APPENDIX B - PRIMARY FEDERAL IRM STATUTES AND REGULATIONS

1. Brooks Act, Oct. 30, 1965, Public Law 89-306

This Act is the primary law governing the overall Federal acquisition and management of automatic data processing equipment. Passed in 1965, the Act requires Federal agencies to purchase, lease, maintain, operate and utilize ADP equipment in an economical and efficient manner. The Act also provides for coordinated government-wide ADP management with specific roles for the General Services Administration, the Department of Commerce and the Office of Management and Budget.

2. Paperwork Reduction Act of 1980, Public Law 96-511

The primary objective of this Act is to reduce paperwork and enhance the economy and efficiency of the government and private sector by improving Federal information policy development and implementation. It established a new management structure for the government's information activities. The structure is composed of (1) an OMB Office of Information and Regulatory Affairs to develop and implement consistent information policy and (2) senior officials appointed within each agency to ensure effective and efficient management of the agency's information resources. The following broad objectives for improving the management of Federal information resources were established:

a. Coordinating, integrating and, to the extent practicable and appropriate, making uniform, Federal information policies and practices.

b. Minimizing the Federal paperwork burden for individuals, State and local governments and others.

c. Minimizing the cost to the Federal government of collecting, maintaining, using and disseminating information.

d. Making maximum use of information collected by the Federal government.

e. Ensuring that automatic data processing and telecommunications technologies are acquired and used by the Federal government in a manner that improves

service delivery and program management, increases productivity, reduces waste and fraud and reduces the information processing burden for the Federal government and for persons who provide information to the Federal government.

f. Ensuring that the collection, maintenance, use and dissemination of information by the Federal government is consistent with applicable laws relating to confidentiality and privacy.

3. Privacy Act of 1974, Public Law 93-579

The Act provides certain safeguards for individuals against an invasion of personal privacy by requiring agencies to identify what records are being collected, maintained, used or disseminated on an individual; provide access and copies of such records; ensure the lawful purpose and prevent misuse of such records. The Act imposes criminal penalties directly on individuals if they violate certain provisions of the Act.

4. Freedom of Information Act of 1966, Public Law 89-487, as amended by Public Law 93-502, Nov. 21, 1974, amended Nov/Dec. 1986

The Act allows the public to inspect and copy certain general agency information, agency rules, opinions, orders and proceedings. The 1974 amendments established: (1) time limits for agency determinations, (2) index publications, (3) uniform fees for search and duplication and (4) requirements for an annual report.

5. Federal Records Management Amendments of 1976, Public Law 94-575

The amendments required the establishment of standards and procedures to ensure efficient and effective Federal records management practices. Specific goals are (1) accurate an complete documentation of the policies and transactions of the Federal government; (2) control of the quantity and quality of records produced; (3) establishment and maintenance of control mechanisms to prevent the creation of unnecessary records and to prevent ineffective and uneconomical agency operations; (4) simplified activities, systems and procedures for records creation, maintenance and use; (5) judicious preservation and disposal of records; and (6) continuous attention to records--from creation to disposition--with emphasis on the prevention of paperwork.

6. Competition in Contracting Act of 1984, PublicLaw 98-369

The Competition in Contracting Act considerably strengthened the regulations governing all procurements. It requires each agency to designate a "competition advocate" and requires full and open competition in as many procurements as possible. Significantly, the Act considers both "competitive negotiation" and purchases from negotiated schedule contracts as full and open competition. The Act prescribes the following exceptions that justify noncompetitive procurements:

a. The property or services are available from only one responsible source.

b. There is "unusual and compelling urgency."

c. It is desirable to award the contract to a particular source in order to maintain the existence of a supplier or to meet the terms of an international agreement.

d. Noncompetitive procurement is specifically authorized by statute.

e. The disclosure of the agency's needs would compromise national security.

f. The head of the agency determines that is it "necessary in the public interest" to use noncompetitive procedures and notifies Congress in writing 30 days before award of the contract.

In addition, the Act established a special procedure to resolve disputes between agencies and vendors of ADP equipment. Under this procedure, the Board of Contract Appeals at GSA is given authority to suspend procurement authority if necessary, and to issue a decision on the protest within 45 working days after the protest is filed.

7. OMB Circular A-130, Management of Federal Information Resources

Issued by OMB to implement the Paperwork Reduction Act, OMB Circular A-130 supercedes several other circulars and provides guidance for Federal agencies in adopting and implementing the Information Resources Management (IRM) approach mandated by the Act. Under Circular A-130, Federal agencies shall:

a. Establish multi-year strategic planning processes for

acquiring and operating information technology that meet program and mission needs, reflect budget constraints and form the basis for their budget requests.

b. Establish systems of management control that document the requirements that each major information system is intended to serve and provide for periodic review of those requirements over the life of the system in order to determine whether the requirements continue to exist and whether the system continues to meet the purposes for which it was developed.

c. Make the official whose program the information system supports responsible and accountable for the products of that system.

d. Meet information processing needs through interagency sharing and from commercial sources, when it is cost-effective, before acquiring new information processing capacity.

e. Share available information processing capacity with other agencies to the extent practicable and legally permissible.

f. Acquire information technology in a competitive manner that minimizes total life cycle costs.

g. Ensure that existing and planned major information systems do not unnecessarily duplicate information systems available from other agencies or from the private sector.

h. Acquire off-the-shelf software from commercial sources, unless the cost-effectiveness of developing custom software is clear and has been documented.

i. Acquire or develop information systems in a manner that facilitates compatibility.

j. Assure that information systems operate effectively and accurately.

k. Establish a level of security for all agency information systems commensurate with the sensitivity of the informa- tion and the risk and magnitude of loss or harm that could result from improper operation of the information systems.

l. Assure that only authorized personnel have access to information systems.

m. Plan to provide information systems with reasonable continuity of support, should their normal operations be disrupted in an emergency.

n. Use Federal Information Processing and Telecommunications Standards except where it can be demonstrated that the costs of using a standard exceed the benefit or the standard will impede the agency in accomplishing its mission.

o. Not require program managers to use specific information technology facilities or services unless it is clear and is convincingly documented, subject to periodic review, that such use is the most cost-effective method for meeting program requirements.

p. Account for the full costs of operating information technology facilities and recover such costs from government users.

q. Not prescribe Federal Information system requirements that unduly restrict the prerogatives of heads of State and local government units.

r. Seek opportunities to improve the operation of government programs or to realize savings for the government and the public through the application of up-to-date information technology to government information activities.

8. <u>OMB Circular A-11, Transmittal Memorandum No. 54, Preparation and Submission of Budget Estimates, July 19, 1983</u>

Circular No. A-11 provides instructions relating to the annual budget process. It includes information on reviewing estimates for new or expanding programs that reflect determinations made pursuant to Executive Order No. 12291, the Paperwork Reduction Act of 1980 and the "information collection budget" process.

9. <u>OMB Circular A-76, Policies for Acquiring Commercial or Industrial Services Needed by Government, March 29, 1979</u>

This Circular establishes the general policy that "the government's business is not to be in business" and that government agencies should rely on the private sector to

obtain commercial or industrial goods and services. Government commercial or industrial activities are allowed only on a very limited exception basis, which recognizes that certain activities by Federal employees. A Cost Comparison Handbook implements the principles contained in the Circular. The handbook provides detailed instructions for developing a comprehensive and valid comparison of the estimated cost to the government of acquiring a product or service by contract versus providing it with in-house, government resources. The handbook attempts to establish consistency, ensure that all substantive factors are considered in making cost comparisons and achieve a desirable level of uniformity among agencies in comparative cost analyses.

10. OMB Circular A-121, Cost Accounting, Cost Recovery, and Inter-agency Sharing of Data Processing Facilities, Sept. 16, 1980

This Circular establishes policies to promote effective and efficient management and use of certain data processing facilities. The policies prescribe business-like procedures which require agencies to:

a. Account for the full cost of operating data processing facilities.

b. Allocate all costs to users according to the service they receive.

c. Share excess data processing capacity with other agencies.

d. Recover the cost of interagency sharing.

e. Evaluate interagency sharing as a means of supporting major new data processing applications.

11. OMB Circular A-123, Internal Control Systems, Aug.. 16, 1983

This Circular prescribes policies and standards to be followed by executive departments and agencies in establishing, maintaining, evaluating, improving and reporting on internal controls in their program and administrative activities. Agencies must maintain effective systems of accounting a,d administrative control. All levels of management must involve themselves in assuring the adequacy of controls. New programs must be designed so as to incorporate effective systems of internal control. All systems must be evaluated on an ongoing basis and

weaknesses, when detected, must be promptly corrected. Reports are to be issued, as required by the Federal Managers' Financial Integrity Act, on internal control activities and the results of evaluations.

12. OMB Circular A-127, Financial Management Systems

This Circular prescribes policies and procedures to be followed by executive departments and agencies in developing (3, operating, evaluating and reporting on financial management systems. The Circular establishes objectives for financial management and accounting systems which all agencies are required to meet. The objectives are concerned with ensuring that financial management data are recorded, stored and reported in a manner to facilitate systems operations (i.e., ensuring financial management data meet the criteria of usefulness, timeliness, reliability, completeness, comparability, consistency, efficiency and economy); systems integrity; support for management and full financial disclosure.

The Circular also requires agencies to establish and maintain a single, integrated financial management system, which may be supplemented by subsidiary systems. The intent of this requirement is to ensure that data entered into the agency's financial management system is entered only once and transferred automatically to appropriate accounts or other parts of the system or systems. New or substantially revised systems must be developed on an interagency basis and must be designed to meet the needs o all participating agencies. Agencies are allowed to expend funds only for financial management systems that meet the requirements of Circular A-127.

13. Federal Information Processing Standards (FIPS) (Dept. of Commerce

A series of documents issued by the National Bureau of Standards (DOC) in accordance with the Brooks Act of 1965, Public Law 89-306. The FIPs contain standards and guidelines concerned with the standardization of computer hardware, software (data representations, operative systems, programming languages) and systems. FIPs are mandatory for each Federal agency.

14. Federal Information Resource Management Regulations (FIRMR) (GSA), 1 CFR Chapter 201

Regulations published by the General Services Administration to provide guidance for the procurement, utilization and disposition of ADP resources and equipment by each Federal

agency.

15. National Archives and Records Administration Regulation 36 CFR 1220 and 41 CFR 201-22

Regulations issued by the National Archives and Records Administration to establish standard records management practices throughout the Federal government.