

July 1, 2003

## Executive Agent Business Case

### EPA Recycling Electronics and Asset Disposition (READ) Program

#### Part I. Anticipated Need

##### 1. Purpose

a. How, if at all, has the purpose of the Government Wide Acquisition Contract (GWAC) changed from when the executive agent was previously granted by OMB? In what ways has either the customer base or the marketplace changed since a designation was last granted? How has this affected the GWAC and what steps are being taken to reflect the changed conditions?

An Executive Agent has not been previously granted by OMB for this effort. EPA's proposed GWAC will be for Recycling Electronics and Asset Disposition (READ) services available for use by the entire Federal Government. The resulting multiple-award contracts will provide the Federal sector with a procurement tool to recycle, re-utilize, re-market, and properly dispose of excess or obsolete electronic property in an environmentally responsible manner.

EPA has contacted numerous Federal entities to determine the potential customer base for this effort. Several Agencies have expressed a high level of interest in utilizing this contractual vehicle once it becomes available, particularly since the contract will assist agencies in reducing their inventory costs and reduce the amount of hazardous contaminants that could potentially enter the waste stream. We have surveyed over thirty Federal entities and have reached the conclusion that the need for this service currently exists and will continue to grow as technological advances in software necessitate regular upgrade and/or replacement of existing hardware. Currently, most of the Federal electronics inventory enters the public waste stream.

Since this is a new proposal, there are no changes in either the customer base, the marketplace, or the market conditions to consider at this time.

b. What factors were considered by the servicing agency's management in reaching the conclusion that continued operation of the GWAC is consistent with and beneficial to its mission?

EPA considers the operation of a GWAC for Recycling Electronics and Asset Disposition to be a key aspect of the Agency's original organizing statute. We believe that providing Government-wide recycling and asset disposition services are consistent with EPA's overall mission of protecting human health and the environment. This GWAC will be beneficial to

fulfilling our own Agency's needs as well as the needs of numerous Federal entities whose warehouses have become overcrowded with obsolete electronics equipment.

We believe that sharing EPA's technical expertise in the areas of recycling and reclamation could benefit the mission of the Government as a whole. An OMB executive agent designation for a READ GWAC could prove to be the best method for reducing the duplication of costs among the Federal entities associated with fulfilling the growing need to recycle electronic property and disposition electronic assets.

## 2. Scope

What is the GWAC's current scope of work? How does this compare to the scope of the contract when the designation request was previously granted? What factors led to a decision to modify the scope of the contract?

The scope of work for the READ GWAC covers five primary areas of recycling, reclamation, and asset disposition services. These areas consist of the following tasks:

(1) Refurbishing and reconfiguring electronic equipment and identifying a market to resell that equipment. If reselling the equipment results in a profit for the Agency, the contractor will share in those revenues as an incentive to enhance performance. Revenues generated will also be used to offset recycling costs, if applicable.

(2) Donating refurbished equipment to educational institutions, per the requirements of Executive Order 12999, or other Government entities in accordance with General Services Administration's (GSA) excess property procedures.

(3) Dismantling electronic equipment that has been determined to be beyond upgrade or refurbishment. Reclamation of this type of equipment will involve a determination regarding which parts can be recycled for possible use in other equipment, which parts can be resold on the commercial market, and which parts have no useful market value and must be properly disposed or recycled.

(4) Creating an audit trail on the equipments' final location and provide certification regarding the final disposition of all electronic equipment and major components that were handled by the contractor.

(5) For older equipment that has been determined to have no useful market value, the contractor will determine the proper and safe methods for disposal of the equipment, will coordinate with the Agency to obtain approval for the method of disposal, and will be responsible for proper recycling or disposal of the identified equipment.

Since an Executive Agent has not been granted for this effort, there has been no modification to the scope of work. A more detailed Statement of Objective for this effort can be reviewed at [www.epa.gov/oam/hpod](http://www.epa.gov/oam/hpod).

### 3. Period of performance

What is the length of the contract that the servicing agency would be managing?

It is anticipated that all of the contracts awarded for this effort will have a one-year base period of performance, with four one-year options, for a total potential period of performance of five years.

### 4. Amount and source of demand

a. What was the amount of activity under the GWAC during the period of the current designation (to a date as recent as is practicable)? Note: For each customer agency, identify the cumulative number and total dollar value of task orders awarded (whether by the servicing agency or by the customer agency through delegation). Sorted by functional contract area and type of contract.

Not applicable. EPA has not received an executive agent designation for this initiative.

b. What is the amount (in dollars) of overall expected activity during the remainder of the contract?

Not applicable.

c. What portion of expected activity reflects the anticipated needs of external customers?

Not applicable.

d. What agencies have recently expressed an interest in the current GWAC and for what types of needs?

During development of the Statement of Objectives, EPA approached Property Utilization Officers (PUO) from over thirty different agencies to determine whether a need exists to support a GWAC for electronic recycling services. The following table identifies those departments and agencies that responded to our survey. As can be seen, the majority of PUOs expressed a sincere interest in utilizing an EPA Recycling Electronics and Asset Disposition contract. While these Agencies have not made a formal commitment to use our contract, almost

all have expressed an interest to do more than their current practice of identifying the property as “excess” and providing the property to GSA for disposition. Several PUOs stated that if the costs associated with recycling electronic equipment are considered reasonable, and the process is in compliance with protocols they currently follow for property disposal, then they would pursue use of an EPA government-wide contract.

The following table identifies the Agency and Department contacted, the current method of property disposition, current recycling practices, if applicable, and whether or not they have an interest in utilizing an EPA GWAC for these services, if approved by OMB:

	<u>Current Method</u>	<u>Currently Recycle</u>	<u>Interest in EPA GWAC</u>
Department of Commerce (DOC)	GSA	NO	YES
Department of the Interior (DOI)	UNICOR	YES	YES
Department of Energy (DOE)	OAKRIDGE	YES	NO
Department of Health/Human Services (HHS)	GSA/UNICOR	YES	NO
Department of Treasury	GSA/UNICOR	YES	YES
Department of Transportation (DOT)	GSA	NO	YES
Department of Justice (DOJ)			
Administrative Office, U.S. Courts	GSA	NO	YES
U.S. Department of Agriculture (USDA)	GSA	NO	YES
United States Coast Guard (USCG)	GSA/DRMO	NO	NO
Nuclear Regulatory Commission (NRC)	GSA	NO	YES
National Aeronautical and Space Administration (NASA)	GSA	NO	YES
Veterans Administration (VA)	GSA	NO	YES
Federal Emergency Management Agency (FEMA)	GSA	NO	YES
International Broadcasting Bureau (IBB)	GSA	NO	YES
Defense Information Systems Agency (DISA)	DSMR	YES	NO
USDA Forest Service	GSA	NO	YES
DOI/U.S. Geological Survey (USGS)	UNICOR	YES	NO
National Oceanic and Atmospheric Administration (NOAA)	GSA	NO	YES
Internal Revenue Service (IRS)	CONTRACT	YES	NO
Defense Re-utilization and Marketing Office (DRMO)			
Defense Logistics Agency (DLA)	UNICOR	YES	MAYBE
Federal Deposit Insurance Agency (FDIC)	GSA/USDA	NO	YES
General Services Administration (GSA)	GSA	NO	YES
National Science Foundation (NSF)	GSA	NO	YES
National Institutes of Health (NIH)	GSA	NO	MAYBE
Office of the Secretary of Defense (OSD)	DRMO	NO	NO
Department of Labor (DOL)	GSA	NO	MAYBE
U.S. National Archives and			

Records Administration (NARA)	GSA	NO	YES
U.S. Patent and Trademark Office (USPTO)	GSA/HHS	NO	YES
HHS Indian Health Service (HIS)	GSA/HHS	NO	YES
Social Security Administration (SSA)	GSA	YES	YES
DOJ - U.S. Marshall Service	GSA	NO	YES
Bureau of Labor Statistics (BLS)	GSA	NO	YES

As a result of our discussions with these Agencies, we have reached the conclusion that the majority of Federal departments and agencies follow the standard disposal process outlined in the Federal Property Management Regulations (FPMR) for excess electronics equipment. Typically, the FPMR process begins with the requiring agency allowing other departments within its own agency to utilize the excess property. Second, the requiring agency will follow Executive Order 12999, Computers for Learning, and provide educational institutions an opportunity to own the excess equipment. The third step is for agencies to place the equipment on the Federal Disposal System (FDS) database administered by GSA which allows other agencies, departments and state governments an opportunity to obtain ownership of the excess equipment. During the disposition process, GSA does not take possession of the equipment nor do they test the equipment. Essentially, GSA administers the process electronically and makes the equipment available on an “as is” basis. An agency that may be interested in receiving ownership rights are required to pick up the equipment from the donating agency.

After all charitable avenues are exhausted and the equipment remains unclaimed, the agency’s PUO will contact GSA regarding further disposition procedures. In turn, GSA will dispose of the excess property by either auctioning the equipment to the public by the lot or having the property picked up by a GSA scrap contractor. If GSA decides to use an auction for property disposition, they typically place the equipment on a pallet and then auction the pallet as a lot that cannot be broken out. The common practice is for useful equipment to be commingled with obsolete equipment so that all of the excess electronic equipment can be disposed. Once ownership of the lot transfers to the buyer, then the equipment is either upgraded for resale or placed in the waste stream. Most PUOs interviewed by EPA believe that the majority of the equipment in each auctioned “lot” is essentially brought to a landfill by small business entrepreneurs. According to several PUOs, it is common knowledge that GSA reduces disposal and inventory costs by mixing useable and unuseable items during auctions, thereby passing final disposition responsibility of obsolete items to the new owners of the equipment.

As a final resort, if GSA can neither auction nor donate the excess equipment, they have a salvage contractor pick up the equipment to convert it to scrap. We contacted GSA’s primary scrap contractor, Technology Recovery Services (TRS), and they stated that they have minimal requirements for recycling. Most recycling efforts are performed by brokers who buy certain items from TRS as scrap electronic equipment and then transport it to recycling companies.

These are the primary reasons why EPA has an interest in pursuing a GWAC for recycling electronic equipment. The current process required by FPMR and applied by GSA does not address the growing need to recycle the enormous amount of electronic equipment in federal warehouses. OPM estimates that there are 1.8M Federal employees, almost all of whom have a personal computer. Given a computer's 3-year life cycle, approximately 10,000 Federal computers enter the waste stream every week. EPA's plans for recycling and disposing of this Federal inventory are far more beneficial to the environment than the current process used throughout the Federal sector.

## **Part II. Value to the Government**

*The business case should discuss the value that the GWAC is currently providing and would continue to provide to customers both internal and external to the Agency.*

### 1. Benefit

**How has the executive agent designation contributed to the success of the acquisition - what benefits will be lost absent renewal of the designation?**

The Environmental Protection Agency's organizing statute was based on protection of human health and the environment. An integral part of EPA's on-going mission has been to promote recycling efforts in all facets of Government and private industry. EPA has been at the forefront of promoting efforts to recycle re-useable materials from paper products to plastics and almost everything in between. As previously stated, we have reviewed all of the facts associated with the current process used throughout the Federal Government for disposition of excess electronic equipment. Currently, we believe that GSA does not have the desire nor the expertise to take a proactive, leadership role in addressing the growing inventory of obsolete electronic equipment in Federal warehouses. In our opinion, GSA has not demonstrated a genuine interest in recycling electronic equipment. In April, 2003, as a result of EPA's interest in the subject, GSA's Region 10 Federal Supply Schedule (FSS) Office added a new classification under their Environmental Services Schedule entitled Computer Recycling. However, we believe that GSA's proposed schedule for these services, like most schedules, is a passive approach to tackling this growing government-wide problem.

EPA plans to pro-actively promote this initiative throughout the Federal Government. After establishing multiple award contracts for recycling of electronic equipment and asset disposition services, EPA plans to utilize a marketing plan that will increase the GWAC's visibility in the Federal sector. EPA's marketing plan will include: regularly addressing this issue at the quarterly government-wide Interagency Committee on Property Management (ICPM) meetings; presenting information at the Property Management Executive Council (PMEC) meetings; promoting the program's availability through the GSA's Marketing and Media Strategy Schedule; developing a user-friendly website that guides customer agencies through the disposition process; providing one-on-one consultation to all agencies who have a need for the service; and creating incentives for Agencies to utilize the government wide contract. Incentives

will include elements such as addressing federal Performance Based Service Contracting (PBSC) goals, addressing environmental goals in accordance with Executive Order 13101, “Greening the Government”, and assisting agencies in meeting small business/socioeconomic set-aside goals.

If a GWAC designation is not authorized for this initiative, the government-wide problem associated with obsolete electronics and overcrowded warehouses will continue to grow. Even if a GWAC designation is granted, it will take several years to adequately address the avalanche of electronic equipment discarded annually by the Federal Government.

## 2. Metrics

How did the servicing agency measure its performance (including customer satisfaction) during the period of the current designation? What were the results? What measures would be used to evaluate activity under a renewed designation?

EPA plans to utilize customer service surveys to ascertain how internal and external customers would rate the service provided to them under this contract. Customer survey forms will be a key measure of customer satisfaction. We will also, to the extent possible, measure cost savings to the Government by querying other agencies on how they previously disposed of their obsolete equipment. We will calculate costs that were previously incurred for asset disposition, including inventory costs, and compare those costs to actual costs realized by agencies who have utilized this GWAC. Cost analyses will include all revenues that are generated by utilizing private sector recycling firms as well as the cost savings associated with inventory reductions.

EPA will also measure administration timeliness over the life of the GWAC in terms of issuing orders, resolving problems related to customer satisfaction, addressing logistical concerns regarding asset disposition procedures, and determining whether improvements have been achieved as EPA gains experience administering a government wide service.

### **Part III. Suitability for Designation**

*The business case should address the servicing agency’s overall suitability to continue serving as an executive agent.*

#### 1. Contracting practices

Identify the specific steps the servicing agency has taken during the period of the current designation with respect to furthering the following policies (where reference is made to agency guidance - e.g., customer handbooks - please provide specific citations):

a. Use of performance-based statements of work, fixed-price task orders, and modular contracting. In addressing this issue, identify the total number and cumulative value of task

orders awarded during the period of executive agent designation which were performance-based, as envisioned in FAR 37.6, and those that were not.

In accordance with FAR 37.6, EPA will utilize Performance Work Statements for competed task orders to the maximum extent practicable. Fixed price task orders will be the preferred method of ordering services from the contractor base. Inasmuch as we envision multiple contracts for a variety of electronic recycling services, we believe that competing each task order will contribute to our ability to utilize both performance based techniques as well as fixed price task orders. Performance based, fixed price task orders will reduce the Government's risk and increase customer satisfaction.

Given the demand for this type of service and the number of Federal warehouses that are full of excess electronic equipment, we envision that at least four to six orders will be placed under the GWAC per month over the next twelve months, with higher numbers likely to follow. The value of the task order will vary depending upon the number of pallets that an Agency has in inventory to dispose of under this contract. A more detailed description of the estimated demand for this service as well as our estimated workload to support this program can be found in Attachment (1).

b. Full application of the fair opportunity process as contemplated in FAR 16.505. In addressing this issue, identify the total number and dollar value of task order awards during the period of the executive agent designation:

(i) subject to fair opportunity; and

See III.1.b(ii) below.

(ii) not subject to fair opportunity (see FAR 16.505(b)(2)), including the exception cited.

Since EPA has not received an executive agent designation for this initiative, we do not have statistics on past history. However, it is EPA's intention to provide contractors with a fair opportunity to compete for all task orders issued under these contracts. In our opinion, the best method for fulfilling a requirement while ensuring a fair and reasonable price is competition. Providing contractors a fair opportunity is the key to competition. In accordance with the Federal Acquisition Streamlining Act and FAR 16.505, the Contracting Officer will provide contractors a fair opportunity to be considered for each task order in excess of \$2,500, the current micro-purchase threshold. As work proceeds under this GWAC, EPA will rely upon recent performance reports received on task orders performed under this contract rather than past performance records submitted with the original proposal for a contract. Overall, EPA plans to fulfill the fair opportunity requirements delineated in FAR 16.505.

If a customer agency requests follow-on, sole source work with a specific contractor, we will require a rigorous analysis of their requirements and determine why the fair opportunity

process cannot apply. All determinations to not use the fair opportunity process will be well-documented and, above a certain dollar threshold, subject to review and approval by the Agency Competition Ombudsman.

**c. Consideration of contractor performance in the placement of tasks.**

A contractor's past performance will be a key component of consideration for every competitive task order award decision. Since we will make full use of performance-based contracting, the contractors' success in meeting established performance objectives, performance standards, and performance measures on previous task order efforts will be an integral aspect of past performance determinations. Each task order will include a Quality Assurance Surveillance Plan (QASP) that will monitor and track contractor performance. Those firms who have not been successful in meeting performance objectives and standards on previous task orders will find it more difficult to receive additional business under their contract.

**d. Assessment of contractor performance on awarded tasks.**

As previously stated, a QASP will be required in all Performance Based Service Contracting (PBSC) task orders. This tool will be the key component for assessing contractor performance. Scoring and rating methodologies will be based on similar elements used under the National Institutes of Health (NIH) past performance database. Past performance elements will include the quality of the service provided, timeliness of performance, cost control measures, and business relations with the customer agency. Other criterion associated with past performance measures may also include key personnel performance, customer satisfaction, and subcontract goals/SDB (small disadvantaged business) participation.

**e. Effective participation of small businesses.**

Numerous small businesses have demonstrated an interest in receiving a contract for providing electronic recycling services. For example, in response to the FedBizOpps announcement, some small disadvantaged businesses state that they only perform printer recycling services or cellular phone recycling services. EPA plans to set aside this entire requirements to the small business community.

**f. Taking appropriate advantage of increased contract demand.**

Each contract will include an option for increased quantity, which will be exercised in the event that contract demand increases. In addition, we will attempt to negotiate discounts for increased business. Since each task order will be competed and negotiated separately, we will have the opportunity to obtain the best prices possible at the time of task order award.

**2. Division of responsibilities between the servicing agency and customer agency.**

For each of the activities below, during the period of the current executive agent designation, describe -

(i) the division of responsibilities between the servicing agency and the customer agency (i.e., what functions the servicing agency performed and what functions the customer performed),

The customer agency will be responsible for contacting the servicing agency, EPA, with their recycling and asset disposition requirement. EPA will market these services through a variety of avenues, including use of GSA's Marketing and Media Services schedule and discussing this contractual vehicle at the Interagency Committee on Property Management (ICPM) and Property Management Executive Council (PMEC) meetings. Once the customer agency demonstrates a need for the service, EPA will provide alternative Performance Work Statements (PWS) that could be used to fulfill the requirement depending upon the needs of the customer agency. Once the customer agency decides upon the best route for handling disposition of their excess electronic equipment, EPA would solicit proposals from at least three vendors who hold an EPA GWAC. The determination of regarding which vendors will be requested to submit proposals will be based on the need of the requiring agency, geographical considerations, past performance facts, small business initiatives, and the volume of equipment to recycle. These decisions will be made with input from the customer agency.

After proposals are received, EPA personnel will review the proposals, develop a comprehensive evaluation of the proposals submitted, and provide a recommended source to the customer agency. Once that agency concurs with the recommended source, EPA would place the order on behalf of the customer agency, would monitor progress, and would ensure completion of the effort. The customer agency will only be required to fund the requirement, provide final acceptance of the method and source selected, and approve the receiving report for completion of services provided by the contractor.

As an alternative, EPA will also allow approved agencies to place their own order under the established contracts in a manner similar to other GWACs and GSA Schedules. Agencies that would prefer to place their own orders under this GWAC without assistance from the servicing agency will be charged a reduced administrative fee for utilizing the EPA GWAC.

(ii) how the servicing agency ensured a clear understanding of this division by its customers,

The servicing agency will establish a user-friendly web site that will provide detailed information regarding the roles of the customer agency and the efforts that will be performed by the servicing agency. EPA's web site will be based on web sites that have been developed by NASA, the Department of Commerce, and NIH in support of their Agency's GWAC. The web site will be located at [www.epa.gov/oam](http://www.epa.gov/oam).

(iii) any confusion in the execution of responsibilities between the servicing agency and customer agency, and

Information contained in the web site will clearly address the execution of responsibilities between the servicing agency and the customer agency. During initial contact with the customer agency, EPA will further address and delineate the responsibilities of the servicing and receiving agencies.

(iv) what, if any, changes are anticipated in the division of responsibilities.

Not applicable.

### 3. Activities:

#### a. Task Issuance

##### i. Needs Determination

The customer agency will be responsible for identifying and determining their agency's asset disposition needs. The servicing agency, EPA, will provide input and guidance in addressing the customer agency's needs based on historical information from task orders issued on behalf of other requiring activities. EPA will provide one-on-one consultation services to assist each agency in addressing their immediate and long term asset disposition needs, and in turn, presenting the most economical and feasible method for meeting those needs.

##### ii. Development of SOW for task or delivery order.

EPA will have several sample Performance Work Statements (PWS) available for agencies to choose from, depending on the recycling and asset disposition requirements of the customer agency. As previously stated, EPA will work with the customer agency to ensure that the PWS is suitable for their needs.

##### iii. Review of SOW for task or delivery order.

Unlike the procurement process employed by GSA, whereby requiring activities place orders without GSA input or review, EPA will provide cradle-to-grave assistance on each customer agency's PWS to ensure that their recycling and asset disposition needs are met in an optimum and economical manner.

##### iv. Conduct of fair opportunity process.

As previously stated, each task order issued under the resulting GWAC will be competed amongst eligible contractors. Task orders will be awarded on a best value basis, all factors

considered. Several considerations will be taken into account when determining which contractors will be provided a fair opportunity to propose on the requirement. Factors in making this determination may include: the needs of the requiring activity, geographical capabilities, past performance, and socioeconomic factors.

**v. Review of fair opportunity process, including application of exceptions.**

The ordering clause included within each resulting contract will delineate the fair opportunity process to be employed under this program. In accordance with FAR 16.505, no protest under FAR 33.1 is authorized in connection with Contracting Officer decisions regarding the issuance of a task order under the contract, except for a protest on the grounds that the task order increases the scope, period of performance, or maximum value of the contract. Contractors who believe that they were not provided a fair opportunity during the competition process will be able to address their concerns with the task order placement process and the source selection decision to the EPA Office of Acquisition Management Ombudsman. In accordance with the contract ordering clause, the OAM Ombudsman will make the final determination on the fair opportunity process. At this time, we envision the EPA Ombudsman to be the Director, Headquarters Procurement Operations Division.

**b. Contract Administration**

**i. Assessment of contractor performance**

As previously stated, EPA will conduct contractor past performance assessments in accordance with the procedures utilized in the National Institute of Health (NIH) past performance database. On a semi-annual basis, the CO will document contractor performance as described in Section III.1.d above. In addition, a past performance summary will be completed for each task order. EPA will complete task order performance summaries based on the contractor's adherence to the performance measures outline in the QASP and input from the customer agency. A clause will be included in the resulting contract describing the past performance evaluation process. A copy of the clause and the sample evaluation worksheet can be found in Attachment (2).

**ii. Quality Assurance surveillance**

Each PWS will have a corresponding Quality Assurance Surveillance Plan. Contractor past performance assessments may include measures related to quality of service, timeliness of performance, technical capabilities, cost control, business relations, and customer satisfaction. The QASP will document contractor performance as it relates to previously established

objectives, standards, and measures. A clause will be included in each resulting contract describing the past performance evaluation process.

#### 4. Management Structure

a. What is the current management structure? Note: In addressing this issue, identify the projected and actual total revenue and costs (both direct and indirect) for managing and administering the GWAC, to include (1) the number of FTE administering the GWAC and (2) an explanation if the number of FTE is expected to increase beyond current personnel levels during the life of the contract and, if so, whether the FTE would be diverted from other existing activities.

The initial plan for administering this GWAC is to utilize the services from five FTEs: one Contracting Officer, two Contract Specialists, one Program Officer, and one Project Analyst. A detailed breakdown of the level of effort required to support this initiative as well as the overall costs associated with administering this contract can be found in Attachment (1).

b. Have any changes in management structure been made since an executive agent designation was last granted? If so, please explain.

Not applicable.

c. Has the servicing agency identified any customer misapplications of its vehicles during the current executive agent designation? If so, what were they and how were they handled?

Not applicable.

d. What, if any, fund is the agency using to support transactions through the GWAC?

Not applicable.

e. Does the servicing agency plan to request any funding from OMB to support continued operation of the GWAC? If so, what is the estimated amount of the request and for what purposes would the funding be used?

No funding will be requested to support the operation of this GWAC.

f. How was the effectiveness of management structures measured?

Not applicable.

#### 4. Servicing agency performance

During the period of the executive agent designation, were any management or operational strengths or weaknesses identified by the program, the agency IG or the GAO? If so, what was identified? For any identified weaknesses, what specific remedial steps have been taken or are planned?

Not applicable.