

**U.S. Department of Homeland Security**  
U.S. Customs and Border Protection  
Office of CBP Air and Marine



Quality Assurance Surveillance Plan

for

National Aircraft Maintenance and Logistics Support  
(Follow-on Support Contract)

In Connection With Acquisition Plan #HSBP-07-02

March 9, 2007

# Quality Assurance Surveillance Plan (QASP)

## 1.0 Introduction

1.1 Since this is performance-based contract, the Government will validate in a timely manner the performance of the Contractor in meeting the services required. This QASP provides a systematic surveillance method for the services, and describes the methodology by which the Contractor's performance will be monitored.

1.2 This is a complex contract to surveil in that two dramatically different contract types will be used: firm-fixed-price for the contractor management effort and cost plus multiple incentive fees for the operational performance.

1.3 The principal focus of the surveillance system is the Contractor's performance of the indicators identified in the Performance-based Matrix of the Performance Work Statement (PWS) (Tab 1). Some of these indicators will be covered by objective incentive fees. Others will be surveilled under a subjective evaluation system.

1.4 This plan contains a Customs and Border Protection (CBP) Contractor Performance Report (Tab 2) to be utilized in documenting contractor interim, annual, and total contract performance. The Contractor Performance Report will be an additional device for motivating the contractor on the current contract. These reports will also become part of the electronic database ultimately consolidated under the Past Performance Information Retrieval System (PPIRS) for past performance evaluations for future contracts. The COTR should use this form as the primary motivational tool to encourage high quality contractor performance. The report will be generated yearly or more frequently if necessary to document outstanding or unsatisfactory performance. The contractor should understand that these reports will remain in a database for three years and will be available to all government agencies for source selection purposes.

1.5 The contractor should understand that the top two scores (4 and 5) are only available if the contractor exceeds the Government requirements at no additional cost to the Government.

The decision matrices for linking quality of performance to payment are at Tabs 3 and 4.

1.6 The QASP:

- 1.6.1 Identifies the services and products that will be measured. (Tab 1)
- 1.6.2 Establishes the specific standards of performance for each required output. (Tab 1)
- 1.6.3 Establishes the responsibilities for performing the measurement.
- 1.6.4 Defines the Government's role in overseeing the performance.
- 1.6.5 Provides for feedback to the Contractor regarding quality, quantity, and timeliness of the service outputs.
- 1.6.6 Establishes timeframes for communicating performance improvements needed.
- 1.6.7 Provides the details of the Incentive Fee calculation. (Tab 5)
- 1.6.8 Provides for the evaluation of the contractor's performance for future source selections. (Tab 2)

- 1.6.9 Provides the decision matrix for actions in case of non-performance. (Tabs 3 and 4)
- 1.6.10 Provides key FAR clauses that impact surveillance. (Tab 6)

## **2.0 Method of Surveillance**

- 2.1 The Performance-based Matrix at Tab 1 lists the services to be monitored and the standards to be applied.
- 2.2 This QASP is based on the premise that the Government desires to maintain a quality standard for required services.
- 2.3 In accordance with FAR Part 37.602-2 Quality Assurance, the Contractor, and not the Government, is responsible for management and quality control actions to meet the terms of the contract. The role of the Government is quality assurance to ensure contract standards are achieved.
- 2.4 In this contract, the Contractor's quality control program is the basis for service quality. The Contractor is required to deliver only services that conform to or exceed the requirements of this contract.

## **3.0 Roles and Responsibilities**

- 3.1 It is the Contractor's primary responsibility to ensure all contract requirements meet required quality levels. The Government shall ensure this responsibility has been met before any incentive fee is payable to the Contractor. The primary Government team members are the Contracting Officer's Technical Representative (COTR) and the Contracting Officer (CO).
  - 3.1.1 The Contracting Officer has the overall responsibility for overseeing the Contractor's performance. The CO will be responsible for monitoring the contractor's performance in the areas of contract compliance, contract management, cost control, and the resolution of all issues relative to the language of the contract.
  - 3.1.2 The COTR is responsible for monitoring, evaluating, and documenting the technical performance of the Contractor. The COTR will also be responsible for certifying and authorizing contractor invoices for payment as well as providing copies of certified invoices to the CO.
  - 3.1.3 The COTR will work closely with the customer and the Contractor to ensure good communication and resolve any problems not requiring the CO's authority.

**4.0 Surveillance:** The COTR will evaluate the performance objectives through periodic inspections during each service month. The COTR will also solicit customer input to evaluate the Contractor's performance. The COTR should record both outstanding and unacceptable performance. See Tab 7 for a sample of a COTR Monthly Evaluation Report.

- 4.1 The following information will be included:

- 4.1.1 Contract paragraph number referencing the requirement.
  - 4.1.2 Short description of the requirement being surveilled.
  - 4.1.3 Date, time, and location of surveillance.
  - 4.1.4 Results of surveillance.
  - 4.1.5 Signature of individual accomplishing the surveillance.
- 4.2 All performance will be documented, whether acceptable or unacceptable. When unacceptable performance is documented, the COTR will take the following actions:
- 4.2.1 If Government actions or non-actions caused the unacceptable performance, take steps to prevent it in the future.
  - 4.2.2 If the unacceptable performance was not caused by the Government, inform the Contractor's Quality Control representative of the unacceptable performance and the reasons why it is unacceptable.
  - 4.2.3 If the Contractor wants to dispute the results of the surveillance, refer the Contractor to the CO for resolution.
- 4.3 Performance will be determined unacceptable only after all contributing factors have been considered.
- 4.4 The Government reserves the right to periodically inspect all services and deliverables prior to acceptance regardless if it is shown on the Performance-based Matrix.

**5.0 Standards:** The contractor shall meet all standards in the Performance-based Matrix as well as all other deliverable dates and other contractual requirements. Remember the distinction between cost reimbursement and fixed price line items. For cost reimbursement, you are reimbursing the cost of the contractor's best efforts to complete the work. The standards are especially useful to establish a basis for rejecting the contractor's deliverables. Once rejected, all corrective or replacement costs are without additional fee. For fixed price orders, the Government pays for results only. In this case, failure to meet a standard constitutes breach of contract. The Government is entitled to consideration from the Contractor for breach of contract for failure to meet contract requirements. See paragraph 5.1 below for criteria for excusing failures to meet the standards for both fixed price and cost reimbursement.

5.1 Non- or late performance of service is un-excusable unless the contractor can establish all of the following:

- 5.1.1 The non-performance or lateness was not the contractor's fault;
- 5.1.2 The non-performance or lateness was not foreseeable;
- 5.1.3 It was beyond the contractor's control to avoid the non-performance or lateness.

5.2 All work shall be performed in accordance with the PWS. The COTR will not consider the services complete until all unacceptable performance has been corrected.

5.3 The COTR will determine whether the failure was a minor non-conformance or a substantive non-conformance. (See Tab 3 for a decision matrix for Nonconforming Performance of fixed price contracts and Tab 4 for a decision matrix for Nonconforming Performance of cost reimbursement contracts.)

**6.0 Procedures:** The Government will inspect performance to ensure Contractor compliance and record results of inspection, noting the date and time of inspection.

6.1 Unacceptable performance and customer complaints shall be referred to the COTR for investigation/validation. The COTR will investigate/validate the unacceptable performance or customer complaint and notify the Contractor's Quality Control representative. The Contractor will be given a reasonable amount of time to correct the unacceptable performance and notify the COTR that the deficiency has been corrected. If deficiencies are not corrected, the COTR will notify the CO and recommend a course of action.

6.2 The primary focus of the Government inspection system for Fixed Price Contracts and cost reimbursement is the contractor's inspection system required by the respective inspection clauses. It is the contractor's responsibility to ensure all requirements and associated standards are met. The COTR should continually monitor this system (also called the contractor's "quality control" system). This system is your primary window into the contractor's performance. The system should be acceptable to the COTR. All inspection reports generated by the contractor should be reviewed and evaluated to ensure they are accurate and adequately assess current performance against the standards. The key aspects of this quality control plan the COTR will monitor are: inspection system (who, when, where, and to what standard), the reporting system, the trend analysis system, the corrective action system, and the company audit system that ensures the integrity of the reporting. If the contracting reporting system does not provide the COTR with adequate visibility into the contractor's operations, then require the contractor to revise the system to provide such visibility. In addition, for these "best effort" contract types, the contractor's inspection system should also surveil cost control and work efficiency since these are required Government surveillance issues.

## **7.0 Contract Performance Evaluation**

7.1 FAR 42.15 – Contractor Performance Information establishes the Government responsibility for recording and maintaining contractor performance information. This requirement does not apply to procedures used in determining incentive awards or other incentive systems, although the two systems should be mutually supporting.

7.2 FAR 42.1501 states: Past performance information is relevant information, for future source selection purposes, regarding a contractor's actions under previously awarded contracts. It includes, for example, the contractor's record of conforming to contract requirements and to standards of good workmanship; the contractor's record of forecasting and controlling costs; the contractor's adherence to contract schedules, including the administrative aspects of performance; the contractor's history of reasonable and cooperative behavior and commitment to

patient satisfaction; and generally, the contractor's business-like concern for the interest of the patient.

7.3 The general procedures to be used are addressed in the following FAR section.

**42.1503 Procedures.**

(a) Agency procedures for the past performance evaluation system shall generally provide for input to the evaluations from the technical office, contracting office and, where appropriate, end users of the product or service.

(b) Agency evaluations of contractor performance prepared under this subpart shall be provided to the contractor as soon as practicable after completion of the evaluation. Contractors shall be given a minimum of 30 days to submit comments, rebutting statements, or additional information. Agencies shall provide for review at a level above the contracting officer to consider disagreements between the parties regarding the evaluation. The ultimate conclusion on the performance evaluation is a decision of the contracting agency. Copies of the evaluation, contractor response, and review comments, if any, shall be retained as part of the evaluation. These evaluations may be used to support future award decisions, and should therefore be marked "Source Selection Information."

7.4 The CBP Contractor Performance Report at Tab 2 will be completed at least annually and more frequently if necessary to motivate or reward the contractor.

Tab 1: Performance-Based Matrix

<p><b>State the end results or outcomes that the customer will formally accept or reject. Includes all deliverables, submittals and reports, etc.</b></p>	<p><b>For each “End Result,” state feature(s) of each end result in Column 1 that can be measured quantitatively or qualitatively</b></p>	<p><b>For each “indicator”, state a performance level that, when met means the task has been performed satisfactorily.</b></p> <p><b>A Standard tells the contractor “What Success Looks Like”</b></p>	<p><b>For each “Standard”, state the method used to check performance (i.e. random sampling, 100% inspection, periodic inspection, customer input).</b></p>	<p><b>Incentives (positive and negative)</b></p>
<p>Contractor shall provide CBP with numbers, types, and properly configured aircraft to meet operational commitments.</p>	<p>Launch rate</p>	<p>90% of taskings met.</p>	<p>See Incentive Fee for launch rates.</p>	<p>See Incentive Fee Section</p> <p>Contractor performance evaluated using the CBP Contractor Performance Report for use in future source selection.</p>
	<p>Mission completion</p>	<p>90% of missions completed.</p>	<p>See Incentive Fee for mission completion rates.</p>	
	<p>Cost control</p>	<p>Achieved economies of scale by maximizing the advantages of centralization and consolidation of specialized equipment and services; aggressively sought cost reductions based on learning curves realized, cost avoidance, and savings realized by working efficiently and effectively; management system that continually reviewed existing staffing and practices in order to identify cost savings.</p>	<p>See Incentive Fee for cost target.</p>	

Tab 1: Performance-Based Matrix

	Inspections	Contractor passes 100 percent of CBP aircraft inspections.	See Incentive Fee for Inspection Results targets.	
	Work efficiency	Operated at all times with the Government's best interest in mind, using efficient and effective methods; instilled a work ethic identical to the effort in a firm-fixed price contract where the contractor's profits were dependent upon reducing costs while meeting the Government's requirements in terms of quality and schedule.		
	Inoperative Equipment	100 percent of contractor claims of inoperative equipment substantiated.	QASP will surveil claims that equipment was inoperative by third party testing.	Contractor will bear the cost of all erroneous claims of equipment failure to include costs of Government inspection and reinspection.

**Tab 2: CBP Report**

**Customs and Border Protection  
Contractor Performance Report  
Standard Evaluation  
Contract Data**

<b>Evaluation Type: Interim _ Final _ (check one)</b>		
<b>Evaluating Organization:</b>	<b>Reporting Period: From</b>	<b>to</b>
<b>Contracting Office:</b>	<b>Contract Number:</b>	<b>Order Number:</b>

<b>Contractor Name:</b>	<b>Contractor Address:</b>	
<b>DUNS:</b>	<b>City:</b>	<b>State:</b>
<b>Additional or Alternate Contractor Name:</b>	<b>Zip/Postal Code:</b>	<b>Country:</b>

<b>TIN:</b>	<b>Industrial Code (NAICS):</b>	<b>Commodity Code:</b>	<b>Contract Type:</b>
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<b>Contract Award Date:</b>	<b>Contract Expiration Date:</b>	<b>Contract Value:</b>
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<b>Requirement Description:</b>
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**Ratings**

Summarize contractor performance and check the number which corresponds to the rating for each rating category (*See attached Rating Guidelines*).

**Quality of Product or Service**

_0=Unsatisfactory    _1=Poor    _2=Fair    _3=Good    _4=Excellent _5=Outstanding
--

**Government Comments for Quality of Product or Service (2000 characters maximum):**

**Cost Control (*Rating and Comments for Cost Control are not required if contract type is Fixed-Price*)**

_0=Unsatisfactory    _1=Poor    _2=Fair    _3=Good    _4=Excellent _5=Outstanding
--

**Government Comments for Cost Control (2000 characters maximum):**

**Timeliness of Performance**

<input type="checkbox"/> _0=Unsatisfactory	<input type="checkbox"/> _1=Poor	<input type="checkbox"/> _2=Fair	<input type="checkbox"/> _3=Good	<input type="checkbox"/> _4=Excellent	<input type="checkbox"/> _5=Outstanding
--	----------------------------------	----------------------------------	----------------------------------	---------------------------------------	---

**Government Comments for Timeliness of Performance (2000 characters maximum):**

**Business Relations**

<input type="checkbox"/> _0=Unsatisfactory	<input type="checkbox"/> _1=Poor	<input type="checkbox"/> _2=Fair	<input type="checkbox"/> _3=Good	<input type="checkbox"/> _4=Excellent	<input type="checkbox"/> _5=Outstanding
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**Government Comments for Business Relations (2000 characters maximum):**

**Additional Info**

**Subcontracts**

Are subcontracts involved?  Yes  No (*Check one*)

**Government Comment on subcontracts (2000 characters maximum):**

**Contractor Key Personnel**

**Contractor Manager/Principal Investigator (*name*):**

**Government Comment on Contractor Manager/Principal Investigator (2000 characters maximum):**

**Contractor Key Person (*name*):**

**Government Comment on Contractor Key Person (2000 characters maximum):**

**Contractor Key Person (*name*):**

**Government Comment on Contractor Key Person (2000 characters maximum):**

### **Small Business Subcontracting Plan**

**Did the contractor make a good faith effort to comply with its subcontracting plan consistent with the goals and objectives, reporting and other aspects of the plan?    \_Yes   \_No   \_N/A (*Check one*)**

**If this is a bundled contract, did the contractor meet the goals and objectives for small business participation?**

**\_Yes   \_No   \_N/A (*Check one*)**

**Government Comments on Small Business Subcontracting Plan (2000 characters maximum):**

### **Small Disadvantaged Business Goals**

**Did the contractor make a good faith effort to comply with its subcontracting plan consistent with the goals and objectives, for small disadvantaged business (SDB) participation, monetary targets for SDB participation, and required notifications?    \_Yes   \_No   \_N/A (*Check one*)**

**Government Comments on Small Disadvantaged Business Goals (2000 characters maximum):**

### **Customer Satisfaction**

**Is/was the contractor committed to customer satisfaction?   \_Yes   \_No (*Check one*)**

**Would you recommend the selection of this firm again?                   \_Yes   \_No (*Check one*) – **FINAL**  
**REPORT ONLY****

**Government Comments on Customer Satisfaction (2000 characters maximum):**

## **Admin Info**

### **Project Officer/COR**

**Name:**

**Phone:**

**Fax:**

**E-mail Address:**

### **Contractor Representative**

**Name:**

**Phone:**

**Fax:**

**E-mail Address:**

### **Alternate Contractor Representative (*Required to insure that at least one person is notified of evaluation*)**

**Name:**

**Phone:**

**Fax:**

**E-mail Address:**

### **Contracting Officer:**

**Name:**

**Phone:**

**Fax:**

**E-mail Address:**

## **Contractor Comments**

### **Quality of Product of Service**

**\_\_\_ Contractor has elected not to comment**

**Contractor Comments for Quality of Product of Service (2000 characters maximum):**

### **Cost Control**

**\_\_\_ Contractor has elected not to comment**

**Contractor Comments for Quality of Product of Service (2000 characters maximum):**

### **Timeliness of Performance**

**\_\_\_ Contractor has elected not to comment**

**Contractor Comments for Timeliness of Performance (2000 characters maximum):**

### **Business Relations**

**\_\_\_ Contractor has elected not to comment**

**Contractor Comments for Business Relations (2000 characters maximum):**

### **Overall Comment**

**\_\_\_ Contractor has elected not to comment**

**Contractor Comments for Quality of Product of Service (2000 characters maximum):**

## Rating Guidelines

### Quality of Product or Service

**0 = Unsatisfactory 1 = Poor 2 = Fair 3 = Good 4 = Excellent 5 = Outstanding**

Unsatisfactory	Non-conformances are jeopardizing the achievement of contract requirements, despite use of Agency resources. Recovery is not likely. If performance cannot be substantially corrected, it constitutes a significant impediment in consideration for future awards containing similar requirements.
Poor	Overall compliance requires significant Agency resources to ensure achievement of contract requirements.
Fair	Overall compliance requires minor Agency resources to ensure achievement of contract requirements.
Good	There are no, or very minimal, quality problems, and the Contractor has met the contract requirements.
Excellent	There are no quality issues, and the Contractor has substantially exceeded the contract performance requirements without commensurate additional costs to the Government.
Outstanding	The contractor has demonstrated an outstanding performance level that was significantly in excess of anticipated achievements and is commendable as an example for others, so that it justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances where contractor performance clearly exceeds the performance levels described as "Excellent".

### Cost Control

**0 = Unsatisfactory 1 = Poor 2 = Fair 3 = Good 4 = Excellent 5 = Outstanding**

Unsatisfactory	Ability to manage cost issues is jeopardizing performance of contract requirements, despite use of Agency resources. Recovery is not likely. If performance cannot be substantially corrected, this level of ability to manage cost issues constitutes a significant impediment in consideration for future awards.
Poor	Ability to manage cost issues requires significant Agency resources to ensure achievement of contract requirements.
Fair	Ability to control cost issues requires minor Agency resources to ensure achievement of contract requirements.
Good	There are no, or very minimal, cost management issues and the Contractor has met the contract requirements.

- Excellent      There are no cost management issues and the Contractor has exceeded the contract requirements, achieving cost savings to the Government.
- Outstanding    The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances where the contractor achieved cost savings and performance clearly exceeds the performance levels described as "Excellent".

**Timeliness of Performance**

**0 = Unsatisfactory    1 = Poor    2 = Fair    3 = Good    4 = Excellent    5 = Outstanding**

Unsatisfactory    Delays are jeopardizing the achievement of contract requirements, despite use of Agency resources. Recovery is not likely. If performance cannot be substantially corrected, it constitutes a significant impediment in consideration for future awards.

Poor                Delays require significant Agency resources to ensure achievement of contract requirements.

Fair                 Delays require minor Agency resources to ensure achievement of contract requirements.

Good                There are no, or minimal, delays that impact achievement of contract requirements.

Excellent          There are no delays and the contractor has exceeded the agreed upon time schedule.

Outstanding      The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances where contractor performance clearly exceeds the performance levels described as "Excellent".

**Business Relations**

**0 = Unsatisfactory    1 = Poor    2 = Fair    3 = Good    4 = Excellent    5 = Outstanding**

Unsatisfactory    Response to inquiries and/or technical, service, administrative issues is not effective. If not substantially mitigated or corrected it should constitute a significant impediment in considerations for future awards.

Poor                 Response to inquiries and/or technical, service, administrative issues is marginally effective.

Fair                 Response to inquiries and/or technical, service, administrative issues is somewhat effective.

Good	Response to inquiries and/or technical, service, administrative issues is consistently effective.
Excellent	Response to inquiries and/or technical, service, administrative issues exceeds Government expectation.
Outstanding	The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances where contractor performance clearly exceeds the performance levels described as "Excellent".

**Tab 3: Nonconforming Deliverables (Fixed-Price)**

<b>NONCONFORMING PERFORMANCE</b>		
<b>MINOR NONCONFORMANCE</b>		
<i><b>If</b></i>	<i><b>Then</b></i>	<i><b>Consideration</b></i>
Consideration would be less than the cost of modifying the contract	Accept as is (once)	None
Consideration would be greater than the cost of modifying the contract	Accept as is (once)	Consideration comparable to the value of the loss sustained by the Government
<b>SUBSTANTIVE NONCONFORMANCE</b>		
<i><b>If</b></i>	<i><b>Then</b></i>	<i><b>Consideration</b></i>
The contractor agrees to correct or re-perform the service within the delivery schedule	Withhold acceptance until receipt of the corrected service	Cost to re-inspect or retest
The contractor agrees to correct the deliverable (or re-perform the service) but needs an extension of the delivery date	Withhold acceptance until receipt of the corrected service	Cost to re-inspect or retest Appropriate consideration for the delay
Acceptance: <ul style="list-style-type: none"> <li>• Would not affect safety or performance, and</li> <li>• Is justified on the basis of economy or urgency</li> </ul>	Accept as is	Consideration comparable to the value of the loss sustained by the Government
The contractor refuses to perform or reperform service or provide appropriate consideration.	Either: <ul style="list-style-type: none"> <li>• Correct the service through other means (contract or in-house), or</li> <li>• Terminate for default and re-procure.</li> </ul>	Contractor to pay all costs for the correction or re-procurement.

**Tab 4: Nonconforming Deliverables Cost Reimbursement**

<b>NONCONFORMING PERFORMANCE</b>		
<b>MINOR NONCONFORMANCE</b>		
<i><b>If</b></i>	<i><b>Then</b></i>	<i><b>Consideration</b></i>
Consideration would be less than the cost of modifying the contract	Accept as is (once)	None
Consideration would be greater than the cost of modifying the contract	Accept as is (once)	Consideration comparable to the value of the loss sustained by the Government
<b>SUBSTANTIVE NONCONFORMANCE</b>		
<i><b>If</b></i>	<i><b>Then</b></i>	<i><b>Consideration</b></i>
The contractor agrees to correct or re-perform the service	Withhold acceptance until receipt of the corrected service	Cost to re-inspect or retest  No additional fee.
The contractor managerial personal are aware an employee is habitually careless or unqualified (fails to meet contractual requirements)	Withhold acceptance until receipt of the corrected service	Cost to re-inspect or retest  Corrected work is done at no cost.
The contractor refuses to perform or re-perform service or provide appropriate consideration.	Either: <ul style="list-style-type: none"> <li>• Correct the service through other means (contract or in-house), or</li> <li>• Terminate for default and re-procure.</li> </ul>	Contractor to pay all costs for the correction or re-procurement.

## INCENTIVE FEE STRUCTURE

### Incentive Fees

This contract includes multiple incentive fees that emphasize Operational Performance (aircraft launch rates, mission completion, and satisfactory inspection results) and Cost Performance. Because the Government considers Operational Performance to be more important than Cost Performance, the target incentive fee will be divided as follows: 60% Operational Performance/40% Cost Performance. The overall target fee will be (b) (4) **(Base Year and Option Year 1); and (b) (4) (Option Years 2 through 9)** of the target cost of the contract. The maximum fee will be (b) (4) of the target cost of the contract, for each year. As an incentive for the contractor to exercise exceptional cost control, the additional fee (difference between the target fee and maximum fee) can only be earned in the category of Cost Performance. The minimum fee available in both categories is zero percent. Fees relating to Operational Performance will be awarded quarterly and based upon the calculation of fees described below. Fees relating to Cost Performance will be awarded following the completion of the appropriate period of performance by applying the cost sharing ratio formula that relates total allowable costs incurred to the Target Cost.

### Operational Performance Incentive

The target (as well as maximum) fee available in this category is (b) (4) **(Base Year and Option Year 1); and (b) (4) (Option Years 2 through 9)** of the Target Cost. The minimum fee available is zero percent. Fee related to Operational Performance is impacted by the following three variables:

1. Launch rate
2. Mission completion
3. Aircraft inspection

The primary calculation is a ratio obtained by multiplying percentage launch rate by percentage mission completion. For example a launch rate of 90 percent and a mission completion rate of 90 percent equals a performance ratio of 81 percent. The contractor would then receive 10 percent times .81 or 81 percent of the available operational performance fee. If either figure is less than 90 percent, there is zero operational performance fee. The aircraft inspection factor is a negative incentive. Each aircraft that fails an inspection would result in the loss of one-third of the operational fee. If three aircraft fail an inspection, 100 percent of the fee earned for Launch Rate and Mission Completion for that quarter is forfeited.

Launch rate. The percentage of operational requests that are responded to with the numbers, types, and properly configured aircraft. This is not an operational readiness rate. Launch rates are not calculated based upon the status of each aircraft in the fleet. It is a measurement of the ability of the contractor to provide an aircraft in response to a specific operational request. On a quarterly basis, the Government will determine the number of requests that were properly responded to as a percentage of aircraft requested. All support sites will be rolled into one percentage. The contractor will not be penalized for this Incentive Fee metric for situations which are beyond the contractor's control. Examples of such situations include, but not limited to, the following: an aircraft is not available for launch because it is being painted by a third party vendor; an aircraft is not available for launch because is undergoing a Government directed modification; non-availability of Government aircrew to perform required maintenance test flights or ground runs, etc.

Mission Completion. The percentage of missions that were fully completed versus the number flown. To be considered a completed mission, all systems under the control of the contractor must have functioned properly and not contributed to the inability of the crew to complete its assigned mission. If systems malfunction, the contractor will not be held accountable for this Incentive Fee metric if all three of the following are true:

1. The inoperative equipment was not the fault of the contractor. For example, failure to perform a scheduled maintenance, failure to perform a required test, or failure to repair or replace equipment the Government had noted was inoperative or not fully functional.
2. The problem was not foreseeable by the contractor.
3. The problem was beyond the contractor's control to have avoided.

On a quarterly basis, the Government will determine the number of missions as a percentage of missions flown that were not completed due to contractor performance or failure to perform contractual requirements. All support sites will be rolled into one percentage.

The launch rate and mission completion rate percentages will then be multiplied together to obtain a fee related to operational performance. There will be zero incentive fee if either percentage is below 90 percent as shown in the Operational Performance Incentive Fee Matrix shown in Tab 5 of Attachment 5.

The statistics will be calculated by the contractor and verified by the Government.

Results of Government Aircraft Inspections. During each quarter, the Government will inspect at least 34 aircraft. These inspections will be conducted by the Government on a “no notice” basis. For each aircraft that fails a Government inspection, the contractor will forfeit one-third of the earned fee earned for that quarter. If three aircraft fail an inspection, 100 percent of the fee earned for Launch Rate and Mission Completion for that quarter is forfeited. See Tab 8 of Attachment 5 (Government Aircraft Inspections) for details.

## Incentive Fee Matrix for Operational Performance

		Launch Rate Percentage															
		1.00	0.99	0.98	0.97	0.96	0.95	0.94	0.93	0.92	0.91	0.90	0.89	0.88	0.87	0.86	0.85
Mission Completion Rate Percentage	1.00	1.00	0.99	0.98	0.97	0.96	0.95	0.94	0.93	0.92	0.91	0.90					
	0.99	0.99	0.98	0.97	0.96	0.95	0.94	0.93	0.92	0.91	0.90	0.89					
	0.98	0.98	0.97	0.96	0.95	0.94	0.93	0.92	0.91	0.90	0.89	0.88					
	0.97	0.97	0.96	0.95	0.94	0.93	0.92	0.91	0.90	0.89	0.88	0.87					
	0.96	0.96	0.95	0.94	0.93	0.92	0.91	0.90	0.89	0.88	0.87	0.86					
	0.95	0.95	0.94	0.93	0.92	0.91	0.90	0.89	0.88	0.87	0.86	0.86					
	0.94	0.94	0.93	0.92	0.91	0.90	0.89	0.88	0.87	0.86	0.86	0.85					
	0.93	0.93	0.92	0.91	0.90	0.89	0.88	0.87	0.86	0.86	0.85	0.84					
	0.92	0.92	0.91	0.90	0.89	0.88	0.87	0.86	0.86	0.85	0.84	0.83					
	0.91	0.91	0.90	0.89	0.88	0.87	0.86	0.86	0.85	0.84	0.83	0.82					
	0.90	0.90	0.89	0.88	0.87	0.86	0.86	0.85	0.84	0.83	0.82	0.81					
	0.89																
	0.88																
	0.87																
	0.86																
0.85																	

AREA OF ZERO INCENTIVE FEE

Delayed Launches. The inability to launch aircraft in a timely manner due to the fault of the Contractor could result in missed missions. Unfortunately, the Government currently has no tool for capturing delayed launch data and the impact it has on meeting mission requirements. Therefore, the Contractor’s performance in this regard cannot be measured objectively. However, specific information relating to missions missed due to delayed launches will be used to reflect unsatisfactory performance in the Contractor Performance Reports.

### Cost Incentive Fee

The amount of Cost Incentive Fee earned is based on a formula that relates total allowable costs incurred to the Target Cost. This formula (share ratio) provides, within limits, for increases in fee above the Target Fee when total allowable costs incurred are less than the Target Cost. Likewise, the formula provides for a decrease in fee when total allowable costs incurred exceed the Target Cost. Specifically, the fee payable shall be the Target Fee increased by (b) (4) (dependent on contract year) for every dollar that the total allowable cost is less than the Target Cost or decreased by (b) (4) (dependent on contract year) for every dollar that the total allowable costs exceeds the Target Cost. The target fee available in this category is (b) (4) (dependent on contract year) of the Target Cost. The maximum fee available in this category is (b) (4) of the Target Cost and the minimum is zero percent.

Following is an example of how the Cost Incentive Fee would be structured for a contract with the following: a Target Cost of \$70,000,000, a target Fee of 3%, a maximum fee of 5%, and a 75% Government/25% Contractor share ratio:

Minimum Cost:	\$64,400,000	
Target Cost:	\$70,000,000	
Maximum Cost:	\$73,360,000	
	<u>Target</u>	<u>Maximum</u>
Cost Performance	\$840,000	\$2,240,000

**Total Incentive Fee Structure**

Following is an example of the Total Incentive Fee structure for this contract with the following: a Target Cost of \$70,000,000, a target Fee of 3%, a maximum fee of 5%, and a 75% Government/25% Contractor share ratio:

	<u>Target (3%)</u>	<u>Maximum (5%)</u>
Operational Performance (60%):	\$1,260,000	\$1,260,000
Cost Performance (40%):	<u>\$840,000</u>	<u>\$2,240,000</u>
Total Fees:	\$2,100,000	\$3,500,000
Minimum Cost:	\$64,400,000	
Target Cost:	\$70,000,000	
Maximum Cost:	\$73,360,000	

Using this Fee structure, following is an example of how the Operational and Cost Performance Incentive Fees would be calculated based on the stated performance results for a given 12-month period of performance:

Operational Performance:

	<u>1<sup>st</sup> Quarter</u>	<u>2<sup>nd</sup> Quarter</u>	<u>3<sup>rd</sup> Quarter</u>	<u>4<sup>th</sup> Quarter</u>
Launch Rate	90%	92%	85%	92%
Mission Completion Rate	90%	93%	100%	90%
Failed Aircraft Inspections	1	3	0	2
Fee Available:	\$315,000	\$315,000	\$315,000	\$315,000
Performance Ratio: @	<u>.81</u>	<u>.86</u>	<u>.85</u>	<u>.83</u>
Operational Performance Fee Earned:	\$255,150	\$270,900	\$0	\$261,450
Deductions for Failed Aircraft Inspections:	<u>(\$85,050)</u>	<u>(\$270,900)</u>	<u>(\$N/A)</u>	<u>(\$174,300)</u>
Total Fees Earned:	\$170,100	\$0*	\$0**	\$87,150

\* -No fee earned because of three failed aircraft inspections

\*\* -No fee earned because of the Launch Rate being less than 90%

Cost Performance:

Should the Contractor's total allowable costs for the period of performance come in below the Target Cost at \$67,000,000, the Cost Incentive Fee earned would be calculated as follows:

Target Cost:	\$70,000,000
Less Total Allowable:	<u>\$67,000,000</u>
Amount below Target:	\$3,000,000
Multiplied by:	<u>\$0.25</u>
Increased Fee:	\$750,000
Plus Target Fee:	<u>\$840,000</u>
Total Cost Fee Earned:	\$1,590,000

Likewise, should the Contractor's total allowable costs for the same period of performance come in over the Target Cost at \$72,000,000, the Cost Incentive Fee earned would be calculated as follows:

Total Allowable Cost:	\$72,000,000
Less Target Cost::	<u>\$70,000,000</u>
Amount above Target:	\$2,000,000
Multiplied by:	<u>\$0.25</u>
Decreased Fee:	\$500,000

Target Fee:	\$840,000
Less Decreased Fee:	<u>\$500,000</u>
Total Cost Fee Earned:	\$340,000

Total Operational and Cost Performance Fee Earned for the 12-month period of performance under the following two scenarios:

Scenario 1 (Total Allowable Costs) = \$67,000,000

Operational Performance Fee Earned:	\$257,250
Total Cost Performance Fee Earned:	<u>\$1,590,000</u>
Total Operational and Cost Fee Earned:	\$1,847,250

Scenario 2 (Total Allowable Costs) = \$72,000,000

Operational Performance Fee Earned:	\$257,250
Total Cost Performance Fee Earned:	<u>\$340,000</u>
Total Operational and Cost Fee Earned:	\$597,250

## Tab 6: Key FAR Clauses

### 52.246-5 Inspection of Services—Cost-Reimbursement.

As prescribed in 46.305, insert the following clause in solicitations and contracts for services, or supplies that involve the furnishing of services, when a cost-reimbursement contract is contemplated:

(a) *Definition.* “Services,” as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.

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

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

(d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may—

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce any fee payable under the contract to reflect the reduced value of the services performed.

(e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may—

(1) By contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances; or

(2) Terminate the contract for default.

(End of clause)

### 52.216-10 Incentive Fee.

As prescribed in 16.307(d), insert the following clause:

INCENTIVE FEE (MAR 1997)

(a) *General.* The Government shall pay the Contractor for performing this contract a fee determined as provided in this contract.

(b) *Target cost and target fee.* The target cost and target fee specified in the Schedule are subject to adjustment if the contract is modified in accordance with paragraph (d) of this clause.

(1) “Target cost,” as used in this contract, means the estimated cost of this contract as initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(2) “Target fee,” as used in this contract, means the fee initially negotiated on the assumption that this contract would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (d) of this clause.

(c) *Withholding of payment.* Normally, the Government shall pay the fee to the Contractor as specified in the Schedule. However, when the Contracting Officer considers that performance or cost indicates that the Contractor will not achieve target, the Government shall pay on the basis of an appropriate lesser fee. When the Contractor demonstrates that performance or cost clearly indicates that the Contractor will earn a fee significantly above the target fee, the Government may, at the sole discretion of the Contracting Officer, pay on the basis of an appropriate higher fee. After payment of 85 percent of the applicable fee, the Contracting Officer may withhold further payment of fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government’s interest. This reserve shall not

exceed 15 percent of the applicable fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(d) *Equitable adjustments.* When the work under this contract is increased or decreased by a modification to this contract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in a supplemental agreement to this contract.

(e) *Fee payable.* (1) The fee payable under this contract shall be the target fee increased by \_\_\_\_\_ [Contracting Officer insert Contractor's participation] cents for every dollar that the total allowable cost is less than the target cost or decreased by \_\_\_\_\_ [Contracting Officer insert Contractor's participation] cents for every dollar that the total allowable cost exceeds the target cost. In no event shall the fee be greater than \_\_\_\_\_ [Contracting Officer insert percentage] percent or less than \_\_\_\_\_ [Contracting Officer insert percentage] percent of the target cost.

(2) The fee shall be subject to adjustment, to the extent provided in paragraph (d) of this clause, and within the minimum and maximum fee limitations in paragraph (e)(1) of this clause, when the total allowable cost is increased or decreased as a consequence of—

(i) Payments made under assignments; or

(ii) Claims excepted from the release as required by paragraph (h)(2) of the Allowable Cost and Payment clause.

(3) If this contract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this contract.

(4) For the purpose of fee adjustment, "total allowable cost" shall not include allowable costs arising out of—

(i) Any of the causes covered by the Excusable Delays clause to the extent that they are beyond the control and without the fault or negligence of the Contractor or any subcontractor;

(ii) The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the Contractor's being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;

(iii) Any direct cost attributed to the Contractor's involvement in litigation as required by the Contracting Officer pursuant to a clause of this contract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement clause;

(iv) The purchase and maintenance of additional insurance not in the target cost and required by the Contracting Officer, or claims for reimbursement for liabilities to third persons pursuant to the Insurance Liability to Third Persons clause;

(v) Any claim, loss, or damage resulting from a risk for which the Contractor has been relieved of liability by the Government Property clause; or

(vi) Any claim, loss, or damage resulting from a risk defined in the contract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the Contractor.

(5) All other allowable costs are included in "total allowable cost" for fee adjustment in accordance with this paragraph (e), unless otherwise specifically provided in this contract.

(f) *Contract modification.* The total allowable cost and the adjusted fee determined as provided in this clause shall be evidenced by a modification to this contract signed by the Contractor and Contracting Officer.

(g) *Inconsistencies*. In the event of any language inconsistencies between this clause and provisioning documents or Government options under this contract, compensation for spare parts or other supplies and services ordered under such documents shall be determined in accordance with this clause.

**52.246-1 Contractor Inspection Requirements.**

As prescribed in 46.301, insert the following clause:

**CONTRACTOR INSPECTION REQUIREMENTS (APR 1984)**

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

(End of clause)

**52.246-4 Inspection of Services—Fixed-Price.**

As prescribed in 46.304, insert the following clause:

**INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996)**

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

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

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

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

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may—

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may—

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or (2) Terminate the contract for default.

(End of clause)

**Tab 7: COTR Monthly Evaluation Report**

**COTR Monthly Evaluation Report**

Contract Number: XXXXXXXXX

Evaluation Date: May 9, 2008

Evaluation Location: CBP Air and Marine HQs, Washington, DC

Applicable Contract Paragraph Number: AA.aa

Requirement Evaluated: Aircraft Launch Rate

Evaluation Results / Summary: Program-wide CBP aircraft launch rate for the month of April 2008 was 92.2% as substantiated by cumulative branch data. This rate **has exceeded** the 90% launch rate established by the contract as satisfactory.

Applicable Contract Paragraph Number: BB.bb

Requirement Evaluated: Aircraft Mission Completion Rate

Evaluation Results / Summary: Program wide CBP aircraft mission completion rate for the month of April 2008 was 86.4% as substantiated by cumulative branch data. This rate **has not met** the 90% mission completion rate established by the contract as satisfactory.

Applicable Contract Paragraph Number: CC.cc

Requirement Evaluated: Aircraft Inspection by CBP Representatives

Evaluation Results / Summary: CBP Representatives inspected a total of twelve aircraft located at six different branches during the month of April 2008. Each representative was qualified for this task, and possesses an FAA mechanic certificate with Airframe & Powerplant ratings as well as Inspection Authorization. Of the twelve aircraft inspected, **one failed** due to the following factors:

UH60, Tail No. XXXXX, inspected at the Montana branch. The subject UH60 had just completed a 360 hour scheduled inspection and auxiliary power unit change by contractor personnel and was ready to be signed off as released for flight. CBP inspection on April 18, 2008 revealed these discrepancies which do not conform to acceptable inspection criteria for airworthiness:

1. Auxiliary power unit not serviced with oil.
2. Nut on red main pitch link lower bolt not torqued or safetied.
3. No record or other documentation of troubleshooting or repair of discrepancy write-up by pilot for inoperable SX-16 searchlight following last flight.

Evaluator Signature:

## **Tab 8: Government Aircraft Inspections**

As stated in Tab 5 (Incentive Fee Structure), the Government will inspect at least 34 aircraft during each quarter. These aircraft inspections will be conducted by the Government on a “no notice” basis and will be performed once the Contractor has determined the aircraft to be airworthy following a scheduled maintenance inspection or the replacement of a major component, or at the discretion of the Government representative. In such instances where these Government inspections are performed following scheduled maintenance inspections or the replacement of major components, the aircraft will not be released for operations until such time that the Government inspection has been performed. For each aircraft that fails a Government inspection, the contractor will forfeit one-third of the Launch Rate and Mission Completion fee earned for that quarter. If three aircraft fail an inspection, 100 percent of the fee earned for Launch Rate and Mission Completion for that quarter is forfeited.

### Scope of Inspections

The inspection will be in enough depth to ensure the Contractor is providing the Government with a quality product in accordance with the requirements of the contract. These inspections may require the removal of inspection panels, cowlings, etc. by the Contractor at the request of the Government representative. It will be the Contractor’s responsibility to replace such panels, cowlings, etc. to return the aircraft to an airworthy status. The Government will inspect the aircraft for Type Certificate conformity, Airworthiness Directive compliance, aircraft registration certificate, airworthiness certificate, pilot’s operating handbook, permanent maintenance records and work orders to determine if the contractor is complying with: Federal Aviation Regulation Parts 43, 91, and others as applicable; Department of Defense (DoD) regulations as applicable; CBP Air & Marine regulations as applicable; and the Contractor’s own standard operating procedures. Department of Defense-sourced CBP aircraft shall be governed by the standards of the DoD agency from which the aircraft was obtained except if otherwise approved by CBP or by the aircraft manufacturer.

### Performance Standard

The Contractor is expected to pass 100 percent of the Government aircraft inspections. As stated above, failed inspections impacts the amount of fee earned in a given quarter.

### Acceptable Inspection Criteria

In order to pass a Government Aircraft Inspection, any critical fault that is discovered by the Government representative in the course of the inspection will cause that aircraft to be unacceptable and, thus, fail inspection. A critical fault is defined as a discrepancy which does not conform to an aircraft’s original Type Design or properly altered state.