equivalent screening procedures.

(f) This clause does not affect NASA's responsibilities under the Freedom of Information Act.

(g) The Contractor shall insert this clause, including this paragraph (g), suitably modified to reflect the relationship of the parties, in all subcontracts that may require the furnishing of sensitive information.

(End of clause)

I.55 CLAUSES INCORPORATED BY REFERENCE -- SECTION I

Clauses I.1 through I.48 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the addresses contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

(End of clause)

**SECTION J OF NNG09297780R
LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

J.1 LIST OF ATTACHMENTS

The following documents are attached hereto and made a part of this contract:

<u>Attachment</u>	<u>Description</u>	<u>Date</u>	<u># Pages</u>
A	JDEM Telescope Study Statement of Work	July 6, 2009	6
B	JDEM Telescope Concept Study DILS	July 6, 2009	5
C	JDEM Telescope Concept Study Payload Description	July 6, 2009	7
D	JDEM Telescope Study Interface and Constraints	July 6, 2009	20
E	JDEM Math Models Guidelines Document	July 6, 2009	32

(End of Clause)

**SECTION K OF NNG09297780R
REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS**

K.1 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS. (FEB 2009)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 541330.

(2) The small business size standard is \$4.5M.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

(ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless--

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$100,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that--

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vi) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(vii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(viii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(ix) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(x) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xi) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xiv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xv) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the

clause at 52.225-1.

(xvi) 52.225-4, Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xvii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xviii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan-- Certification.

(xix) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to--

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

**SECTION L OF NNG09297780R
INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS**

L.1 52.215-1 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION. (JAN 2004)

L.2 1852.227-71 REQUESTS FOR WAIVER OF RIGHTS TO INVENTIONS. (APR 1984)

L.3 52.216-1 TYPE OF CONTRACT. (APR 1984)

The Government contemplates award of approximately two Firm Fixed Price contracts resulting from this solicitation.

(End of provision)

L.4 52.233-2 SERVICE OF PROTEST. (SEP 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from Dock Master.

Goddard Space Flight Center
Greenbelt, MD 20771
Bldg 16W - Shipping and Receiving Dock

Prominently mark the envelope or package as follows:

Protest: RFP - NNG09297780R
Attn: Amy Aqueche
GSFC Mail Code 446
Contracting Officer Phone: 301-286-6687

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

L.5 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE. (FEB 1998)

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): Federal Acquisition

Regulation (FAR) clauses:

<http://www.acqnet.gov/far/>

NASA FAR Supplement (NFS) clauses:

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

(End of provision)

L.6 1852.215-81 PROPOSAL PAGE LIMITATIONS. (FEB 1998)

(a) The following page limitations are established for each portion of the proposal submitted in response to this solicitation.

<u>Proposal Section</u>	<u>Page Limit</u>	<u>Number of Copies</u>
Standard Form (SF)-33 and Sections B-J of Model Contract including Representations and Certifications	N/A	3 Original Signed Copies
Mission Suitability	15	Original plus 3 Copies, plus 2 CD ROM Copies
Price Section	No Limit	Original plus 3 Copies, plus 2 CD ROM Copies
Past Performance Section	5	Original plus 3 Copies, plus 2 CD ROM Copies

(b) A page is defined as one side of a sheet, 8 1/2" x 11", with at least one inch margins on all sides, using not smaller than 12 point type. Foldouts count as an equivalent number of 8 1/2" x 11" pages. The metric standard format most closely approximating the described standard 8 1/2" x 11" size may also be used.

(c) Title pages and tables of contents are excluded from the page counts specified in paragraph (a) of this provision. In addition, the Cost section of your proposal is not page limited. However, this section is to be strictly limited to cost and price information. Information that can be construed as belonging in one of the other sections of the proposal will be so construed and counted against that section's page limitation.

(d) If final revisions are requested, separate page limitations will be specified in the Government's request for that submission.

(e) Pages submitted in excess of the limitations specified in this provision will not be evaluated

by the Government and will be returned to the offeror.

(End of provision)

L.7 1852.233-70 PROTESTS TO NASA. (OCT 2002)

Potential bidders or offerors may submit a protest under 48 CFR Part 33 (FAR Part 33) directly to the Contracting Officer. As an alternative to the Contracting Officer's consideration of a protest, a potential bidder or offeror may submit the protest to the Assistant Administrator for Procurement, who will serve as or designate the official responsible for conducting an independent review. Protests requesting an independent review shall be addressed to Assistant Administrator for Procurement, NASA Code H, Washington, DC 20546-0001.

(End of provision)

L.8 PROPOSAL PREPARATION—GENERAL INSTRUCTIONS

It is NASA's intent, by providing the instructions set forth below, to solicit information that will demonstrate the offeror's competence to successfully complete the requirements specified in the Statement of Work (SOW), Attachment A. Generally, the proposal should:

- Demonstrate understanding of the overall and specific requirements of the proposed contract.
- Convey the company's capabilities for transforming understanding into accomplishment.
- Present in detail, the plans and methods for so doing.
- Present the costs associated with so doing.

In the event that other organizations are proposed as being involved in conducting this work, their relationships during the effort shall be explained and their proposed contributions shall be identified and integrated into each part of the proposal, as appropriate.

Offerors shall submit **THREE (3) ORIGINAL SIGNED COPIES** of the Standard Form (SF-33) and (Section B-J) of the model contract filled in as indicated (bindings are not permitted). The requested information, shall be in accordance with the provision at PROPOSAL PAGE LIMITATIONS (1852.215-81) (FEB 1998), excluding the three (3) original signed copies of the contract. Information may be submitted on single- or double-sided sheets, but shall not exceed this page limitation.

Two electronic copies of the Offeror's proposal, designating one as "back-up," shall be submitted (in addition to the hardcopies specified above) in Microsoft Word (Windows XP) or Portable Document Format (version 8.0 or greater). Electronic files should be on virus free CD-ROM (CD-R format) discs with an external label indicating: (1) the name of the Offeror, (2) the RFP number, (3) the format and software version used, (4) a list of the files contained on the disk and (5) date of the information. The Offeror shall provide written documentation that describes the contents of each CD-ROMs and of each file. In the event of any inconsistency between data provided on electronic media and hard copies, the hard copy data will be considered to be correct. The contractor must certify that the electronic medium is virus free.

Only the required MINIMUM amount of information is requested to provide for proper evaluation. Efforts should be made to keep offers as **BRIEF** as possible, concentrating on substantive information essential for a proper evaluation.

The offeror's proposal shall be in sufficient detail and shall clearly demonstrate how the offeror proposes to comply with each of the requirements in the Statement of Work and the applicable specifications, including a full explanation of the techniques and procedures the offeror proposes to follow. Stating that the offeror understands and will comply with the technical requirements, or paraphrasing those requirements is not adequate. Phrases such as "standard procedures will be employed", or "well known techniques will be used" are inadequate. The offeror shall also include a compliance matrix that lists or references all requirements from the SOW. The matrix shall include a comments field that indicates that the offeror is compliant with each requirement as a result of either the current technical implementation or how the offeror intends to meet the requirements. In addition, the matrix shall provide a cross-reference to the location in the plan where compliance is proposed.

Offers shall include the offeror's facsimile number and e-mail address(es). Facsimile offers **will not** be accepted.

(End Provision)

L.9 OFFER VOLUME

This must be a separate volume.

(a) STANDARD FORM (SF) 33, OFFEROR FILL INS AND SECTION K

Blocks 12 through 18 of the SF 33 and the indicated Offeror required fill-ins in Sections B-K must be completed. The signed SF33 and the pages with the required fill-ins must be submitted. Annual representations and certifications shall be completed electronically in accordance with provision K.1, Annual Representations and Certifications (52.204-8). The balance of the solicitation need not be returned unless the Offeror has made changes to other pages that will constitute part of the contract. Any such changes must be separately identified in the Summary of Exceptions. **All SF 33s require original signatures.**

(1) It is requested that Offerors indicate, in Block 12 of the SF 33, a proposal validity period of 120 days. However, in accordance with paragraph (d) of FAR provision 52.215-1, "Instructions to Offerors--Competitive Acquisitions," a different validity period may be proposed by the Offeror.

(2) Provide the names and phone numbers of persons to be contacted for clarification of questions of a technical nature and business nature. Identify any consultants and/or subcontractors used in writing this proposal (if any) and the extent to which their services will be available in the subsequent performance of this effort.

The contract schedule refers to TBD and TBP. They are defined as follows:

TBD = TO BE DETERMINED BY THE GOVERNMENT

TBP = TO BE PROPOSED BY THE CONTRACTOR

(b) SUMMARY OF EXCEPTIONS

Include a statement of acceptance of the anticipated contract provisions and proposed contract schedule, or list all specific exceptions to the terms, conditions, and requirements of Sections A through J of this solicitation, to the Representations and Certifications (Section K) or to the information requested in Section L. Include the reason for the exception, or refer to where the reason is addressed in the proposal. This list must include all exceptions, both “business” and “technical”.

Include any new terms, conditions or clauses proposed by the Offeror which are of benefit to the Government. Discuss the benefit to the Government in Volume I, II, III, or IV as appropriate.

Offerors are cautioned that exceptions or new terms, conditions, or clauses may result in a determination of proposal unacceptability (NFS 1815.305-70), may preclude award to an Offeror if award is made without discussions, or may otherwise affect an Offeror’s competitive standing.

(c) ADDITIONAL INFORMATION TO BE FURNISHED

(1) Responsibility Information

Provide information addressing all of the elements under FAR 9.104 to demonstrate responsibility (address the elements under this section that are not addressed in another proposal volume).

(2) Taxpayer Identification Number

Prime offerors shall provide their Taxpayer Identification Number (TIN) (the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns).

(End of Provision)

L.10 COMMUNICATIONS REGARDING THIS SOLICITATION

(a) Questions or comments regarding this solicitation must be submitted in writing, cite the solicitation number, and be directed to the following Government representative:

Name: Amy Aqueche

FAX: 301-286-5717

Email: amy.a.aqueche@nasa.gov

Address: NASA Goddard Space Flight Center
Joint Dark Energy Mission Project Office
Mail Code 446, Bldg 23, Room E120
Greenbelt, MD 20771

Oral questions will not be answered due to the possibility of misunderstanding or misinterpretation.

(b) Questions or comments should be submitted as soon as possible to allow for analysis and dissemination of responses in advance of the proposal due date. Late questions or comments are not guaranteed a response prior to the proposal due date.

(c) Questions or comments shall not be directed to the technical activity personnel.

(End of provision)

L.11 PROPOSAL MARKING AND DELIVERY

(Offeror: You MUST comply with these instructions to ensure that the designated receiving office can identify, date and time mark, secure, and deliver your proposal to the Contracting Officer.)

1. External Marking of Proposal Package(s)

All proposal packages must be closed and sealed.

The required mailing address and external marking for proposals is as follows:

"Goddard Space Flight Center
Greenbelt, MD 20771
Building 16W—Shipping and Receiving Dock
Solicitation Number: NNG09297780R
Attn: Amy Aqueche, Mail Code 446
Building 23, Room E120

PROPOSAL--DELIVER UNOPENED"

Suggested additional marking if delivery is made by a commercial delivery service:

"COMMERCIAL DELIVERY PERSONNEL: THIS PROPOSAL MUST BE DELIVERED TO THE DOCK MASTER, BUILDING 16W SHIPPING AND RECEIVING DOCK, NO LATER THAN (OFFEROR—ENTER DATE AND TIME)."

2. Designated Receiving Office

The designated receiving office for proposals is the Shipping and Receiving Dock, Building 16W, Goddard Space Flight Center, which must be accessed from Soil Conservation Road, north from Greenbelt Road. Proposals must be received at the designated receiving office **no later than the date and time stated on the solicitation face page.**

The Building 16W Shipping and Receiving dock is open from 7:30AM to 3:30PM, Monday through Friday, except Government holidays. Contractor personnel conduct the GSFC receiving function, which includes mailroom operations. Proposals will be marked with the date and time of receipt, subjected to security screening, secured, and delivered unopened to the Contracting Officer.

There is public access to the Building 16W Shipping and Receiving Dock. GSFC passes,

badges, escorts, etc. are not required for access to the receiving dock.

3. Methods of Proposal Delivery

There are three suggested methods of delivery to the designated proposal receiving office:

U.S. Postal Service Express Mail
Commercial Delivery Service
Delivery by company employee or other individual agent

Regardless of the method of delivery chosen, the offeror is responsible for delivery of the proposal to the designated receiving office no later than the date and time stated on the face page of the solicitation.

(End of provision)

L.12 MISSION SUITABILITY PROPOSAL INSTRUCTIONS

This must be a separate volume.

Contents of Mission Suitability Proposal Instructions

1. General Instructions
2. Mission Suitability Proposal Format
3. Mission Suitability Instructions by Subfactor

1. General Instructions

The Mission Suitability Proposal should be specific, detailed, and provide all the information requested by these instructions. The Mission Suitability Proposal must demonstrate that the offeror understands the requirements and has the ability to meet the requirements. General statements such as the "requirements are understood" or "standard procedures will be employed" are not adequate. Also, restatement or paraphrasing of the requirements should be avoided. Information previously submitted, if any, will not be considered unless it is resubmitted as part of the proposal. It must not be incorporated by reference.

2. Mission Suitability Volume Format

The Mission Suitability Proposal must be divided and presented by each Mission Suitability subfactor as follows:

Subfactor A -- Technical Approach
Subfactor B -- Risk Approach

3. Mission Suitability Instructions by Subfactor

Subfactor A -- Technical Approach

The offeror shall provide a technical plan that demonstrates an understanding of the technical requirements of the Statement of Work. The narrative shall clearly demonstrate a thorough

understanding of the requirements set forth and the methodologies and experience base that the offerors will draw upon in producing a feasible telescope concept. In particular, the offeror shall demonstrate an understanding of the technical and programmatic (i.e. cost, schedule, management) challenges of designing, developing, fabricating, integrating, testing, launching and operating a telescope (or precision optical instrument) for a space-based mission such as JDEM. The offeror shall provide a description of the approach that will be used for the development of the JDEM telescope concept and their methodologies for demonstrating the ability of the concept to meet the requirements of the JDEM. The narrative shall include how testing requirements will factor into the development of the telescope. The offeror shall discuss the systems engineering process used in development of the concept. The offeror shall also describe the processes that will be used to produce one or more mission-optimized designs. The offeror shall discuss the proposed use of integrated structural, thermal and optical modeling for the design of the JDEM mission, systems, and subsystems and past experience in performing this type of analysis on telescopes of similar complexity. Include specific examples of how your integrated modeling capability was used in development of previous space-based telescope or optical instrument concepts and challenges experienced in developing these models. The offeror shall provide a summary of expected trade studies to be performed in the concept development and provide rationale for how these trade studies can reduce technical risk or cost.

The offeror shall assume the following study assumptions during the course of the study:

- a. A telescope pre-ship review date of 3/2015
- b. An instrument integration date of 4/2015.
- c. A spacecraft integration date of 7/2015.
- d. Instrument integration will be performed at GSFC. The telescope must be delivered to GSFC and ready to support the above instrument integration date.
- e. The Draft JDEM MAR and GEVS are provided for the purpose of supporting the development of the baseline cost and schedule.
- f. Telescope personnel are required to support the instrument and spacecraft integration activities at GSFC.
- g. The spacecraft will accommodate a prime and redundant electronics box for the telescope, if required.

The offeror shall discuss the approaches that will be used to estimate JDEM Telescope lifecycle cost and development schedule. The offeror shall describe how the basis of estimate is validated against similar developments.

Subfactor B -- Risk Approach

The offeror shall describe how its approach for developing the design concept will ensure that the risks, complexities, and technical and programmatic issues that may arise in the implementation, integration, test, launch and operations of the JDEM telescope are fully identified and understood and that appropriate mitigation plans are defined. In particular, the offeror shall discuss preliminary risks inherent in designing, fabricating and testing a space-based telescope similar to JDEM. Risk factors may be those inherent in the work, unique to the offeror's chosen approach, and must include any risk factors that are specifically identified by the Government in this solicitation. General areas of possible risk that are of concern to NASA are technical, schedule, cost, safety, occupational health, security (including personnel, information technology), export control and environmental risks. The identification of risks is the responsibility of the offeror. Each offeror's discussions pertaining to risk factors must address the offeror's approach to managing the risk, the probability of the risk, impact and severity of

risk, relevant time impact and risk acceptance or risk mitigation. The offeror shall also identify any risk areas that may impact the delivery schedule. These areas include any ongoing development efforts or parts, materials, or process issues.

(End of Provision)

L.13 PAST PERFORMANCE PROPOSAL INSTRUCTIONS

An Offeror's past performance record indicates the relevant quantitative and qualitative aspects of performing services or delivering products similar in size, content, and complexity to the requirements of this acquisition. The information requested below is anticipated to be sufficient for purposes of the evaluation of past performance.

However, offerors may submit additional information at their discretion if they consider such information necessary to establish a record of relevant past performance. Refer to FAR 15.305(a)(2)(iii).

The Offeror shall provide, at a minimum, the following information in support of its proposal to facilitate the evaluation of your company experience and past performance as a whole and as related to the requirements of the proposed contract.

(a) INFORMATION FROM THE OFFEROR

The Offeror and any proposed significant subcontractors shall furnish the following information on three (3) contracts which your company has had within the last ten (10) years that developed a conceptual design and implementation approach for an optical telescope or instrument similar in complexity to that required for the Joint Dark Energy Mission. Therefore, experiences across all phases of conceptual, preliminary, and detailed design and development, which has been validated through the processes of fabrication, integration, test and environmental testing of space-based astronomical observatories, are of interest. Indicate which contracts/subcontracts are most related (i.e. similar in size, scope and complexity) and how they are related to the proposed effort, as well as which contracts/subcontracts were performed by the division of your company (if applicable) that will perform the proposed contract/subcontract.

- Customer's name, mailing address, email address, and telephone number of both the lead contractual and technical personnel most familiar with the Offeror's performance record. (Please verify the telephone numbers provided are current and correct).
- Contract number, type, and total original and present or final contract value.
- Date of contract, place(s) of performance, and delivery dates or period of performance.
- Brief description of contract work and comparability to the proposed effort with reference to specific comparable PWS WBS elements, where applicable. It is not sufficient to state that it is comparable in magnitude and scope. Rationale must be provided to demonstrate that it is comparable.
- Method of acquisition: competitive or noncompetitive.

- Nature of award: initial or follow-on. If initial, indicate whether award was preceded by a Government, customer, or Offeror financed study.
- Identify and explain major technical problems and how they were overcome. List any major deviations or waivers to technical requirements that were granted by the customer.
- The Offeror shall include a frank discussion of experiences (if any) that resulted in lessons learned and/or new processes that improved performance or had significant positive (or adverse) impact over the life of the contract.
- Identify and explain completion successes and delays, including adherence to program schedules. Provide an assessment of the performance (technical and schedule) on these past programs and support these assessments with metrics such as award or incentive fees earned.
- Cost management history; identify and explain any cost overruns and underruns, and cost incentive history, if applicable (Offerors to provide evidence of evaluation of performance such as Fee Determination Letters, etc.)
- Average number of personnel on the contract per year and percent turnover of personnel per year.
- Recent customer evaluations of past performance including Award Fee Evaluations results, Fee Determination Official letters, Annual Performance Evaluation Forms, etc. (Excluded from the page limitation).
- Statement of contract past safety performance and a record of your company's OSHA recordable injuries and illnesses for the past 3 years.

List any contracts terminated (partial or complete) within the past 5 years and basis for termination (convenience or default). Include the contract number, name, address, and telephone number of the terminating officer (please verify telephone numbers). Include contracts that were "descoped" by the customer because of performance or cost problems (Excluded from the page limitation).

(End of Provision)

L.14 PRICE PROPOSAL INSTRUCTIONS

The offeror shall complete clauses B.1 and B.3 in the attached model contract in its entirety. Failure to properly complete clauses B.1 and B.3 may result in the Offeror's proposal deemed non-responsive and removed from further consideration.

Deviations to the contract percentage under clause B.3 may result in a determination of proposal unacceptability (NFS 1815.305-70), preclude award to an offeror if award is made without discussions, or may otherwise affect an offeror's competitive standing.

(End of provision)

L.15 PROVISIONS INCORPORATED BY REFERENCE -- SECTION L

Provisions L.1 and L.2 at the beginning of this Section are incorporated by reference, with the same force and effect as if they were given in full text. Provisions incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the provision to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire provision. The full text of the provision is available at the addresses contained in provision 52.252-1, Solicitation Provisions Incorporated by Reference, of this solicitation.

(End of provision)

SECTION M OF NNG09297780R EVALUATION FACTORS FOR AWARD

M.1 SOURCE SELECTION AND EVALUATION FACTORS--GENERAL

1. Source Selection

This competitive negotiated acquisition shall be conducted in accordance with FAR 15.3, "Source Selection", and NASA FAR Supplement (NFS) 1815.3, same subject. The Source Evaluation Board procedures at NFS 1815.370, "NASA formal source selection will not apply.

The attention of offerors is particularly directed to NFS 1815.305, "Proposal evaluation" and to NFS 1815.305-70, "Identification of unacceptable proposals".

A trade-off process, as described at FAR 15.101-1, will be used in making source selection.

The Government contemplates evaluating and selecting approximately two offers based on the proposals as submitted. Awards are contemplated to be no more than \$400K each.

2. Evaluation Factors and Subfactors

The evaluation factors are Mission Suitability, Price, and Past Performance. These factors, as described at NFS 1815.304-70, will be used to evaluate each proposal. This Section M provides a further description for each evaluation factor, inclusive of subfactors. Only the Mission Suitability factor is numerically scored.

3. Relative Order of Importance of Evaluation Factors

The Price Factor is significantly less important than the combined importance of the Mission Suitability Factor and the Past Performance Factor. As individual Factors, the Past Performance Factor is less important than the Mission Suitability Factor but more important than the Price Factor.

(End of Provision)

M.2 MISSION SUITABILITY FACTOR

1. Mission Suitability Subfactors and Description of Each Subfactor

Subfactor A -- Technical Approach

The Offeror's comprehension of the SOW and its critical aspects will be evaluated for insight and overall soundness. The offeror's assessment of the technical and programmatic challenges of designing, developing, fabricating, integrating, testing, launching and operating a telescope for a space-based mission such as JDEM will be evaluated for insight and overall credibility. The offeror's approach for developing the JDEM telescope concept and their methodologies for demonstrating the ability of the concept to meet the requirements of the JDEM, including how

testing requirements will factor into the development of the telescope concept will be evaluated for thoroughness. The offeror's approach to the systems engineering process will be evaluated for thoroughness and effectiveness. The processes that will be used to produce one or more mission-optimized designs will be evaluated for reasonableness. The offeror's approach to using integrated structural, thermal and optical modeling in the JDEM design and the understanding of the challenges faced in developing these models will be evaluated for completeness and effectiveness. The offeror's application of past experience in performing integrated modeling analysis on space-based telescope or optical instrument concepts of similar complexity to the JDEM telescope concept will be evaluated for improving the quality of the JDEM integrated modeling. The offeror's summary of expected trade studies to be performed in the concept development and provide rationale for how these trade studies can reduce technical risk or cost will be evaluated for insight and effectiveness.

The offeror's approach to estimating JDEM Telescope lifecycle cost and development schedule will be evaluated for completeness, overall credibility and effectiveness. The offeror's description of the validation of their basis of estimate will be evaluated for applicability.

Subfactor B -- Risk Approach

The offeror's description of how its approach for developing the design concept will ensure that the risks, complexities, and technical and programmatic issues that may arise in the implementation, integration, test, launch and operations of the JDEM telescope are fully identified, understood and mitigated will be evaluated for completeness and effectiveness. The offeror's identification of risks and proposed approach to the mitigation of those risks, in particular risks inherent in designing, fabricating and testing the JDEM telescope, as influenced by previous telescope developments will be evaluated for completeness and effectiveness in the reduction of risk.

2. Evaluation Findings

The Government will evaluate proposals by classifying findings as strengths, weaknesses, significant strengths, significant weaknesses, or deficiencies using the following:

Weakness – a flaw in the proposal that increases the risk of unsuccessful contract performance

Significant Weakness – a proposal flaw that appreciably increases the risk of unsuccessful contract performance

Deficiency – a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level

Strength (not in FAR/NFS) – a proposal area that enhances the potential for successful performance or contributes toward exceeding the contract requirements in a manner that provides additional value to the government (this could be associated with a process, technical approach, materials, facilities, etc.).

Significant Strength (not in FAR/NFS) – a proposal area that greatly enhances the potential for successful performance or contributes significantly toward exceeding the contract requirements

in a manner that provides additional value to the Government.

3. Weights and Scoring

In accordance with NFS 1815.304-70(b)(1), the Mission Suitability factor will be weighted and scored on a 1000 point scale.

The weights (points) associated with each Mission Suitability subfactors are as follows:

	<u>Points</u>
Subfactor A -- Technical Approach	800
Subfactor B -- Risk Approach	<u>200</u>
Total	1000

The Mission Suitability subfactors will be evaluated using the adjectival rating, definitions, and percentile ranges at NFS 1815.305(a)(3)(A). The maximum points available for each subfactor will be multiplied by the assessed percent for each subfactor to derive the score for the particular subfactor. For example, if a subfactor has possible 200 points and receives a percent rating 80, then the score for that subfactor would be 160 points.

The Mission Suitability evaluation will include the results of any cost realism analysis. The realism of proposed costs may significantly affect the offeror's Mission Suitability score.

(End of provision)

M.3 PAST PERFORMANCE EVALUATION FACTOR

The Past Performance factor will evaluate each offeror's record (including the record of any significant subcontractors) of performing services or delivering products that are similar in size, content, and complexity to the requirements of this solicitation. The overall confidence rating assigned to Past Performance (see below) will reflect a subjective evaluation of the information contained in the oral presentation, if applicable; written narrative; and other references, if any, that the Government may contact for additional past performance information. Offerors without a record of relevant past performance, or for whom information on past performance is not available, shall receive a neutral rating in accordance with FAR 15.305(a)(2)(iv).

Past Performance Ratings – The level of confidence ratings set forth below will be used to evaluate the Past Performance factor for each offeror.

Each of the adjective ratings below has a "performance" component and a "relevance" component. The following adjectival rating guidelines will be used when assessing both components. In assessing relevance, the Government will consider the degree of similarity in size, content, and complexity to the requirements in this solicitation, as well as how current is the past performance.

In assessing performance, the Government will make an assessment of the offeror's overall performance record. The Government will evaluate the offeror's past performance record for meeting technical; schedule; cost; management; occupational health; safety; security; mission success; subcontracting plan goals and small disadvantaged business participation targets, if applicable; and other contract requirements. Isolated or infrequent problems that

were not severe or persistent, and for which the offeror took immediate and appropriate corrective action, may not reduce the offeror's rating. On the other hand, ratings will be reduced when problems were within the contractor's control and were significant, persistent, or frequent, or when there is a pattern of problems or a negative trend of performance.

Very High Level of Confidence

The Offeror's relevant past performance is of exceptional merit and is very highly pertinent to this acquisition; indicating exemplary performance in a timely, efficient, and economical manner; very minor (if any) problems with no adverse effect on overall performance. Based on the Offeror's performance record, there is a very high level of confidence that the Offeror will successfully perform the required effort.

High Level of Confidence

The Offeror's relevant past performance is highly pertinent to this acquisition; demonstrating very effective performance that would be fully responsive to contract requirements with contract requirements accomplished in a timely, efficient, and economical manner for the most part with only minor problems with little identifiable effect on overall performance. Based on the Offeror's performance record, there is a high level of confidence that the Offeror will successfully perform the required effort.

Moderate Level of Confidence

The Offeror's relevant past performance is pertinent to this acquisition, and it demonstrates effective performance; fully responsive to contract requirements; reportable problems, but with little identifiable effect on overall performance. Based on the Offeror's performance record, there is a moderate level of confidence that the Offeror will successfully perform the required effort.

Low Level of Confidence

The Offeror's relevant past performance is at least somewhat pertinent to this acquisition, and it meets or slightly exceeds minimum acceptable standards; adequate results; reportable problems with identifiable, but not substantial, effects on overall performance. Based on the Offeror's performance record, there is a low level of confidence that the Offeror will successfully perform the required effort. Changes to the Offeror's existing processes may be necessary in order to achieve contract requirements.

Very Low Level of Confidence

The Offeror's relevant past performance does not meet minimum acceptable standards in one or more areas; remedial action required in one or more areas; problems in one or more areas which, adversely affect overall performance. Based on the Offeror's performance record, there is a very low level of confidence that the Offeror will successfully perform the required effort.

Neutral

In the case of an Offeror without a record of relevant past performance or for whom information on past performance is not available, the Offeror may not be evaluated favorably or unfavorably on past performance [see FAR 15.305(a) (2) (ii) and (iv)].

(End of provision)

M.4 PRICE EVALUATION FACTOR

This is a firm fixed price acquisition.

A price analysis will be conducted in accordance with FAR 15.305(a)(1). Price analysis is described at FAR 15.404-1(b). This analysis is done to ensure that a "fair and reasonable" price is paid by the Government. However, the analysis is not intended to be protective of the offeror.

(End of text)

(End Clauses and Provisions)