**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS**
***OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30***

1. REQUISITION NUMBER: IQC11327009009



2. CONTRACT NO.

3. AWARD/EFFECTIVE DATE

4. ORDER NUMBER

5. SOLICITATION NUMBER: SPM5EY-13-R-0003

6. SOLICITATION ISSUE DATE: 12/18/2012

7. FOR SOLICITATION INFORMATION CALL:

a. NAME: Avril Dickerson - PAPCC07

b. TELEPHONE NUMBER *(No collect calls)*: 215-737-8275

8. OFFER DUE DATE/ LOCAL TIME: 2/11/13 - 1 PM

9. ISSUED BY — CODE

Defense Logistics Agency
Troop Support
700 Robbins Avenue
Philadelphia, PA 19111

10. THIS ACQUISITION IS [X] UNRESTRICTED OR [ ] SET ASIDE: ____ % FOR:

[ ] SMALL BUSINESS
[ ] HUBZONE SMALL BUSINESS
[ ] SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS
[ ] WOMEN-OWNED SMALL BUSINESS (WOSB)
[ ] ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS (EDWOSB)
[ ] 8 (A)

NAICS: 332722

SIZE STANDARD: 500 332618 33999

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
[ ] SEE SCHEDULE

12. DISCOUNT TERMS

[ ] 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING

14. METHOD OF SOLICITATION
[ ] RFQ [ ] IFB [X] RFP

15. DELIVER TO — CODE

16. ADMINISTERED BY — CODE

17a. CONTRACTOR/ OFFEROR — CODE — FACILITY CODE

TELEPHONE NO.

18a. PAYMENT WILL BE MADE BY — CODE

[ ] 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED [ ] SEE ADDENDUM

| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/SERVICES | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
|---|---|---|---|---|---|
| | Item No: ALL, SEE ITEM DESCRIPTION PAGES<br>*(Use Reverse and/or Attach Additional Sheets as Necessary)* | | | | |

25. ACCOUNTING AND APPROPRIATION DATA

26. TOTAL AWARD AMOUNT *(For Govt. Use Only)*

[X] 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA [X] ARE [ ] ARE NOT ATTACHED

[ ] 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA [ ] ARE [ ] ARE NOT ATTACHED

[X] 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

[ ] 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR

31a. UNITED STATES OF AMERICA *(SIGNATURE OF CONTRACTING OFFICER)*

30b. NAME AND TITLE OF SIGNER *(Type or print)*

30c. DATE SIGNED

31b. NAME OF CONTRACTING OFFICER *(Type or print)*

31c. DATE SIGNED

| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/SERVICES | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE | 24. AMOUNT |
|---|---|---|---|---|---|
| | | | | | |

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED ☐ INSPECTED ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

| 32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE | 32c. DATE | 32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE |
|---|---|---|
| | | |

| 32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE | 32f. TELPHONE NUMBER OF AUTHORZED GOVERNMENT REPRESENTATIVE |
|---|---|
| | 32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE |

| 33. SHIP NUMBER | 34. VOUCHER NUMBER | 35. AMOUNT VERIFIED CORRECT FOR | 36. PAYMENT | 37. CHECK NUMBER |
|---|---|---|---|---|
| ☐ PARTIAL ☐ FINAL | | | ☐ COMPLETE ☐ PARTIAL ☐ FINAL | |

| 38. S/R ACCOUNT NO. | 39. S/R VOUCHER NUMBER | 40. PAID BY |
|---|---|---|
| | | |

| 41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT | | 42a. RECEIVED BY *(Print)* | |
|---|---|---|---|
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER | 41c. DATE | 42b. RECEIVED AT *(Location)* | |
| | | 42c. DATE REC'D *(YY/MM/DD)* | 42d. TOTAL CONTAINERS |

**TABLE OF CONTENTS FOR**
**SOLICITATION NO: SPM5EY-13-R-0003**


| TITLE | PAGE |
|---|---|
| **Standard Form (SF) 1449** Solicitation/Contract/Order for Commercial Items | 1 |
| **Continuation of any block(s) from SF 1449** | 2, 4-6 |
| **Caution Notice** | 7-11 |
| **Contract Clauses** | |
| 1. **FAR 52.212-4** - Contract Terms and Conditions – Commercial Items | 12-16 |
| 2. **Addendum to FAR 52.212-4** | 17-43 |
| 3. **FAR 52.212-5** - Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items | 44-47 |
| 4. **DFARS 252.212-7001** - Contract Terms and Conditions Required to Implement Statutes or Executive orders Applicable to Defense Acquisition of Commercial Items | 48-53 |
| 5. **Additional Clauses** | 54 |
| **Any Contract Documents, Exhibits, or Attachments** (e.g., PID, Statement of Work) | 55 |
| **Solicitation Provisions** | |
| 1. **FAR 52.212-1** - Instructions to Offerors – Commercial Items | 56-59 |
| 2. **Addendum to FAR 52.212-1** | 60-73 |
| 3. **FAR 52.212-2** - Evaluation – Commercial Items | 74 |
| 4. **Addendum to FAR 52.212-2** | 75-78 |
| 5. **FAR 52.212-3** - Offeror Representations and Certifications – Commercial Items | 79-86 |
| 6. **Addendum to FAR 52.212-3** (e.g., certifications re Surplus Material, Trade Agreement Cert) | 87-91 |
| 7. **DFARS 252.212-7000** - Offeror Representations and Certifications – Commercial Items | 92 |

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS - SF 1449 (CONTINUATION SHEET)**

**1. Block 8**
Offer Due Date/Local Time: 2/11/2013 **1:00 PM**

**2. Block 9** (continued)

**Mailed offers should be sent to:**

DLA Troop Support
Post Office Box 56667
Philadelphia, PA 19111-6667

Solicitation No: SPM5EY-13-R-0003
Opening/Closing Date and Time: **12/18/2012** **1:00 PM**

**Handcarried Offers should be delivered to:**

DLA Troop Support
Business Opportunities Office
Building 36, 2nd Floor
700 Robbins Avenue
Philadelphia, PA 19111-5092

Solicitation No: SPM5EY-13-R-0003
Opening/Closing Date and Time 2/11/2013 **1:00 PM**

[Examples of Handcarried Offers include: In-Person delivery by contractor; or Fed Ex, Airborne, UPS, DHL, Emery, or other commercial carrier.]

Note: All handcarried offers are to be delivered between 8:00 a.m. and 5:00 p.m., Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103. Offerors using a commercial carrier service must ensure that the carrier service "handcarries" the package to the address specified above for handcarried offers prior to the scheduled opening/closing time. Package must be plainly marked ON THE OUTSIDE OF THE COMMERCIAL CARRIER'S ENVELOPE with the solicitation number, date, and time set forth for receipt of offers as indicated in Block 8 of the Standard Form 1449.

Contractors intending to deliver offers in-person should be advised that the Business Opportunities Office (Bid Room) is located within a secure military installation. In order to gain access to the facility, an escort may be required. The escort will be an employee from the Bid Room. The following are telephone numbers for the Bid Room: (215)737-8511, (215)737-9044 or (215)7377354. It is the offeror's responsibility to ensure that offers are received at the correct location at the correct time. Please allow sufficient time to complete delivery of hand carried offers. Since the length of time necessary to gain access to the facility varies based on a number of circumstances, it is recommended that

you arrive at the installation at least one hour prior to the time the solicitation closes to allow for security processing and to secure an escort. NOTE: THIS IS A SUGGESTION AND NOT A GUARANTEE THAT YOU WILL GAIN ACCESS TO THE BASE IF YOU ARRIVE ONE HOUR BEFORE THE OFFER IS DUE.

E-mail Offers are not acceptable forms of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal Revision(s).

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS - SF 1449 (CONTINUATION SHEET)** (cont.)

**Facsimile offers are NOT authorized for this solicitation.**

**3. Block 17a: Offeror's assigned DUNS Number:**_____.
(If you do not have a DUNS number, contact the individual identified in Block 7a or see 52.212-1, Instructions to Offerors—Commercial Items (paragraph j) for information on contacting Dun and Bradstreet.)

**Offeror's CAGE Code:** _____.

**4. Block 17b: Remittance Address:** (if different from Contractor/Offeror address in block 17a.)

_____
_____
_____

"AUTHORIZED NEGOTIATORS:

The offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposal. Please list names, titles, e-mail addresses, and telephone numbers for each authorized negotiator.

_____
_____
_____"

## SOLICITATION RESPONSE SHEET FOR "NO OFFER"

**Solicitation No.:** SPM5EY-13-R-0003

**Offer Due Date/Time: 2/11/2013** **1:00 PM**

**No Offer Submitted for Reason(s) Checked:**

**[ ] Cannot comply with specification**

**[ ] Cannot meet delivery requirement**

**[ ] No open production capacity at plant**

**[ ] Do not regularly manufacture or sell the type of items involved**

**[ ] Other (specify):**

**[ ] We do [ ] We do not desire to be retained on the mailing list for future procurements for the type of item(s) involved.**

**Name/Address of firm (include ZIP Code):**

**Type or print Name/Title of signer:** _____

**Signature:** _____

## Caution Notice

This acquisition is being processed under the authority of Federal Acquisition Regulations (FAR) Part 12. Offers will be evaluated under the streamlined procedures of FAR Subpart 12.6.

The Government reserves the right to cancel this solicitation. If this should occur, the Government is not liable for any solicitation preparation costs that offerors may incur in responding to this solicitation.

**NOTE: Be advised that a complete solicitation package is required. Missing information may render your solicitation non-responsive and ineligible for consideration.**

Defense Logistics Agency (DLA) Troop Support seeks to place various Sikorsky Aircraft Source Controlled Part Numbered hardware items under long term contract(s) as a result of this solicitation. All items are grouped within the following FSCs: 5305 thru 5360 There are 117 items listed on the Core List in the attached spreadsheet that will be evaluated and awarded under this solicitation. Offerors must submit offers on at least 30 Core List items to be considered for award on any Core List item. Each item will be evaluated and awarded individually utilizing Tradeoff Source Selection Procedures. Offers submitted on an "all or none" basis will not be considered for award. For each item, the Government will make an award to the responsible offeror, whose offer meets or exceeds the terms and conditions set forth in the solicitation, and whose offer is the most advantageous to the Government considering price and past performance. Past performance is significantly more important than cost or price. In addition, the Government has identified approximately 262 additional items that may be added to the resultant contract(s) after award.

Each contract awarded as a result of this solicitation will have a base period of 2 years and 3 one-year option periods. Offerors must submit pricing for the 2-year base period on the attached spreadsheet. An Economic Price Adjustment (EPA) will apply to each option period in accordance with DLAD 52.216-9030 set forth in this solicitation.

The annual estimated quantity for each item listed on the Core List is set forth on the attached spreadsheet. The estimated dollar value for the 2-year base period for all 117 items (core) listed on the Core List is $3,391,351.96. The estimated quantities and dollar values are good faith estimates only based on information available to the Contracting Officer at the time of this solicitation, and do not constitute a guarantee that this volume or dollar value will actually be ordered under the resultant contract(s). Offerors should take any risk associated with these estimates into consideration when pricing proposals.

The guaranteed minimum for the 2-year base period for each contract awarded under this solicitation will 10% of the estimated dollar value for the base period for that contract. There will be a contract maximum dollar value of $34,006,007.70 for all contracts awarded under this solicitation. Thus, the aggregate dollar value for all orders issued against any contract awarded under this solicitation cannot exceed this dollar value.

All items must be delivered **in 250 days or** less. Inspection/Acceptance requirements will be noted on each delivery order. **The Government envisions inspection/acceptance of items to be destination or source inspection.** For items citing destination inspection, the Government reserves the right to invoke source inspection. All inspection requirements are listed on the pricing spreadsheet.

Destination: Delivery shall be to any destination within the Contiguous United States and the District of Columbia, excluding Alaska and Hawaii. Pricing for all items must be FOB Destination. All contracts will be FOB Destination and all items supported will be for stock. All deliveries will be packaged, marked and bar coded in accordance with the specifications of the solicitation. Commercial packaging must be adequate to ensure that all supplies are delivered without damage and to withstand normal government storage without degradation of the items furnished. The applicable Warranty provisions are provided at FAR 52.212-4 Contract Terms and Conditions – Commercial

Items and DLAD 52.246-9053 Commercial Warranty.

Contractors will receive payment by invoicing DFAS. Invoices to DFAS should be submitted electronically and will be paid by the Wide Area Workflow system (WAWF). All contractors must be registered in the "System for Award Management (SAM)" in order to receive payment.

Offerors are required to submit representations and certifications electronically via SAM. See FAR 52.204-99, FAR 52.212-3 and FAR 52.212-3 (j) for additional information. The SAM website can be found at http://sam.gov.

**An offeror who is a large business concern will be required to submit a Subcontracting Plan with its initial offer.** In the event that an annual or division-wide Subcontracting Plan is submitted, offerors are reminded that the Plan should be current, approved and cover the Company's fiscal year, which must be identified. A current annual company or division-wide Subcontracting Plan previously approved by another Government Agency may be submitted in response to this solicitation. All Plans approved by another Government Agency must be accompanied by the letter of approval issued by that Agency. If an offeror submits a previously approved Plan, that is nearing expiration, that plan should be submitted to the Contracting Office that approved the initial plan at least sixty (60) days before the existing Plan expires. Offerors should refer to **FAR 52.219-16, LIQUIDATED DAMAGES – SUBCONTRACTING PLAN (Jan 1999)** in FAR 52.212-5.

**Attachments to the solicitation including but not limited to the Item Descriptions and a pricing spreadsheet can be found with the solicitation in DIBBS. Open the solicitation and look at the lower left hand side (a paperclip) icon for attachments. Additionally, copies of this solicitation and accompanying documents (i.e., item descriptions, pricing spreadsheets, universe of items), can be found at the following website:**
**http://www.troopsupport.dla.mil/Hardware.**

Interested offerors should see the item description pages that are an attachment to this solicitation for a complete description and requirements per line item. Offerors are required to submit their offers according to the instructions in the solicitation. Provide a complete Pricing Proposal in writing in accordance with the Addendum to FAR 52.212-1 and FAR 52.212-2.
Please provide pricing on the attached pricing spreadsheet and on a CD Rom and submit it with your proposal. Please ensure that you leave the line items that you are not pricing on the spreadsheet as a placeholder and leave blank or state "no offer". Do not delete any line items from the pricing spreadsheet! Unit prices on the accompanying pricing spreadsheet shall be properly formatted to the U.S. Currency and shall contain two (2) decimal places. For evaluation and award purposes, offers containing unit prices of more than two decimal places shall be rounded off to two decimal places.

Note: All references to FAR 52.204-7 should be read as FAR 52.204-99.

## CAUTION – CONTRACTOR CODE OF BUSINESS ETHICS (Feb 2012)

FAR Part 3.1002(a) requires all government contractors to conduct themselves with the highest degree of integrity and honestly. Contractors should have a written code of business ethics and conduct within thirty (30) days of award. To promote compliance with such code of business ethics and conduct, contractors should have an employee business ethics and compliance training program that facilitates timely discovery and disclosure of improper conduct in connection with government contracts and ensures corrective measures are promptly instituted and carried out. A contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose to the government, in connection with the award, performance, or closeout of a government contract performed by the contractor of a subcontract awarded there under, credible evidence of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code or a violation of the False Claims Act. (31 U.S.C. 3729-3733)
This solicitation includes FAR clause 52.203-13 – CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT. The contractor shall comply with the terms of the clause and have a written code of business ethics and conduct; exercise due diligence to prevent and detect criminal conduct; promote ethical conduct and a commitment to compliance with the law within their organization; and timely report any violations of federal

criminal law involving fraud, conflict of interest, bribery or gratuity violations found in title 18 of the United States Code or any violations of the False Claims Act. (31 U.S.C 3729-3733) When FAR 52.203-13 is included in the contract, contractors must provide a copy of its written code of business ethics and conduct to the contracting officer upon request by the contracting officer.

**Other than Cost and Pricing Clauses - FAR 52.215-20 and FAR 52.215-21 are contained in this solicitation. Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications.**

The Contractor should submit other than certified cost or pricing data and supporting attachments in accordance with the instructions contained in FAR 15.408, Table 15-2, which is incorporated by reference with the same force and effect as though it were inserted here in full text.

*As per FAR 52.215-20(a)(ii) Commercial item exception.* For a commercial item exception, the offeror should submit, at a minimum: (A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.,* wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities. See FAR Part 15 & 52 for complete details.

---

**Surge Requirements:** The following information pertains to any item that requires Surge now or in the future. Surge requirements are unanticipated demands for accelerated delivery of supplies or services within industrial capabilities during wartime, and during peacetime emergencies. This includes the ability of the supplier to ramp-up quickly to meet early requirements as well as to sustain the increased pace throughout the emergency. Offerors should refer to the Addendums to FAR 52.212-4, FAR 52.212-1, and 52.212-2 for clauses.
Note: Items that require surge are cited within Clause 52.217-9010. The contractor is requested to complete the surge pricing (there is a column for surcharge) in the Capability Assessment Plan (CAP). Please only enter pricing for items if they are different than the pricing for the Annual Estimated Quantities.
**NOTICE TO OFFERORS:** Refer to Surge clauses 52.217-9006, 52.217-9007, 52.217-9008, 52.217-9009 and 52.217-9010. Surge quantity may be ordered by the Government in accordance with Clause 52.217-9006. Per Clause 52.217-9007, offerors must submit a CAP. This will be evaluated by the Surge Monitor. A CAP must be approved prior to award. A CAP must be approved prior to award. Offerors are required to complete an electronic CAP and submit a printed copy of it with their proposal. In addition, if there are any subsequent changes made to the terms and conditions of the offeror's eCAP during negotiations, offerors are required to update their eCAP record and re-submit a hardcopy and electronic submission with the agreed to changes.

## ADDITIONAL SOURCES OF PAST PERFORMANCE INFORMATION

In addition to information obtained from DLA Troop Support's records, e.g., the PPIRS (Past Performance Information Retrieval System), the Automated Best Value System (ABVS) data or information relating to the offeror's performance may be obtained from such sources as the Dunn & Bradstreet (D & B), Federal agencies other than DLA Troop Support, state and local government agencies, contracting officer experience on this contract and other contracts for the same or similar item(s), including current contracts, and any other Government sources having relevant information.

In accordance with clause DLAD 52.216-9030 - core list items are provided with **WPU1081 (Nuts, Bolts, Rivets and Screws) -or- WPU 07 (Rubber and plastic products);**

**Core list items with WPU 07 are as follows:**

| NSN | Nomenclature | Material |
|---|---|---|
| 5325013194298 | Grommet, nonmetallic | Rubber |
| 5330000125031 | Seal, Door | Rubber |
| 5330010072391 | Seal | Rubber |
| 533001358678 | Seal, Plain | Rubber |
| 5330014140690 | Seal, Plain | Rubber |

**All other core list items except those cited in the chart above are WPU1081.**

## The following applies to the ADDITION/DELETION OF ITEMS:

### A. ADDS:

#### 1. Additions by the Government:

If the Government makes several awards under this solicitation, new item(s) may be awarded if, after synopsis, no other vendors (other than those that have received an award under the solicitation) express an interest in supplying the additional items. Items added, if any, will be awarded on a competitive basis (as described below) amongst the awardees.

For items competed amongst contract holders after award, the solicitation will clearly state that basis for award and how offers will be evaluated. The Contracting Officer will select the awardee utilizing Tradeoff Source Selection procedures, considering price and past performance. Past performance will be significantly more important than price. The contracting officer will evaluate past performance and may consider the following sources of information: the Contractor's performance on delivery orders issued under this contract; Contracting Officer's knowledge of the contractor's performance on other contracts; the Contractor's Automated Best Value System (ABVS) scores; Past Performance Information Retrieval System (PPIRS) scores; Dun and Bradstreet (D&B), other Federal agencies, state and local government agencies; and any other independent sources having relevant information.

#### 2. Administration of Additions:

Prices for Item(s) to be added to the contract shall be incorporated into the contract(s) via Supplemental Agreement.

**B. Deletions:**

**1. Deletions by the Government:**

During any period of the contract resulting from this solicitation, the Government may elect to delete any item or

items. These items may be deleted due to a change in demand patterns, obsolescence, item substitution or because they no longer have application.

**2. Deletions Recommended by the Contractor:**

During any period of performance under the contract(s) resulting from this solicitation, the Contractor may notify the Contracting Officer as to any item(s) it deems to be obsolete, unavailable, out of production or superceded, and may recommend the deletion of such item(s) from the contract. The notice shall include complete information as to appropriate superceding, substitute, or alternate items, and how such items meet the fit, form or function and interchangeability requirements of the obsolete, unavailable, out of production, or superceded item. If an obsolete item has no replacement, the notice shall include information concerning the availability of alternate sources or substitute item(s). If the Contracting Officer agrees to remove any item(s) from the contract, any such removal of an item(s) of supply shall be a cancellation with no cost to either party.

## FAR 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (FEB 2012)

(a) *Inspection/Acceptance.*

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.*

The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.*

Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.*

This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.*

The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable Delays.*

The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

**FAR 52.212-4 (continued)**

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g.,
52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration; or
52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at
5 CFR part 1315.

(h) *Patent Indemnity.*

The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt Payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer(EFT).* If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

*(4) Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall --

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the --

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until the date paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final Decisions.* The Contracting Officer will issue a final decision as required by 33.211 if --

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

**FAR 52.212-4 (continued)**

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 33.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identfy the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under the contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on --

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of Loss.*

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin, or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.*

The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's Convenience.*

The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for Cause.*

The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of $1,350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.*

Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.*

**FAR 52.212-4 (continued)**

The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of Liability.*

Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other Compliances.*

The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with Laws Unique to Government Contracts.*

The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of Precedence.*

Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government
Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if
this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; (9) the specification; and (10) Contractor's proposal.

(t) *Central Contractor Registration (CCR).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at https://www.acquisition.gov or by calling 1-888-227-2423 or 269-961-5757.

(5) Definitions.

"Central Contractor Registration (CCR) Database" means the primary Government repository for contractor information required for the conduct of business with the Government.

**FAR 52.212-4 (continued)**

"Commercial and Government Entity (CAGE) Code" means—

(a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code".

"Data Universal Number System (DUNS) Number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) Number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

"Registered in the CCR Database" means that—

(a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(b) The Contractor's CAGE code is in the CCR database; and

(c) The Government has validated all mandatory data fields to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service, and has marked the records "Active". The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process."

*Alternate I (Oct 2008)* [Applicable only when a time-and-materials or labor-hour contract is contemplated.]

If preceded by an X, the following paragraphs of 52.212-4 contain additional language:

| | Paragraph | Additional Language |
|---|---|---|
| [X] | (a) | FAR 52.246-2, *Inspection of Supplies - Fixed Price*, is hereby included in this contract and takes precedence over FAR 52.212-4(a). (if source inspection is required or invoked). |
| [ ] | (i) | FAR 52.213-1, *Fast Payment Procedure*, DLAD 52.212-9001, *Application of Fast Payment to Part 12 Acquisitions*, and DLAD 52.213-9009, *Fast Payment Procedure*, apply and are hereby incorporated by reference. The Government will pay invoices based on the Contractor's delivery of supplies to a post office or common carrier (or, in shipments by other means), to the point of first receipt by the Government. |

**Addendum to 52.212-4**:
The following paragraph(s) of 52.212-4 are amended as indicated below:

1. Paragraph (m), Termination for Cause.
   Delete paragraph (m) in its entirety and substitute the following:
   (m) Termination for Cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of $1,350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

2. (s), Order of Precedence is revised to add the following:
   (10) Contractor's proposal.

## ADDENDUM TO FAR 52.212-4

THE CLAUSES LISTED BELOW ARE INCORPORATED BY REFERENCE WITH THE SAME FORCE AND EFFECT AS IF THEY WERE GIVEN IN FULL TEXT. UPON REQUEST, THE CONTRACTING OFFICER WILL MAKE THEIR FULL TEXT AVAILABLE. A CLAUSE WITH AN AUTHORIZED DEVIATION IS SO MARKED AFTER THE DATE OF THE CLAUSE. (Also, the full text of solicitation clauses and provisions may be accessed electronically at the following websites):
FAR: https://www.acquisition.gov/far/index.html
DFARS: http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html
Class Deviations: http://www.acq.osd.mil/dpap/dars/class_deviations.html
DLAD: http://www.dla.mil/Acquisition/Documents/DLAD%20Rev%205.htm .

| CLAUSE NUMBER | | TITLE/DATE | |
|---|---|---|---|
| FAR | 52.204-4 | Printed or Copied D-S on Recycled Paper | May 2011 |
| FAR | 52.204-99 | Award Management Registration | Aug 2012 |
| FAR | 52.211-17 | Delivery of Excess Quantities | Sep 1989 |
| FAR | 52.227-1 | Authorization and Consent | Dec 2007 |
| FAR | 52.227-2 | Notice and Assistance Regarding Patent and Copyright Infringement | Dec 2007 |
| FAR | 52.232-17 | Interest | Oct 2010 |
| FAR | 52.242-13 | Bankruptcy | July 1995 |
| FAR | 52.242-15 | Stop-Work Order | Aug 1989 |
| FAR | 52.247-34 | FOB Destination | Nov 1991 |
| FAR | 52.247-48 | FOB Destination-Evidence of Shipment (applies to items if source inspection is required or invoked) | Feb 1999 |
| FAR | 52.253-1 | Computer Generated Forms | Jan 1991 |
| DFARS | 252.203-7002 | Requirement to inform employees of Whistleblower Rights | Jan 2009 |
| DFARS | 252.204-7003 | Control of Government Personnel Work Products | Apr 1992 |
| DFARS | 252.209-7004 | Subcontracting with Firms that are owned or Controlled by the Government of a Terroist Country | Dec 2006 |
| DFARS | 252.223-7008 | Prohibition of Hexavalent Chromium | May 2011 |
| DFARS | 252.225-7002 | Qualifying Country Sources as Subcontractors | Jun 2012 |
| DFARS | 252.232-7010 | Levies on Contract Payments | Dec 2006 |
| DFARS | 252.246-7000 | Material Inspection and Receiving Report (applies to items if source inspection is required or invoked) | Mar 2008 |
| DFARS | 252.246-7003 | Notification of Potential Safety Issues (applies if items are CSI or become CSI) | Jan 2007 |
| DLAD | 52.211-9004 | Priority Rating for Various LTCs | Nov 2011 |
| DLAD | 52.211-9005 | Conditions for Evaluation and Acceptance of CSI Items (applies if items are CSI or become CSI) | Nov 2011 |
| DLAD | 52.211-9006 | Changes in Contractor Status, Item Acquired (applies if items are CSI or become CSI) | Jul 2002 |
| DLAD | 52.211-9007 | Witholding of Material Review Board (applies if items are CSI or become CSI) | Nov 2011 |
| DLAD | 52.211-9010 | Shipping Label Requirements -Military Standard (MIL-STD) -129P and Alt I (Aug 2005) | Mar 2012 |
| DLAD | 52.211-9014 | Contractor Retention of Traceability Documentation | Aug 2012 |
| DLAD | 52.211-9020 | Time of Delivery-Accelerated Delivery | Jun 2008 |
| DLAD | 52.211-9023 | Substitution of Item after award (include in part numbered pkgs only) | Nov 2011 |
| DLAD | 52.211-9033 | Packaging and Marking Requirements | Apr 2008 |
| DLAD | 52.211-9036 | Physical Item Identificatin/Bare Item Marking | Nov 2011 |
| DLAD | 52.215-9018 | Authorized Limitation | Apr 2008 |
| DLAD | 52.216-9023 | Additional Ordering Limitation | Apr 2008 |
| DLAD | 52.216-9036 | Evaluation of Offers-EPA | Feb 2009 |
| DLAD | 52.239-9000 | Y2K Compliance Notice | Jun 2002 |
| DLAD | 52.246-9000 | Certificate of Quality Conformance | Dec 1994 |
| DLAD | 52.246-9004 | Product Verification Testing (applies to items that require PVT) | Nov 2011 |
| DLAD | 52.246-9007 | Inspection and Acceptance at Destination (applies to items that require destination inspection) | Aug 2007 |
| DLAD | 52.246-9008 | Inspection and Acceptance at Origin (applies to items if source inspection is required or invoked) | Nov 2011 |
| DLAD | 52.246-9019 | Material and Inspection Report (applies to items if source inspection is required or invoked) | Apr 2008 |
| DLAD | 52.246-9053 | Commercial Warranty | Sep 2008 |
| DLAD | 52.247-9012 | Requirements for Treatment of Wood Packaging Material (WPM) | Feb 2007 |
| DLAD | 52.247-9029 | Shipping Instructions | Nov 2011 |
| DLAD | 52.247-9031 | Manufacturer's Loading Practices | Nov 2011 |
| DLAD | 52.247-9035 | Shipping Instructions (Domestic) | Nov 2011 |

## FAR 52.232-99 -- Providing Accelerated Payment to Small Business Subcontractors (DEVIATION 2012-00014) (August 2012)

This clause implements the temporary policy provided by OMB Policy Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012.

(a) Upon receipt of accelerated payments from the Government, the contractor is required to make accelerated payments to small business subcontractors to the maximum extent practicable after receipt of a proper invoice and all proper documentation from the small business subcontractor.

(b) Include the substance of this clause, including this paragraph (b), in all subcontracts with small business concerns.

(c) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

## DFARS 252.209-7010 Critical Safety Items. (August 2011)

(a) *Definitions.*

"Aviation critical safety item" means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause—

(i) A catastrophic or critical failure resulting in the loss of, or serious damage to, the aircraft or weapon system;

(ii) An unacceptable risk of personal injury or loss of life; or

(iii) An uncommanded engine shutdown that jeopardizes safety.

"Design control activity" means—

(i) With respect to an aviation critical safety item, the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment, in which an aviation critical safety item is to be used; and

(ii) With respect to a ship critical safety item, the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship or ship equipment, in which a ship critical safety item is to be used.

"Ship critical safety item" means any ship part, assembly, or support equipment containing a characteristic, the failure, malfunction, or absence of which could cause—

(i) A catastrophic or critical failure resulting in loss of, or serious damage to, the ship; or

(ii) An unacceptable risk of personal injury or loss of life.

(b) *Identification of critical safety items.* One or more of the items being procured under this contract is an aviation or ship critical safety item. The following items have been designated aviation critical safety items or ship critical safety items by the designated design control activity:

**Applies if an item becomes CSI or add item has been identified as CSI.**

(c) *Heightened quality assurance surveillance.* Items designated in

paragraph (b) of this clause are subject to heightened, risk-based surveillance by the designated quality assurance representative.

(b)(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall affix passive RFID tags, at the case- and palletized-unit-load packaging levels, for shipments of items that—

(i) Are in any of the following classes of supply, as defined in DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, AP1.1.11:

(A) Subclass of Class I – Packaged operational rations.
(B) Class II – Clothing, individual equipment, tentage, organizational tool kits, hand tools, and administrative and housekeeping supplies and equipment.
(C) Class IIIP – Packaged petroleum, lubricants, oils, preservatives, chemicals, and additives.
(D) Class IV – Construction and barrier materials.
(E) Class VI – Personal demand items (non-military sales items).
(F) Subclass of Class VIII – Medical materials (excluding pharmaceuticals, biologicals, and reagents – suppliers should limit the mixing of excluded and non-excluded materials).
(G) Class IX – Repair parts and components including kits, assemblies and subassemblies, reparable and consumable items required for maintenance support of all equipment, excluding medical-peculiar repair parts; and

(ii) Are being shipped to one of the locations listed at http://www.acq.osd.mil/log/rfid/ or to—

(A) A location outside the contiguous United States when the shipment has been assigned Transportation Priority 1, or to—

(B) The following location(s) deemed necessary by the requiring activity:

| Contract Line, Subline, or Exhibit Line Item Number | Location Name | City | State | DoDAAC |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |

(2) The following are excluded from the requirements of paragraph (b)(1) of this clause:

(i) Shipments of bulk commodities.

(ii) Shipments to locations other than Defense Distribution Depots when the contract includes the clause at FAR 52.213-1, Fast Payment Procedures.

(c) The Contractor shall—

(1) Ensure that the data encoded on each passive RFID tag are globally unique (i.e., the tag ID is never repeated across two or more RFID tags and conforms to the requirements in paragraph (d) of this clause;

(2) Use passive tags that are readable; and

(3) Ensure that the passive tag is affixed at the appropriate location on the specific level of packaging, in accordance with MIL-STD-129 (Section 4.9.2) tag placement specifications.

(d) *Data syntax and standards*. The Contractor shall encode an approved RFID tag using the instructions provided in the EPC™ Tag Data Standards in effect at the time of contract award. The EPC™ Tag Data Standards are available at http://www.epcglobalinc.org/standards/.

## DFARS 252.204-7008 EXPORT-CONTROLLED ITEMS (APR 2010)

(a) *Definition.* "Export-controlled items," as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). The term includes:

(1) "Defense items," defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120.

(2) "Items," defined in the EAR as "commodities", "software", and "technology," terms that are also defined in the EAR, 15 CFR 772.1.

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

(1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*);

(2) The Arms Export Control Act (22 U.S.C. 2751, *et seq.*);

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.);

(4) The Export Administration Regulations (15 CFR Parts 730-774);

(5) The International Traffic in Arms Regulations (22 CFR Parts 120-130); and

(6) Executive Order 13222, as extended;

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts.

## DFARS 252.211-7006 PASSIVE RADIO FREQUENCY IDENTIFICATION (SEPT 2011)

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

"Advance shipment notice" means an electronic notification used to list the contents of a shipment of goods as well as additional information relating to the shipment, such as passive radio frequency identification (RFID) or item unique identification (IUID) information, order information, product description, physical characteristics, type of packaging, marking, carrier information, and configuration of goods within the transportation equipment.

"Bulk commodities" means the following commodities, when shipped in rail tank cars, tanker trucks, trailers, other bulk wheeled conveyances, or pipelines:

(1) Sand.
(2) Gravel.
(3) Bulk liquids (water, chemicals, or petroleum products).
(4) Ready-mix concrete or similar construction materials.
(5) Coal or combustibles such as firewood.
(6) Agricultural products such as seeds, grains, or animal feed.

"Case" means either a MIL-STD-129 defined exterior container within a palletized unit load or a MIL-STD-129 defined individual shipping container.

"Electronic Product Code™ (EPC)" means an identification scheme for universally identifying physical objects via RFID tags and other means. The standardized EPC data consists of an EPC (or EPC identifier) that uniquely identifies an individual object, as well as an optional filter value when judged to be necessary to enable effective and efficient reading of the EPC tags. In addition to this standardized data, certain classes of EPC tags will allow user-defined data. The EPC Tag Data Standards will define the length and position of this data, without defining its content.

"EPCglobal®" means a subscriber-driven organization comprised of industry leaders and organizations focused on creating global standards for the adoption of passive RFID technology.

"Exterior container" means a MIL-STD-129 defined container, bundle, or assembly that is sufficient by reason of material, design, and construction to protect unit packs and intermediate containers and their contents during shipment and storage. It can be a unit pack or a container with a combination of unit packs or intermediate containers. An exterior container may or may not be used as a shipping container.

"Palletized unit load" means a MIL-STD-129 defined quantity of items, packed or unpacked, arranged on a pallet in a specified manner and secured, strapped, or fastened on the pallet so that the whole palletized load is handled as a single unit. A palletized or skidded load is not considered to be a shipping container. A loaded 463L System pallet is not considered to be a palletized unit load. Refer to the Defense Transportation Regulation, DoD 4500.9-R, Part II, Chapter 203, for marking of 463L System pallets.

"Passive RFID tag" means a tag that reflects energy from the reader/interrogator or that receives and temporarily stores a small amount of energy from the reader/interrogator signal in order to generate the tag response. The only acceptable tags are EPC Class 1 passive RFID tags that meet the EPCglobal™ Class 1 Generation 2 standard.

"Radio frequency identification (RFID)" means an automatic identification and data capture technology comprising one or more reader/interrogators and one or more radio frequency transponders in which data transfer is achieved by means of suitably modulated inductive or radiating electromagnetic carriers.

"Shipping container" means a MIL-STD-129 defined exterior container that meets carrier regulations and is of sufficient strength, by reason of material, design, and construction, to be shipped safely without further packing (e.g., wooden boxes or crates, fiber and metal drums, and corrugated and solid fiberboard boxes).

(1) If the Contractor is an EPCglobal™ subscriber and possesses a unique EPC™ company prefix, the Contractor may use any of the identifiers and encoding instructions described in the most recent EPC™ Tag Data Standards document to encode tags.

(2) If the Contractor chooses to employ the DoD identifier, the Contractor shall use its previously assigned Commercial and Government Entity (CAGE) code and shall encode the tags in accordance with the tag identifier details located at http://www.acq.osd.mil/log/rfid/tag_data.htm. If the Contractor uses a third-party packaging house to encode its tags, the CAGE code of the third-party packaging house is acceptable.

(3) Regardless of the selected encoding scheme, the Contractor with which the Department holds the contract is responsible for ensuring that the tag ID encoded on each passive RFID tag is globally unique, per the requirements in paragraph (c)(1).

(e) *Advance shipment notice.* The Contractor shall use Wide Area WorkFlow (WAWF), as required by DFARS 252.232-7003, Electronic Submission of Payment Requests, to electronically submit advance shipment notice(s) with the RFID tag ID(s) (specified in paragraph (d) of this clause) in advance of the shipment in accordance with the procedures at https://wawf.eb.mil/.

## DLAD 52.211-9000 Government Surplus Material. Nov 2011

(a) Definition.

"*Surplus material*," as used in this clause, means new, unused material that was purchased and accepted by the U.S. Government and subsequently sold by the DLA Disposition Services, by Contractors authorized by DLA Disposition Services, or through another Federal Government surplus program. The terms "*surplus*" and "*Government surplus*" are used interchangeably in this clause.

(b) The Offeror agrees to complete this clause and provide supporting documentation as necessary to demonstrate that the surplus material being offered was previously owned by the Government and meets solicitation requirements. The Offeror must provide this information and any supporting documentation on or before the date that quotes/offers are due; or within the timeframe specified by the Contracting Officer, if additional documentation is requested after submission of the offer. Failure to provide the requested information and supporting documentation within the timeframe requested may result in rejection of the offer. Unless the solicitation states otherwise, Offerors of surplus material are authorized to open packages, inspect material, and reseal packages. Each time this is done, the Offeror's authorized representative or inspector must sign the packages where they were resealed and annotate the date of inspection.

(c) With respect to the surplus material being offered, the Offeror represents that:

(1) The material is new, unused, and not of such age or so deteriorated as to impair its usefulness or safety. Yes __ No __

The material conforms to the technical requirements cited in the solicitation (e.g., commercial and Government entity (CAGE) code and part number, specification, etc.). Yes __ No __

The material conforms to the revision letter/number, if any is cited. Yes __ No __Unknown __

If no, the revision offered does not affect form, fit, function, or interface. Yes __ No __ Unknown __

The material was manufactured by:

(Name): _____

(Address): _____

(2) The Offeror currently possesses the material. Yes __ No __

If no, the Offeror must attach or forward to the Contracting Officer an explanation as to how the offered quantities will be secured.

If yes, the Offeror purchased the material from a Government selling agency or other source. Yes __ No __

If yes, provide the information below:

Government Selling Agency: _____

Contract Number: _____

Contract Date: (Month, Year):_____

Other Source: _____

Address:_____

Date Acquired: (Month/Year) _____

(3) The material has been altered or modified. Yes __ No __

a) If yes, the Offeror must attach or forward to the Contracting Officer a complete description of the alterations or modifications.

(4) The material has been reconditioned. Yes __ No __

If yes, (i) the price offered includes the cost of reconditioning /refurbishment. Yes __ No __; and

(ii) The Offeror must attach or forward to the Contracting Officer a complete description of any work done or to be done, including the components to be replaced and the applicable rebuild standard.

The material contains cure-dated components. Yes __ No __

If yes, the price includes replacement of cure-dated components. Yes __ No __

(5) The material has data plates attached. Yes __ No __

a) If yes, the Offeror must state below all information contained thereon, or forward a copy or facsimile of the data plate to the Contracting Officer.

_____

(6) The offered material is in its original package. Yes __ No __

(If yes, the Offeror has stated below all original markings and data cited on the package; or has attached or forwarded to the Contracting Officer a copy or facsimile of original package markings.)

Contract Number _____

National Stock Number (NSN)_____

Commercial and Government Entity (CAGE) Code_____

Part number_____

Other markings/data_____

(7) The Offeror has supplied this same material (National Stock Number) to the Government before. Yes __ No __

If yes, (i) the material being offered is from the same original Government contract number as that provided previously. Yes __ No __; and

(ii) State below the Government Agency and contract number under which the material was previously provided:

Agency _____

Contract Number_____

(8) The material is manufactured in accordance with a specification or drawing.

Yes __ No __

If yes, (i) the specification/drawing is in the possession of the Offeror. Yes __ No __; and

(ii) The Offeror has stated the applicable information below, or forwarded a copy or facsimile to the Contracting Officer. Yes __ No __

Specification/Drawing Number _____

Revision (if any) _____

Date_____

(9) The material has been inspected for correct part number and for absence of corrosion or any obvious defects. Yes __ No __

If yes, (i) Material has been re-preserved. Yes __ No __;

(ii) Material has been repackaged. Yes __ No __;

(iii) Percentage of material that has been inspected is _____% and/or number of items inspected is _____; and

(iv) A written report was prepared. Yes __ No __

If yes, the Offeror has attached it or forwarded it to the Contracting Officer. Yes__ No__

(d) The Offeror agrees that in the event of award and notwithstanding the provisions of the solicitation, inspection and acceptance of the surplus material will be performed at source or destination subject to all applicable provisions for source or destination inspection.

(e) The Offeror has attached or forwarded to the Contracting Officer one of the following, to demonstrate that the material being offered was previously owned by the Government (Offeror check which one applies):

___ For national or local sales, conducted by sealed bid, spot bid or auction methods, a solicitation/Invitation For Bid and corresponding DLA Disposition Services Form 1427, Notice of Award, Statement and Release Document.

___ For DLA Disposition Services Commercial Venture (CV) Sales, the shipment receipt/delivery pass document and invoices/receipts used by the original purchaser to resell the material.

___ For DLA Disposition Services Recycling Control Point (RCP) term sales, the statement of account or billing document.

___ For property sold under the exchange or sale regulation, conducted by sealed bid, auction or retail methods, a solicitation/invitation for bid and corresponding DLA Disposition Services form 1427.

___ When the above documents are not available, or if they do not identify the specific NSN being acquired, a copy or facsimile of all original package markings and data, including NSN, commercial and Government entity (CAGE) code and part number, and original contract number. (This information has already been provided in paragraph (c)(6) of this clause. Yes __ No __.)

___ When none of the above are available, other information to demonstrate that the offered material was previously owned by the Government. Describe and/or attach.

_____

(f) This clause only applies to offers of Government surplus material. Offers of commercial surplus, manufacturer's overruns, residual inventory resulting from terminated Government contracts, and any other material that meets the technical requirements in the solicitation but was not previously owned by the Government will be evaluated in accordance with the provision at 52.217-9002.

(g) Offers of critical safety items must comply with the additional requirements in 52.211-9005.

(h) If requested by the Contracting Officer, the Offeror shall furnish sample units, in the number specified, to the Contracting Officer or to another location specified by the Contracting Officer, within 10 days after the Contracting Officer's request. The samples will be furnished at no cost to the Government. All such samples not destroyed in evaluation will be returned at the Offeror's expense. The samples will be evaluated for form, fit, and function with subassembly, assembly, or equipment with which the items are to be used. End items furnished under any contract award to the Offeror furnishing the samples can include the returned samples, and all acceptable end items will have a configuration identical to the samples. If specific tests of the samples' performance are made by the Government, the Offeror will be furnished the results of such tests prior to a contract being entered into. In addition to any other inspection examinations and tests required by the contract, the performance of the end items will be required to be as good as that of the samples submitted insofar as specific performance tests have been made by the Government and the results thereof furnished to the Offeror.

(i) In the event of award, the Contractor will be responsible for providing material that is in full compliance with all requirements in the contract or order, whether or not the Contractor has possession of applicable drawings or specifications, and despite the fact that the Government is unable to conduct in-process inspection. The Contractor's responsibility to perform is not diminished by compliance with the requirement to demonstrate that the offered material was previously owned by the Government. The material to be furnished must meet the requirements of the current contract or order, whether or not the material met Government requirements in existence at the time the material was initially manufactured or sold to the Government. The Government has the right to cancel any resulting purchase order or terminate any resulting contract for default if unacceptable material is tendered.

(j) If higher level quality requirements apply to the material being acquired, those requirements do not apply to surplus material furnished under this contract.

## ALT I (AUG 2008) GOVERNMENT SURPLUS MATERIAL

If any item is identified as a life support item the following applies:

The item being solicited is a life support item. Due to the item's critical nature, offers of surplus material will only be evaluated to accommodate unique contingencies, such as when the aircraft / system is obsolete; the original equipment manufacturer is out of business; or the sole source end or does not respond. If the Government determines to evaluate an offer of surplus material, the offeror shall provide all information required and conform to all terms and conditions in the clause at 52.211-9000, Government Surplus Material.

## DLAD 52.211-9022 Superseded Part-Numbered Items Nov 2011

(a) Part number (P/N) changes. Part number changes are acceptable only when the offeror completes the following verification:

The offeror represents that the P/N requested in the solicitation has been changed from Commercial and Government Entity (CAGE) code _____, P/N _____ to P/N _____ and that this is a part number change only. The reason for the change is _____.

The offeror represents that there has been no change to the parts form, fit, function, configuration, application, or physical nature and is therefore an exact item of replacement. Any award issued to the offeror for the new, superseding P/N shall be based on this verification. The Government may cancel any award for P/Ns determined to be unacceptable, and return any unacceptable parts for full refund including reimbursement for shipping charges. The Government also reserves the right to dispose of the unacceptable part, at Contractor expense.

The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements.

(b) If an item is superseded during the term of this award, the Contractor shall advise the Contracting Officer within fifteen (15) business days of such determination, or within five (5) business days if the superseded item is covered by a delivery order issued prior to the determination. The notice shall include complete information concerning the replacement item as it relates to the form, fit, and function, configuration, application, or physical nature of the superseded item. The Contracting Officer will determine whether the replacement item is acceptable to the Government, advise the Contractor within fifteen (15) business days, and modify the contract accordingly.

## DLAD 52.211-9069 Time of Delivery – Ordering Office. Nov 2011

Material ordered under the terms of this contract shall be delivered within 250 days after the date of the order. Notwithstanding any other provisions or clauses of this contract, no deliveries shall be made prior to issuance of the delivery order on Department of Defense (DD) Form 1155.

## DLAD 52.212-9000 CHANGES - MILITARY READINESS (NOV 2011)

The commercial changes clause at FAR 52.212-4(c) is applicable to this contract in lieu of the changes clause at FAR 52.243-1. However, in the event of a Contingency Operation or a Humanitarian or Peace Keeping Operation, as defined below, the Contracting Officer may, by written order, change (1) the method of shipment or packing, and (2) the place of delivery. If any such change causes an increase in the cost of, or the time required for performance, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The contractor must assert its right to an adjustment from the date of receipt of the modification.

"Contingency operation" means a military operation that -

(i) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(ii) Results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. 688, 12301(a), 12302, 12304, 12305, or 12406, Chapter 15 of U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

"Humanitarian or peacekeeping operation" means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operation under Chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing. (10 U.S.C. 2302 (8) and 41 U.S.C. 259 (d)(2)(B)).

## DLAD 52.216-9006 ADDITION/DELETION OF ITEMS AUGUST 2005

(a) The Government reserves the right to unilaterally delete items that were available from only one manufacturer at the time of award if an alternate source of supply becomes available or the Government's requirements are modified to provide for full and open competition. The Government will provide a 30 day advance notice to the Contractor prior to deleting any item from the contract.

(b) New items may be added to the contract through bilateral modification with negotiated prices. All new requirements are subject to synopsis prior to addition to the contract.

(c) Discontinued items:

(1) The Contractor agrees to provide the Government with immediate, written notification when an item is to be discontinued by the manufacturer, including a recommendation for any potential substitute or replacement items. If the Government elects to include a substitute or replacement item in the contract, the contract will be modified accordingly.

(2) If an item is discontinued without replacement, the notice should include a recommendation concerning the availability of items that are comparable in form, fit, and function. The Contractor shall not incur any costs related to alternate sources of supply without the express written approval of the Contracting Officer. The Government has the option to make a last time order, or series of orders, within 30 days after receiving written notification of the discontinued item after which the item will be deleted from the contract. The Contractor shall honor any last time order unless it is returned to the ordering office within 10 days after issuance, with written notice stating the full quantity is not available for shipment. The terms of such order(s) will be negotiated by the parties, including changes to the delivery schedule and maximum quantity available for shipment.

## DLAD 52.216-9007 Contract and Delivery Order Limitations. Nov 2011

[ x] (a) Delivery orders will specify delivery no less than (250) days from the date of order. Changes or cancellations to delivery orders may be made by giving the Contractor notice no less than 7_ days [remembering that days are always calendar days unless otherwise defined] before the required delivery date.

(b) Maximum contract limitation. The maximum quantity or maximum dollar value that may be ordered against this contract is $34,006,007.70.
**Note: The maximum dollar value is for all contracts awarded under this solicitation. Thus, the aggregate dollar value for all orders issued against any contact awardedunder this solicitation cannot exceed the max dollar value cited above.**

(c) Guaranteed minimum.

(1) The Government guarantees that it will order under this contract (and under the contract awarded for any partial set-aside) the following minimum, as applicable:

[ ] (i) Base period of one year.

_____ (Quantity)

_____ (Percentage of the annual estimated quantity or dollar value)

[X ] (ii) Base period of two or more years.

_____ (Quantity) multiplied by _____.

**10%** (Percentage) multiplied by **est base $ value**.

[ ] (iii) The following minimum quantities within the time periods prescribed (quarter (QTR) represents a three-month period computed from date of award):

Contract Line-Item (CLIN) First Quarter Second Quarter Third Quarter Fourth Quarter

_____ _____ _____ _____ _____

[ ] (iv) The Contractor will not be obligated to honor any order with F.o.b. Destination terms that requires delivery to a single destination of a quantity less than that shown below:

| CLIN | Minimum Quantity Per Destination |
|---|---|
| _____ | _____ |

(2) The Government may fulfill the guarantee by a single delivery order or by any number of delivery orders subject to the minimum per order specified in the clause Order Limitations, Federal Acquisition Regulation (FAR) clause 52.216-19 (a). The maximum quantity per order does not apply until after the guaranteed minimum is satisfied.

(3) In the event that a single delivery order includes both items that are within the guaranteed minimum and items in excess of the guaranteed minimum, the maximum delivery order limitations in FAR 52.216-19 (b) shall apply, and the Contractor shall be governed by the notice requirement of FAR 52.216-19 (d).

(4) The total of the delivery orders issued during the base contract period will apply to the minimum guarantee stated in this paragraph (c). The Government's obligations with regard to the guarantee will be satisfied when the total of the delivery orders equals or exceeds the guaranteed quantity or guaranteed dollar value, as applicable.

(d) If this is an invitation for bids (IFB) and the Government elects to award a different quantity than that solicited or bid upon, the delivery schedule will be changed in direct proportion to the change in quantity. If this solicitation involves a partial set-aside, the Government will consider each destination (or combined destinations) separately in awarding the set-aside portion. The destination(s) appearing on page(s)___N/A_____ is (are) the non-setaside portion.

## DLAD 52.216-9030 ECONOMIC PRICE ADJUSTMENT – DEPARTMENT OF LABOR PRICE INDEX (NOV 2011)

(a) Warranties. The Contractor warrants that--

(1) The base unit prices set forth in the Schedule do not include allowances for any portion of the contingency covered by this clause; and

(2) The prices to be invoiced shall be computed in accordance with the provisions of this clause.

(b) Definitions. As used throughout this clause--

(1) "Price index" for the purpose of price adjustment under this clause shall be the producer price index(es) reported in the monthly publication entitled, "Producer Price Indexes", published by the United States (U.S.) Department of Labor (DOL), Bureau of Labor Statistics (BLS) for the following code number(s) and title(s):

WPU07 AND WPU1081

**See Caution Notice for a breakdown of items.**

(2) "Base price index" is the arithmetic average of the final version of the indexes published for the two months preceding the closing date for receipt of proposals or the date required for receipt of final proposal revisions, if discussions were held.

(3) "Adjusting price index" shall be the two month arithmetic average of the index first published for the two months prior to the month in which the adjusting contract modification is effective.

(4) "Base unit price" is the unit price applicable to a quantity of a contract line item established at contract award, exclusive of any price adjustment pursuant to this clause.

(5) "Adjustment period" is the period during which a particular adjustment to the unit price under this clause (calculated at the beginning of the adjustment period) will be applicable. The length of each adjustment period in months shall be calculated by dividing 12 by the number of adjustments allowed per year in (c)(1) below.

(c) Adjustments. Prior to the end of each adjustment period, the Contracting Officer shall calculate the adjusting index and any adjusted contract unit price(s) for the new adjustment period, and modify the contract accordingly. Price adjustments pursuant to this clause shall be made by contract modification, issued by the Contracting Officer and will show the base price index, the adjusting price index, the base unit price, the mathematical calculations, and the changed unit price(s). The price adjustment shall be applicable to orders issued after the effective date of the contract modification establishing the unit price for the adjustment period. The price adjustment(s) for each adjustment period will be based on the percentage change between the base price index and the adjusting price index for the adjustment period, as applied to the base unit price.

(1) The Government shall be entitled to a price decrease in any particular adjustment period if the adjusting price index is less than the base price index. There shall be **No more than 1** price adjustment per contract year.

(2) Example of adjustment calculation:

| | |
|---|---|
| Base Price Index = | 109.88* |
| Adjusting price index = | 112.72* |
| Less base price index = | 109.88 |
| Change to index = | 2.84 |
| Divide change to index by base price index = | 2.84 / 109.88 = .02585 (2.585%)** |
| Multiply by the base unit price = | $50.00 x .02585 = $1.29*** |
| | = Unit Price Adjustment |
| Adjusted unit price = | $51.29 |

* In computing the base and adjusting price indexes, the resulting figure shall be rounded to the second decimal place.

** This figure shall be rounded to the fourth decimal place.

*** All dollar figures shall be rounded to the nearest cent.

(d) Upward ceiling on economic price adjustment. No upward ceiling shall apply under this economic price adjustment clause, unless the BLS series is based on indices below the six-digit level (an index "below the six-digit level" in BLS usage means an index whose identifier exceeds six-digits).

For any BLS series that is below the six-digit level, the following ceiling shall apply: The Contractor agrees that the aggregate of the increases in any contract unit price under this clause shall not exceed N/A% (percent) of the original base unit price, except as provided hereafter.

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the adjustment ceiling for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If an increase in the price index would raise a contract unit price for an item above the current ceiling, the Contracting Officer may issue a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(e) Invoices. The prices payable under this contract will be based on the latest adjusted unit price incorporated into the contract as of the date of order.

(f) Retroactive adjustment. The Contractor may request a retroactive adjustment for orders that have been delivered during an adjustment period for which payment has already been made, based on the difference between a higher final revised index applicable to an adjustment period and the index values used in calculating the unit price for that adjustment period, and subject to the adjustment ceiling in (d) above and when the following conditions are met:

(1) The request for equitable adjustment clearly establishes that the unit price adjustment for the adjustment period would have been higher if the final revised index had been used, and identifies all invoices and payments to which it is applicable, cites the specific index differences relating to the requested adjustment, and provides a calculation of the total net price adjustment for items delivered during that adjustment period.

(2) No retroactive equitable adjustment shall be made under this clause unless the total dollar change for items delivered is **$1000** or more for the applicable adjustment period(s).

(3) The Contractor's written request must be received by the Contracting Officer within 45 days following publication of the final revised index.

The Government shall be entitled to a downward adjustment based on the difference between a lower final revised index applicable to an adjustment period and the index values used in calculating the unit price for that adjustment period, subject to the limitation in paragraph (f)(2).

(g) Revision of price index. In the event –

(1) Any applicable price index is discontinued or its method of derivation is altered substantially; or

(2) The Contracting Officer determines that the price index consistently and substantially fails to reflect market conditions, the parties shall mutually agree upon an appropriate and comparable substitute and the contract shall be modified to reflect such substitute effective on the date the price index was discontinued, altered, or began to consistently and substantially fail to reflect market conditions.

(h) Final invoice. The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this clause.

(i) Disputes. Any dispute arising under this clause shall be determined in accordance with and subject to the "Disputes" clause of the contract.

**Note:** For purposes of this contract there will be more than a one year base contract period; the base contract period will be two years. Therefore, there will be no price adjustment at the end of the first year. Adjustment, if applicable, will take place after expiration of the two year base period if the option is exercised.

**DLAD 52.217-9006 Surge and Sustainment (S&S) Requirements (Nov 2011)**

This solicitation includes items that are critical to support the Department of Defense's ability to conduct contingency operations. These items are designated as the S&S requirements, including the Services' go-to-war requirements. S&S requirements are identified in the schedule of supplies as monthly wartime rate (MWR) or D1-D6 schedule in the solicitation, and are in addition to peacetime quantities. The objective of this requirement is to obtain contractual coverage to meet the S&S quantities and sustainable accelerated delivery specified in this solicitation. S&S coverage includes access to production capability as well as vendor owned or managed inventory/safety stocks. Offerors will be evaluated on their ability to meet the terms and conditions of the S&S requirements. S&S requirements are defined as follows:

(a) Surge and sustainment capability means the ability of the supplier to meet the increased quantity and/or accelerated delivery requirements, using production and/or supplier base capabilities, to support increased requirements with accelerated delivery, such as for Department of Defense (DOD) contingencies or emergency peacetime requirements. This capability includes both the ability to ramp-up to meet accelerated delivery and/or increased quantities (i.e., Surge), as well as to sustain an increased production and delivery pace throughout the

contingency (i.e., Sustainment). The spectrum of possible contingencies ranges from major theater wars to smaller-scale military operations.

(b) S&S Quantity and Accelerated Delivery Schedule are identified on an individual item basis, based on the Services' wartime planning requirements. The surge quantities are identified by Monthly Wartime Rate (MWR) as a percentage or an exact number; however, some items may require different delivery schedule such as D1-D6 schedule. The S&S quantity and delivery requirements are above and beyond the peacetime requirements.

(c) S&S Capability Assessment Plan (CAP), (previously referred to as the "Surge Plan"). The CAP provides the offeror's method of covering S&S requirements, identification of competing priorities for the same resources, and date the Contractor can provide the required S&S capability. If any of the S&S quantity and delivery requirements cannot be met, the offeror must identify the shortfall and provide the best value solutions to include a proposed investment strategy to offset the shortfall. For example, the CAP may include, but is not limited to, one of the following scenarios to address wartime delivery requirements:

(1) The S&S quantity and delivery requirements can be fully covered within the supplier's resources.

(2) The S&S delivery schedule can be fully covered with early deliveries due to unit pack shipping (e.g., S&S quantity and delivery requirements is for 10 feet of wire every 30 days, and the wire is sold to the government in 100 foot rolls. A single delivery of one roll in the first 30 days would meet the requirement for ten 30-day delivery periods).

(3) The total S&S quantity and delivery requirements can be met but at a different delivery rate, and the supplier has no cost-effective investment strategy that would improve the capability to deliver according to the quantity and delivery requirements (e.g., the schedule calls for 20 o-ring seals each 30-day period, but the vendor needs a 30 day ramp-up and could deliver 40 in the second period and 20 each delivery period thereafter).

(4) The total S&S quantity and delivery requirements can be met but at a different delivery rate, and includes an investment strategy that would improve the supplier's capability to deliver according to the MWR or D1-D6 (e.g., the schedule calls for 20 seals each 30-day period, and the vendor can meet the schedule starting in the third ordering period but needs a Government investment to be capable of meeting deliveries in the first two months).

(5) The S&S quantity and delivery requirements can be partially covered (the supplier can only provide a fraction of the total quantities specified); however, the supplier has no cost-effective investment strategy that would improve the capability to deliver at the MWR or D1-D6.

(6) The S&S quantity and delivery requirements can be partially covered (the supplier can only provide a portion of the MWR or D1-D6 quantities specified), and includes an investment strategy that would improve the supplier's capability to deliver at the MWR or D1-D6.

(7) The S&S quantity and delivery requirements cannot be met with existing resources, and there is no cost effective solution to improve the industrial capability to deliver at the MWR or D1-D6.

(d) Stock rotation plan. The CAP must include a stock rotation plan for Government or supplier S&S investments (e.g., lead-time materials that are purchased using Warstopper funding) to ensure the newest materials are available for production. The stock rotation plan must not preclude the supplier from making the surge deliveries.

(e) Exit strategy. The CAP must include a proposed exit strategy describing how to transition and ramp-down S&S assets and/or Government investment. The exit strategy must be designed to conserve protected S&S resources when (1) the contract expires, (2) a follow-on contract transitions to another supplier and/or (3) the requirement is reduced or eliminated by the requiring customer(s). The exit strategy must consider peacetime demand patterns, production run levels, normal lead-times for raw materials used in the production process, and other relevant factors, and address least cost/best-value alternatives that minimize the risk of unused raw materials or the untimely disposition of other serviceable S&S assets before the contract expires.

(f) Government investments. Use of Government investment may be considered to address S&S coverage shortfalls as specified under (c)(3) to (7) above when it is in the Government's best interest. Use of Government investment is limited per clause 52.217-9010. Contracting Officer (CO) approval is required for any Government investment request and any investment costs incurred by the supplier without the explicit written approval of the Contracting Officer are the sole responsibility of the supplier.

(g) S&S validation/test plan. In most cases, the Government will develop a validation/test plan prior to verifying the supplier's capability against the required S&S CAP and the Schedule. Upon request, the supplier shall submit a S&S validation/test plan that defines how the S&S capability can be verified when

(1) complex industrial and manufacturing processes are involved, or

(2) the supplier methodologies for gaining visibility over supplier base capabilities within an existing structure to enable a more cost effective alternative. In any case, a validation/test plan will be developed prior to any validation/testing of the supplier's S&S capability.

(h) Agreement to participate in S&S validation/testing. By submission of an offer, the supplier agrees to participate in S&S validation/testing as required by the Government to verify the S&S capability as described in the approved CAP. Validation/testing may include any methodology that can verify the supplier's S&S capability. Validations will be conducted on randomly selected items by the Industrial Specialist after contract award and may be conducted throughout the contract period. Validation includes, but is not limited to, verification that the supplier and any subcontractor(s) have sufficient equipment, facilities, personnel, stock, pre-positioned raw material, production capabilities, visibility of supplier base resources and agreements, networks and plans for distribution (receiving, storing, packaging and issuing) and transportation services to accommodate the S&S requirements in the contract. This validation includes examination of any in-house work, review of the stock rotation plan (if applicable), and other contracts that impact the production of any added or accelerated quantities. The Government reserves the right to require validation using other methodologies when deemed appropriate by the Contracting Officer. The language in this clause does not limit the Government's right, at any time after award, to perform inspections or validate the supplier's S&S capability.

(i) Supplier notification of S&S capability changes. The supplier agrees to maintain S&S capability to produce and/or deliver the S&S quantity identified in the Schedule of Supplies in accordance with the approved CAP and S&S terms and conditions throughout the life of the contract. Changes that negatively impact S&S capability must be reported in writing to the Contracting Officer within ten (10) working days after the supplier becomes aware of such an impact. Such notification must include a revised S&S CAP with the supplier's proposed corrective action(s) and date when the supplier can attain the required S&S capability. Refer to 52.217-9007(a) for instructions on submitting changes to the CAP.

(j) Government changes, Additions and Deletions to S&S Coverage. The identification of new S&S items in the peacetime schedule or increases in quantities of items already in the S&S schedule must be done through bilateral contract modifications. Deletion of S&S requirements or decreases in quantities will be made by the Government through unilateral contract modifications. The government reserves the right to obtain S&S requirements from other sources without liability to the supplier. This language does not relieve the supplier of the responsibility to provide, in accordance with the applicable delivery schedule, non-S&S and S&S quantities agreed to in the schedule and CAP during the contingency.

(k) Early or unexpected S&S requirements. The supplier shall support S&S requirements to the maximum extent practical (1) prior to the supplier achieving full S&S capability agreed to in the Schedule and the CAP, and (2) for requirements exceeding those agreed upon in the Schedule and the CAP, if agreed to by the Contractor and not exceeding any applicable contract maximum dollar value or quantity. The Government reserves the right to obtain S&S requirements from other sources without liability to the supplier.

(l) S&S execution. The Government will issue a surge order or series of orders equaling the MWR or D1-D6 each month, when executing S&S requirement. S&S orders are in addition to any other requirements included in the contract and do not excuse the Contractor from compliance with orders for non-S&S requirements. The order

limitations clause applicable to peacetime requirements does not apply to the surge quantities if it conflicts with the quantity necessary to support a contingency. The Government reserves the right to order less than the MWR or D1-D6 quantity as specified on each surge order. Multiple orders for the same NSN may be issued to support multiple contingencies. The Government reserves the right to order in excess of the MWR or D1-D6 provided the supplier accepts the order.

(1) When a surge order is issued and Government investment is used to establish the S&S capability, the supplier must use funds generated from the order to refresh or replace S&S material (e.g., inventories of lead-time materials, partially finished units, or finished product) consumed within ninety (90) days to support future S&S requirements.

(2) When a surge order is issued and no Government investment is used to establish the S&S capability, the supplier must replace S&S material (e.g., inventories of lead-time materials, partially finished units, or finished product) consumed within ninety (90) days to support future S&S requirements.

(m) Contract expiration or termination. The Contracting Officer will notify the supplier and exercise the approved S&S exit strategy in accordance with the terms and conditions of the contract. The exit strategy must conserve protected S&S resources when (1) the contract expires, (2) a follow-on contract transitions to another supplier and/or (3) the requirement is eliminated by the requiring customer(s). When exercising the exit strategy, the supplier must consider peacetime demand patterns, production run levels, normal lead-times for raw materials used in the production process, and other relevant factors, and address least cost/best-value alternatives that minimize the risk of unused raw materials or the untimely disposition of other serviceable S&S assets before the contract expires.

## DLAD 52.217-9010 Limitations on Use of Surge and Sustainment (S&S) Government Investment (Nov 2011).

(a) The capability assessment plan (CAP) must include the offeror's investment strategy in accordance with 52.217-9006. In the event the S&S requirement cannot be met with the supplier's resources and there is no cost effective solution to improve the industrial base capability, limited Government investment may be considered, if it is in the best interest of the Government. The supplier shall not incur any expenses before receiving written approval of Government investment from the Contracting Officer, and acts at its own risk in advance of such approval. Any Government investment will only be used for obtaining S&S coverage in accordance with the terms and conditions of the contract. In the event of changes in conditions (e.g. manufacturing, labor market, industry, technology, etc.) that warrant a different investment approach to obtaining the S&S coverage, the supplier shall notify the Contracting Officer immediately upon knowledge of the change and shall submit, within 30 days thereafter, a new capability assessment plan describing the revised strategy for Contracting Officer's approval. If the initial investment has not been made or completed, the supplier will suspend S&S investment until receipt of written approval from the Contracting Officer.

(b) The Contractor shall not use Government S&S investments for any purpose other than to support S&S delivery orders, unless such use has been authorized by the Contracting Officer in writing. The Contractor shall submit in writing to the Contracting Officer any desired use of the S&S investments and consideration offered to the Government for this use.

(c) The supplier's stock rotation plan must ensure that newest materials are available for production and no material is held beyond its shelf-life expiration date, and use of Government investments (e.g., lead-time materials) is only authorized to support S&S delivery orders. A stock rotation plan must be included as part of the supplier's CAP and shall not preclude the supplier from making the surge deliveries.

On Surge Chart found below, you will see 2 columns with Item Numbers. Surge Item numbers begin after the last core item number. For instance, if the solicitation contains Items 1 thru 10, then the surge items will begin with 11,12,13...The Solicitation core item numbers are being included because it easier to cross reference items with

surge requirements.

**NOTE : The core list items with surge requirements are as follows:**

| Sol Item # | Surge Item # | NSN | MWR |
|---|---|---|---|
| 0017 | 0118 | 5306-01-092-8125 | 105 |
| 0022 | 0119 | 5306-01-093-5106 | 19 |
| 0023 | 0120 | 5306-01-093-5108 | 22 |
| 0029 | 0121 | 5306-01-095-5373 | 7 |
| 0030 | 0122 | 5306-01-097-0932 | 3 |
| 0031 | 0123 | 5306-01-100-2002 | 16 |
| 0038 | 0124 | 5306-01-106-2348 | 64 |
| 0061 | 0125 | 5310-00-272-6421 | 12 |
| 0067 | 0126 | 5310-01-093-2480 | 1178 |
| 0071 | 0127 | 5310-01-105-1858 | 163 |
| 0076 | 0128 | 5310-01-125-1217 | 43 |
| 0079 | 0129 | 5310-01-185-6230 | 231 |
| 0080 | 0130 | 5310-01-185-6231 | 54 |
| 0110 | 0131 | 5340-01-200-4759 | 1 |

**Note to Contractor:** For all items listed in the above chart the following applies:
FOB DESTINATION—EVERY 30 DAYS STARTING 30 DAYS ADO

## DLAD 52.247-9038 Shipping Instruction for DLA Direct Acquisitions. Nov 2011

Freight shipping addresses and scheduling instructions, if applicable, are available. See Defense Logistics Acquisition Directive (DLAD) Procedures, Guidance and Instructions (PGI) 47.305-10). Contractors will need to schedule a delivery appointment prior to arriving at the depot.

## FAR 52.211-16 VARIATION IN QUANTITY (APR 1984)

(a) A variation in quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in Paragraph (b) of this clause.
(b) The permissible variation shall be limited to:

**__0___ % increase** **_5____% decrease**

This increase or decrease shall apply to ALL ITEMS.

## DFARS 252.216-7006 Ordering May 2011

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued

from **the effective date of the contract**

through **exactly 2 years after the effective date**

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c)(1) If issued electronically, the order is considered "issued" when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered "issued" when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

## FAR 52.216-19 -- Order Limitations Oct 1995

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than **25% AEQ**, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor --

(1) Any order for a single item in excess of **100% AEQ** *-or-*

(2) Any order for a combination of items in excess of ___N/A_____ -or-

(3) A series of orders from the same ordering office **within 60 days** that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office **within 3** days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

## FAR 52.216-22 -- Indefinite Quantity Oct 1995

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple

destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after **430 days** after the termination of the last ordering period of the contract.

### FAR 52.217-9 -- Option to Extend the Term of the Contract Mar 2000

(a) The Government may extend the term of this contract by written notice to the Contractor within **3 days**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least **60** days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **60 months**.

### FAR *52.246*-11 -- Higher-Level Contract Quality Requirement. *Feb 1999*

(applies if higher level contract quality requirements are invoked or required on add items)

The Contractor shall comply with the higher-level quality standard selected below. [If more than one standard is listed, the offeror shall indicate its selection by checking the appropriate block.]

| | Title | Number | Date | Tailoring |
|---|---|---|---|---|
| | | | | |
| | | | | |

### FAR 52.252-6 -- Authorized Deviations in Clauses April 1984

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

(b) The use in this solicitation or contract of any _____. *[insert regulation name]* (48 CFR _____) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

### FAR 52.215-21 –Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications. (Oct 2010)

(a) *Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable --

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Information on modifications of contracts or subcontracts for commercial items.*

(A) If --

(1) The original contract or subcontract was granted an exception from certified cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract

from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include --

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for certified cost or pricing data.* If the Contractor is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Contractor shall submit certified cost or pricing data, data other than certified cost or pricing data, and supporting attachments in accordance with the instruction contained in Table 15-2 of FAR 15.408,

which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15-2 are incorporated as a mandatory format to be used in this contract, unless the Contracting Officer and the Contractor agree to a different format and change this clause to use Alternate I.

(2) As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

*Alternate I (Oct 2010).* As prescribed in 15.408(m) and 15.403-5(b)(1), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic clause.

(1) The Contractor shall submit certified cost or pricing data, data other than certified cost or pricing data, and supporting attachments prepared in the following format: [*Insert description of the data and format that are required and include access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.408, Table 15-2, Note 2. The description may be inserted at the time of issuing the solicitation, or the Contracting Officer may specify that the offeror's format will be acceptable, or the description may be inserted as the result of negotiations.*]

*Alternate II (Oct 1997).* As prescribed in 15.408(m), add the following paragraph (c) to the basic clause:

(c) When the proposal is submitted, also submit one copy each to:

(1) the Administrative Contracting Officer, and
(2) the Contract Auditor.

*Alternate III (Oct 1997).* As prescribed in 15.408(m), add the following paragraph (c) to the basic clause (if Alternate II is also used, redesignate the following paragraph as paragraph (d)):

(c) Submit the cost portion of the proposal via the following electronic media: *[Insert media format]*

*Alternate IV (Oct 2010).* As prescribed in 15.408(m), replace the text of the basic clause with the following:

(a) Submission of certified cost or pricing data is not required.

(b) Provide information described below: *[Insert description of the data and the format that are required, including access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]*

## FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (NOV 2012)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combatting Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g))
___ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g))
(2) 52.233-3, Protest after Award (AUG 1996) (31 U.S.C. 3553).
(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L., 108-77, 108-78)

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:
[Contracting Officer shall check as appropriate.]

_X_ (1) **52.203-6**, Restrictions on Subcontractor Sales to the Government (SEP 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
_X_ (2) **52.203-13**, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub.L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note))
___ (3) **52.203-15**, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUNE 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
_X_ (4) **52.204-10** Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012) (Pub L. 109-282) (31 U.S.C. 6101 note).
___ (5) **52.204-11**, American Recovery and Reinvestment Act - Reporting Requirements (JUL 2010) (Pub. L. 111-5). Applies to contracts funded under the Act.
_X_ (6) **52.209-6**, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010) (31 U.S.C. 6101 note).
_X_ (7) **52.209-9**, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).
_X_ (8) **52.209-10**, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub.L. 110-61)
___ (9) **52.219-3**, Notice of Total HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).
___ (10) **52.219-4**, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a)
___ (11) [Reserved]
__ (12) (i) **52.219-6**, Notice of Total Small Business Set-Aside NOV 2011) (15 U.S.C. 644).
___ (ii) Alternate I (NOV 2011)
___ (iii) Alternate II (NOV 2011)
__ (13) (i) **52.219-7**, Notice of Partial Small Business Set-Aside (JUNE 2003) (15 U.S.C. 644).
___ (ii) Alternate I (OCT 1995) of 52.219-7
___ (iii) Alternate II (MAR 2004) of 52.219-7.
_X_ (14) **52.219-8**, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637(d)(4)).
_X_ (15) (i) **52.219-9**, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637 (d)(4)). *[Add Alternate I when using Sealed Bidding procedures. Add Alternate II when subcontracting plans are required at time of initial proposal; generally, this Alternate should be included. Add Alternate III for actions not reported in FPDS.]*
___ (ii) Alternate I (OCT 2001) of 52.219-9.
_X_ (iii) Alternate II (OCT 2001) of 52.219-9.
___ (iv) Alternate III (JULY 2010) of 52.219-9.

___ (16) **52.219-13**, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r))

___ (17) **52.219-14**, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).
_X__ (18) **52.219-16**, Liquidated Damages - Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).

*[Paragraph 19 is not applicable to DoD contracts and has been deleted. Paragraphs 20 and 21 are not applicable to DoD contracts at this time.]*

___ (20) **52.219-25,** Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C.2323).
___ (21) **52.219-26,** Small Disadvantaged Business Participation Program – Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C.2323).
___ (22) **52.219-27**, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657 f)
_X__ (23) **52.219-28,** Post Award Small Business Program Rerepresentation (APRIL 2012) (15 U.S.C. 632(a)(2)).
___ (24) **52.219-29,** Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012)
___ (25) **52.219-30,** Notice of Total Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012)
__X_ (26) **52.222-3,** Convict Labor (JUNE 2003) (E.O. 11755).
_X__ (27) **52.222-19,** Child Labor - Cooperation with Authorities and Remedies (MAR 2012) (E.O. 13126).
_X__ (28) **52.222-21,** Prohibition of Segregated Facilities (FEB 1999).
_X__ (29) **52.222-26,** Equal Opportunity (MAR 2007) (E.O. 11246).
_X__ (30) **52.222-35**, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
_X__ (31) **52.222-36**, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).
_X__ (32) **52.222-37**, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
__X_ (33) **52.222-40.** Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496)
__X_ (34) **52.222-54**, Employment Eligibility Verification (JULY 2012) (Executive Order 12989) (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
___ (35)(i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)).
___ (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C))
___ (36) **52.223-15**, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b)
___ (37) (i) **52.223-16**, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423)
(ii) Alternate I (DEC 2007) of 52.223-16
_X__ (38) **52.223-18**, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)(E.O. 13513)

*[Paragraphs (39) - (41) are not applicable to DoD contracts and have been deleted.]*

_X__ (42) **52.225-13**, Restrictions on Certain Foreign Purchases (JUNE 2008) (E.o.s., proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
____ (43) **52.226-4**, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150)
____ (44) **52.226-5**, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150)
___ (45) **52.232-29,** Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f).
___ (46) **52.232-30,** Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f).

_X__ (47) **52.232-33,** Payment by Electronic Funds Transfer – Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
___ (48) **52.232-34**, Payment by Electronic Funds Transfer – Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332.)
___ (49) **52.232-36**, Payment by Third Party (FEB 2010)(31 U.S.C. 3332.)
___ (50) **52.239-1,** Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a)

*[Paragraph (51) is not applicable to DoD contracts and has been deleted.]*

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

___ (1) **52.222-41**, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
___ (2) **52.222-42**, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
___ (3) **52.222-43**, Fair Labor Standards Act and Service Contract Act - Price Adjustment (Multiple Year and Option Contracts) (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).
___ (4) **52.222-44**, Fair Labor Standards Act and Service Contract Act - Price Adjustment (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).
___ (5) **52.222-51**, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (NOV 2007) (41 U.S.C. 351, *et. seq.*).
___ (6) **52.222-53**, Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements (FEB 2009) (41 U.S.C. 351, *et. seq.*)
___ (7) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247)
___ (8) **52.237-11**, Accepting and Dispensing of $1 Coin (SEPT 2008) (31 U.S.C. 5112 (p)(1))

(d) *Comptroller General Examination of Record.*

The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records - Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) **52.203-13**, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note))
(ii) **52.219-8,** Utilization of Small Business Concerns (DEC 2010 )(15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontractor (except subcontracts to small business concerns) exceeds $650,000 ($1,500,000 for construction of any public facility), the subcontractor must include

52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) **52.222-26**, Equal Opportunity (MAR 2007)(E.O. 11246);

(v) **52.222-35**, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212);

(vi) **52.222-36**, Affirmative Action for Workers with Disabilities (JOCT 2010)(29 U.S.C. 793);

(vii) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flowdown required in accordance with Paragraph (f) of FAR 52.222-40.

(viii) **52.222-41**, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, *et seq.)*

(ix) **52.222-50**, Combatting Trafficking in Persons FEB 2009) (22 U.S.C. 7104(g).

___ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C 7104 (g))

(x) **52.222-51**, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (NOV 2007) (41 U.S.C.351, *et.seq.*)

(xi) **52.222-53**, Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements (FEB 2009) (41 U.S.C. 351, *et. seq.*)

(xii) **52.222-54**, Employment Eligibility Verification (JAN 2009)

(xiii) **52.226-6**, Promoting Excess Food Donations to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with Paragraph (e) of FAR 52.226-6.

*[Paragraph (xiv) is not applicable to DoD contracts and has been deleted.]*

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

*[If the acquisition uses American Recovery and Reinvestment Act funds, ALT II (OCT 2010) of FAR 52.212-5 applies.]*

**DFARS 252.212-7001 – CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (NOV 2012)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in the contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

_X__ **52.203-3,** Gratuities (APR 1984) (10 U. S. C. 2207).

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

(1) _X__ **252.203-7000,** Requirements Relating to Compensation of Former DoD Officials (Sep 2011)(Section 847 of Pub. L. 110-81)

(2) _X__ **252. 203-7003,** Agency Office of the Inspector General (Apr 2012) (Section 6101 of Pub. L. 110-252, 41 U.S.C. 3509 note)

(3) _X__ **252.205-7000,** Provision of Information to Cooperative Agreement Holders (Dec 1991) (10 U.S.C. 2416)

(4) _X__ **252.219-7003,** Small Business Subcontracting Plan (DoD Contracts) (Aug 2012) (15 U.S.C. 637)

(5) ___ **252.219-7004,** Small Business Subcontracting Plan (Test Program) (Jan 2011) (15 U.S.C. 637 note)

(6) (i)__ **252.225-7001,** Buy American and Balance of Payment Program (June 2012) (41 U.S.C. Chapter 83, E.O. 10582)

(ii)___ Alternate I (Oct 2011) of 252.225-7001

(7) ___ **252.225-7008,** Restriction on Acquisition of Specialty Metals (JUL 2009) (10 U.S.C. 2533b)

(8) _X__ **252.225-7009,** Restriction on Acquisition of Certain Articles Containing Specialty Metals (June 2012) (10 U.S.C. 2533b)

(9) ___ **252.225-7012,** Preference for Certain Domestic Commodities (June 2012) (10 U. S. C. 2533a)

(10) ___ **252.225-7015,** Restriction on Acquisition of Hand or Measuring Tools (June 2005) (10 U.S.C. 2533a).

(11) ___ **252.225-7016,** Restriction on Acquisition of Ball and Roller Bearings (June 2011) (Section 8065 of Pub L. 107-117 and the same restriction in subsequent DoD appropriations acts).

(12) ___ **252.225-7017,** Photovoltaic Devices (Nov 2012) (Section 846 of Pub. L. 111-38)

(13) (i) X__ **252.225-7021,** Trade Agreements (Nov 2012) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note)

(ii) ___ Alternate I (Oct 2011) of 252.225-7021

(iii) ___ Alternate II (Oct 2011) of 252.225-7021

(14) ___ **252.225-7027,** Restriction on Contingent Fees for Foreign Military Sales (Apr 2003) (22 U.S.C.2779) (Insert_____ in paragraph (b)(1))

(15) ___ **252.225-7028,** Exclusionary Policies and Practices of Foreign Governments (Apr 2003) (22 U.S.C. 2755).

(16)(i) ___ **252.225-7036,** Buy American-Free Trade Agreements--Balance of Payments Program (Nov 2012) (41 U.S.C.Chapter 83 and 19 U.S.C. 3301 note)

(ii) ___ Alternate I (June 2012) of 252.225-7036

(iii) ___ Alternate II (Nov 2012) of 252.225-7036

(iv) ____ Alternate III (June 2012) of 252.225-7036

(v) ____ Alternate IV (Nov 2012) of 252.225-7036

(vi) _____ Alternate V (Nov 2012) of 252.225-7036

(17) ___ **252.225-7038,** Restriction on Acquisition of Air Circuit Breakers (June 2005) (10 U.S.C. 2534(a)(3))

(18) ___ **252.225-7039,** Contractors Performing Private Security Functions (June 2012) (Section 862 of Pub.L 110-181, as amended by Section 853 of Pub.L. 110-417 and Sections 831 and 832 of Pub.L.111-383)

(19) _X__**252.226-7001,** Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).

(20) ___ **252.227-7013,** Rights in Technical Data - Noncommercial Items (Feb 2012), if applicable (see 227.7103-6(a))

(21) ___**252.227-7015,** Technical Data -- Commercial Items (Dec 2011)(10 U.S.C. 2320).

(22) ___**252.227-7037,** Validation of Restrictive Markings on Technical Data (June 2012), if applicable (see 227.7102-4(c)

(23) X___**252.232-7003,** Electronic Submission of Payment Requests (June 2012)(10 U.S.C. 2227)

(24) _X__ **252.237-7010,** Prohibition on Interrogation of Detainees by Contractor Personnel (Nov 2010) (Section 1038 of Pub. L. 111-84)

(25) ___**252.237-7019,** Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).

(26) X___**252.243-7002,** Requests for Equitable Adjustment (Mar 1998)(10 U.S.C. 2410).

(27) ___**252.246-7004,** Safety of Facilities, Infrastructure, and Equipment for Military Operations (Oct 2010) (Section 807 of Public Law 111-84)

(28) ___ **252.247-7003,** Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (Sept 2010) (Section 884 of Public Law 110-417)

(29)(i) X ___**252.247-7023,** Transportation of Supplies by Sea (May 2002)(10 U.S.C. 2631).

(ii) ___ Alternate I (Mar 2000) of 252.247-7023.

(iii) ___ Alternate II (Mar 2000) of 252.247-7023.

(iv) ___Alternate III (May 2002) of 252.247-7023.

(30) ___**252.247-7024,** Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

(31) ___ **252.247-7027,** Riding Gang Member Requirements (Oct 2011) (Section 3504 of Pub. L. 110-417).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract (Federal Acquisition Regulation 52.212-5), the contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(1) **252.225-7039,** Contractors Performing Private Security Functions (June 2012) (Section 862 of Pub.L. 110-181, as amended by Section 853 of Pub.L. 110-417 and Sections 831 and 832 of Pub.L. 111-383)

(2) **252.227-7013,** Rights in Technical Data - Noncommercial Items (Feb 2012), if applicable (see 227.7103-6(a)

(3) **252.227-7015,** Technical Data - Commercial Items (Dec 2011), if applicable (see 227.7102-4(a)

(4) **252.227-7037,** Validation of Restrictive Markings on Technical Data (June 2012), if applicable (see 227.7102-4(c)

(5) **252.237-7010,** Prohibition on Interrogation of Detainees by Contractor Personnel (Nov 2010) (Section 1038 of Pub L. 111-84)

(6) **252.237-7019,** Training for Contractor Personnel Interacting with Detainees (Sep 2006) (Section 1092 of Pub. L. 108-375).

(7) **252.247-7003,** Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (Sept 2010) (Section 884 of Public Law 110-417)

(8) **252.247-7023,** Transportation of Supplies by Sea (May 2002) (10 U.S.C. 2631).

(9) **252.247-7024,** Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

## DFARS 252.225-7009 RESTRICTION ON ACQUISITION OF CERTAIN ARTICLES CONTAINING SPECIALTY METALS (JAN 2011)

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

(1) "Alloy" means a metal consisting of a mixture of a basic metallic element and one or more metallic, or non-metallic, alloying elements.

(i) For alloys named by a single metallic element (e.g., titanium alloy), it means that the alloy contains 50 percent or more of the named metal (by mass).
(ii) If two metals are specified in the name (e.g, nickel-iron alloy), those metals are the two predominant elements in the alloy, and together they constitute 50 percent or more of the alloy (by mass).

(2) "Assembly" means an item forming a portion of a system or subsystem that—

(i) Can be provisioned and replaced as an entity; and
(ii) Incorporates multiple, replaceable parts.

(3) "Commercial derivative military article" means an item acquired by the Department of Defense that is or will be produced using the same production facilities, a common supply chain, and the same or similar production processes that are used for the production of articles predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.

(4) "Commercially available off-the-shelf item"—

(i) Means any item of supply that is—

(A) A commercial item (as defined in paragraph (1) of the definition of "commercial item" in section 2.101 of the Federal Acquisition Regulation);
(B) Sold in substantial quantities in the commercial marketplace; and
(C) Offered to the Government, under this contract or a subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App 1702), such as agricultural products and petroleum products.

(5) "Component" means any item supplied to the Government as part of an end item or of another component.

(6) "Electronic component" means an item that operates by controlling the flow of electrons or other electrically charged particles in circuits, using interconnections of electrical devices such as resistors, inductors, capacitors, diodes, switches, transistors, or integrated circuits. The term does not include structural or mechanical parts of an assembly containing an electronic component, and does not include any high performance magnets that may be used in the electronic component.

(7) "End item" means the final production product when assembled or completed and ready for delivery under a line item of this contract.

(8) "High performance magnet" means a permanent magnet that obtains a majority of its magnetic properties from rare earth metals (such as samarium).

(9) "Produce" means the application of forces or processes to a specialty metal to create the desired physical properties through quenching or tempering of steel plate, gas atomization or sputtering of titanium, or final consolidation of non-melt derived titanium powder or titanium alloy powder.

(10) "Qualifying country" means any country listed in the definition of "Qualifying country" at 225.003 of the Defense Federal Acquisition Regulation Supplement (DFARS).

(11) "Required form" means in the form of mill product, such as bar, billet, wire, slab, plate, or sheet, and in the grade appropriate for the production of—

(i) A finished end item to be delivered to the Government under this contract; or
(ii) A finished component assembled into an end item to be delivered to the Government under this contract.

(12) "Specialty metal" means—

(i) Steel—

(A) With a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

(B) Containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, molybdenum, nickel, niobium (columbium), titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of—

(A) Nickel or iron-nickel alloys that contain a total of alloying metals other than nickel and iron in excess of 10 percent; or

(B) Cobalt alloys that contain a total of alloying metals other than cobalt and iron in excess of 10 percent;

(iii) Titanium and titanium alloys; or

(iv) Zirconium and zirconium alloys.

(13) "Steel" means an iron alloy that includes between .02 and 2 percent carbon and may include other elements.

(14) "Subsystem" means a functional grouping of items that combine to perform a major function within an end item, such as electrical power, attitude control, and propulsion.

(b) *Restriction.* Except as provided in paragraph (c) of this clause, any specialty metals incorporated in items delivered under this contract shall be melted or produced in the United States, its outlying areas, or a qualifying country.

(c) *Exceptions.* The restriction in paragraph (b) of this clause does not apply to—

(1) Electronic components.

(2)(i) Commercially available off-the-shelf (COTS) items, other than—

(A) Specialty metal mill products, such as bar, billet, slab, wire, plate, or sheet, that have not been incorporated into COTS end items, subsystems, assemblies, or components;

(B) Forgings or castings of specialty metals, unless the forgings or castings are incorporated into COTS end items, subsystems, or assemblies;

(C) Commercially available high performance magnets that contain specialty metal, unless such high performance magnets are incorporated into COTS end items or subsystems; and

(D) COTS fasteners, unless—

*(1)* The fasteners are incorporated into COTS end items, subsystems, assemblies, or components; or

*(2)* The fasteners qualify for the commercial item exception in paragraph (c)(3) of this clause.

(ii) A COTS item is considered to be "without modification" if it is not modified prior to contractual acceptance by the next higher tier in the supply chain.

(A) Specialty metals in a COTS item that was accepted without modification by the next higher tier are excepted from the restriction in paragraph (b) of this clause, and remain excepted, even if a piece of the COTS item subsequently is removed (e.g., the end is removed from a COTS screw or an extra hole is drilled in a COTS bracket).

(B) Specialty metals that were not contained in a COTS item upon acceptance, but are added to the COTS item after acceptance, are subject to the restriction in paragraph (b) of this clause (e.g., a special reinforced handle made of specialty metal is added to a COTS item).

(C) If two or more COTS items are combined in such a way that the resultant item is not a COTS item, only the specialty metals involved in joining the COTS items together are subject to the restriction in paragraph (b) of this clause (e.g., a COTS aircraft is outfitted with a COTS engine that is not the COTS engine normally provided with the aircraft).

(D) For COTS items that are normally sold in the commercial marketplace with various options, items that include such options are also COTS items. However, if a COTS item is offered to the Government with an option that is not normally offered in the commercial marketplace, that option is subject to the restriction in paragraph (b) of this clause (e.g. - An aircraft is normally sold to the public with an option for installation kits. The Department of Defense requests a military-unique kit. The aircraft is still a COTS item, but the military-unique kit is not a COTS item and must comply with the restriction in paragraph (b) of this clause unless another exception applies).

(3) Fasteners that are commercial items, if the manufacturer of the fasteners certifies it will purchase, during the relevant calendar year, an amount of domestically melted or produced specialty metal, in the required form, for use in the production of fasteners for sale to the Department of Defense and other customers, that is not less than 50 percent of the total amount of the specialty metal that it will purchase to carry out the production of such fasteners for all customers.

(4) Items manufactured in a qualifying country.

(5) Specialty metals for which the Government has determined in accordance with DFARS 225.7003-3 that specialty metal melted or produced in the United States, its outlying areas, or a qualifying country cannot be acquired as and when needed in—

(i) A satisfactory quality;
(ii) A sufficient quantity; and
(iii) The required form.

(6) End items containing a minimal amount of otherwise noncompliant specialty metals (i.e., specialty metals not melted or produced in the United States, an outlying area, or a qualifying country, that are not covered by one of the other exceptions in this paragraph (c)), if the total weight of such noncompliant metals does

not exceed 2 percent of the total weight of all specialty metals in the end item, as estimated in good faith by the Contractor. This exception does not apply to high performance magnets containing specialty metals.

(d) *Compliance for commercial derivative military articles.*

(1) As an alternative to the compliance required in paragraph (b) of this clause, the Contractor may purchase an amount of domestically melted or produced specialty metals in the required form, for use during the period of contract performance in the production of the commercial derivative military article and the related commercial article, if—

(i) The Contracting Officer has notified the Contractor of the items to be delivered under this contract that have been determined by the Government to meet the definition of "commercial derivative military article"; and

(ii) For each item that has been determined by the Government to meet the definition of "commercial derivative military article," the Contractor has certified, as specified in the provision of the solicitation entitled "Commercial Derivative Military Article—Specialty Metals Compliance Certificate" (DFARS 252.225-7010), that the Contractor and its subcontractor(s) will enter into a contractual agreement or agreements to purchase an amount of domestically melted or produced specialty metal in the required form, for use during the period of contract performance in the production of each commercial derivative military article and the related commercial article, that is not less than the Contractor's good faith estimate of the greater of—

(A) An amount equivalent to 120 percent of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

(B) An amount equivalent to 50 percent of the amount of specialty metal that will be purchased by the Contractor and its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article

(2) For the purposes of this alternative, the amount of specialty metal that is required to carry out production of the commercial derivative military article includes specialty metal contained in any item, including COTS items.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause in subcontracts for items containing specialty metals, to the extent necessary to ensure compliance of the end products that the Contractor will deliver to the Government. When inserting the substance of this clause in subcontracts, the Contractor shall—

(1) Modify paragraph (c)(6) of this clause as necessary to facilitate management of the minimal content exception;

(2) Exclude paragraph (d) of this clause; and

(3) Include this paragraph (e).

**DFARS 252.225-7010 Commercial Derivative Military Article—Specialty Metals Compliance Certificate. July 2009**

(a) *Definitions.* "Commercial derivative military article," "commercially available off-the-shelf item," "produce," "required form," and "specialty metal," as used in this provision, have the meanings given in the clause of this solicitation entitled "Restriction on Acquisition of Certain Articles Containing Specialty Metals" (DFARS 252.225-7009).

(b) The offeror shall list in this paragraph any commercial derivative military articles it intends to deliver under any contract resulting from this solicitation using the alternative compliance for commercial derivative military articles, as specified in paragraph (d) of the clause of this solicitation entitled "Restriction on Acquisition of Certain Articles Containing Specialty Metals" (DFARS 252.225-7009). The offeror's designation of an item as a "commercial derivative military article" will be subject to Government review and approval.

_____

_____.

(c) If the offeror has listed any commercial derivative military articles in paragraph (b) of this provision, the offeror certifies that, if awarded a contract as a result of this solicitation, and if the Government approves the designation of the listed item(s) as commercial derivative military articles, the offeror and its subcontractor(s) will demonstrate that individually or collectively they have entered into a contractual agreement or agreements to purchase an amount of domestically melted or produced specialty metal in the required form, for use during the period of contract performance in the production of each commercial derivative military article and the related commercial article, that is not less than the Contractor's good faith estimate of the greater of—

(1) An amount equivalent to 120 percent of the amount of specialty metal that is required to carry out the production of the commercial derivative military article (including the work performed under each subcontract); or

(2) An amount equivalent to 50 percent of the amount of specialty metal that will be purchased by the Contractor and its subcontractors for use during such period in the production of the commercial derivative military article and the related commercial article.

(d) For the purposes of this provision, the amount of specialty metal that is required to carry out the production of the commercial derivative military article includes specialty metal contained in any item, including commercially available off-the-shelf items, incorporated into such commercial derivative military articles.

IQC11327009009
**NSN:** Various-see attached listing
**Nomenclature: Various Sikorsky source controlled items – Industrial Hardware Commodities**

**Item Descriptions:** As stated in the Caution Notice, item descriptions are an attachment to this solicitation and can be found on DIBBS.

Note: Specific requirements and provisions that are applicable to the NSNs on this solicitation are set forth under "Tables". The number and full text of these tables are described on the item description attachment pages on DIBBs. All tables do not apply to each and every NSN. See individual NSNs for the list of applicable tables.

**Destination:** Delivery shall be to any destination within the Contiguous United States and the District of Columbia, excluding Alaska and Hawaii.

**PREP FOR DELIVERY: PACKAGING CODES**

**DOD BAR CODE MARKING**
For all shipments of packaged materiel to the government,which includes either Depot (DLA-Direct) or DVD (Customer-Direct) shipments, both DoD linear and two-dimensional (2D)bar code markings are required on Military Shipping Labels in accordance with MIL-STD-129, Revision P, dated September 19, 2007 (but see DLAD 52.211-9010(D) for exceptions to the requirement for MSL and 2D symbols). See the DLA packaging web site identified in DLAD 52.211-9010(E) for change notices to MIL-STD-129P that apply. 2D bar coding shall be in accordance with ISO/IEC 15438, ISO/IEC 15434 (ANSI MH10.8.3)and DoD 4500.9-R. MSL linear (code 3 of 9 or code 39) bar coding shall be in accordance with ISO/IEC 16388. Shipping label stock quality shall meet MIL-PRF-61002. Bar code print quality shall meet ANSI MH10.8-2000 or ANSI X3.182-1990 (R2000) for applicable 2D and/or linear bar codes. All DVD shipments shall meet additional linear bar coding requirements in DLAD 52.211-9010(C). Except for the Transportation Control Number(TCN), which must always be present on the Military Shipping Label, when the contract/order omits any other data elements as defined in MIL-STD-129P and if the information is not available from the Administrative Contracting Office, then the field is not required as part of the Military Shipping Label and may be left blank. If there are inconsistencies between the schedule and MIL-STD-129P, the schedule takes precedence.

**THE FOLLOWING STAMP APPLIES TO EACH LINE ITEM:**
UNIT PACK APPLIES WHERE POSSIBLE.

**THE FOLLOWING STAMP APPLIES TO EACH LINE ITEM:**

**OFFER BASED ON:**
**MANUFACTURER'S**
**NAME AND PART NUMBER: (see item description for applicable cage code)**

## FAR 52.212-1 – INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS (FEB 2012)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of Offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show--

(1) The solicitation number;

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for Acceptance of Offers.*

The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product Samples.*

When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple Offers.*

Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) *Late submissions, modifications, revisions, and withdrawals of offers.*

(1) Offerors are responsible for submitting offers, and any modifications, revisions or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

**FAR 52.212-1 (continued)**

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or
its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract Award* (not applicable to Invitation for Bids).

The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple Awards.*

The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) *Availability of Requirements Documents Cited in the Solicitation.*

(1)(i) The Index of Federal Specifications, Standards and Commercial Item Descriptions and the documents listed in it may be obtained for a fee by submitting a request to:

GSA Federal Supply Service Specifications Section
Suite 8100
470 L'Enfant Plaza, SW
Washington, DC 20407
((202) 619-8925)
(Fax (202) 619-8978)

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (http://assist.daps.dla.mil ).
(ii) Quick Search (http://assist.daps.dla.mil/quicksearch ).
(iii) ASSISTdocs.com (http://assistdocs.com ).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by --

(i) Using the ASSIST Shopping Wizard (http://assist.daps.dla.mil/wizard );

**FAR 52.212-1 (continued)**

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon - Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernmental (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to all offers exceeding $3,000 and offers of $3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at http://fedgov.dnb.com/webform . An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(k) *Central Contractor Registration.* Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the CCR database accessed through https://www.acquisition.gov or by calling 1-888-227-2423 or 269-961-5757.

(l) *Debriefing* If a postaward debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer;

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror;

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror;

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

**1. Addendum to 52.212-1(b)** *Submission of offers.*

See Standard Form 1449 (Continuation Sheet), on page 3, for any specific instructions on how to submit your offer if mailed, hand carried or faxed (when authorized).

☒ **Faxed offers are NOT authorized for this solicitation.**
☐ Faxed offers are authorized for this solicitation.

Facsimile offers that fail to furnish required representations, or information, or that reject any of the terms, conditions and provisions of the solicitations, may be excluded from consideration. Facsimile offers must contain the required signatures. The Government reserves the right to make award solely on the facsimile offer. However, if requested to do so by the Contracting Officer, the apparently successful offeror agrees to promptly submit the complete original signed proposal. The Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile offer.

**2. Addendum to 52.212-1(c)** *Period for acceptance of offers.*

☒ Period of acceptance is 120 days.

**FAR 52.212-1 (continued)**

3. **Addendum to 52.212-1(e)** *Multiple offers.*
   ☒ Alternative commercial items may not be considered for award on this instant acquisition, however, may be utilized for market research on future requirements.

4. **Addendum to 52.212-1(g)** *Contract Award.*
   ☒ If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

5. **Addendum to 52.212-1(h)** *Multiple awards.*
   ☒ The Government intends to make one award on each CLIN although each awardee may be awarded one contract containing all the CLINs for which it was found to offer the best value to the Government.

6. **Addendum to 52.212-1(j)** *Data Universal Numbering System (DUNS) Number*

The requirement to provide a DUNS number with the offer applies at all dollar values if the offeror is required to register in the System for Award Management in accordance with FAR clause 52.204-99.

**Addendum FAR 52.212-1**

## 1. INSTRUCTIONS TO OFFERORS FOR PROPOSAL INFORMATION:

Offerors are required to submit the pricing information on the attached pricing spreadsheet on a CD Rom and also a paper copy and submit with their Proposal. Note: Please use an Anti-Virus utility to ensure that your Microsoft Excel Spreadsheet formatted CD is virus free before submitting. **Separate Option Year pricing will not be accepted. Offerors are required to furnish pricing on at least 30 of the line items in the core listing or the offer shall not be considered.** Also, please ensure that you leave the line items that you are not pricing on the spreadsheet as a placeholder and leave blank or state "no offer". DO NOT delete these line items from your pricing spreadsheet! Unit prices on the accompanying pricing spreadsheet shall be properly formatted to U.S. Currency and shall contain two (2) decimal places. For evaluation and award purposes, offer containing a unit price of more than two decimal places shall be rounded off to two decimal places, as follows:
$.10 to $0.104 = $0.10
$0.105 to $0.109 = $0.11
$0.111 to $0.114 = $0.11
$0.115 to $0.119 = $0.12, etc

Attachments to the solicitation (Item Descriptions along with packaging information, table explanations, a pricing spreadsheet and surge requirements) can be found within the solicitation in DIBBS. Open the solicitation and look at the lower left hand side (a paperclip) for attachments. Please submit a CD ROM along with the pricing spreadsheet. FAILURE TO PROVIDE YOUR PRICING PROPOSAL IN ACCORDANCE WITH SOLICITATION REQUIREMENTS MAY RENDER YOUR OFFER UNACCEPTABLE. A SIGNED and COMPLETED solicitation must accompany the Pricing Proposal IN ITS ENTIRETY, as well as, any amendments. MAKE SURE THAT ALL CLAUSES THAT REQUIRE A RESPONSE ARE COMPLETED.

The offeror shall also provide the completed SF1449, applicable clause fill-ins including FAR 2.212-3 (Offeror Representations and Certifications), and their Surge and Sustainment Capability Assessment Plan (CAP). Offerors shall state if some or all of their clause representations and certifications are available in ORCA and shall ensure that any additional required representations or information applicable to this solicitation is provided.

### FAR 52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a **Fixed Price with EPA** contract resulting from this solicitation.

### DFARS 252.204-7011 Alternative Line Item Structure (Sep 2011)

(a) Line items are the basic structural elements in a solicitation or contract that provide for the organization of contract requirements to facilitate pricing, delivery, inspection, acceptance and payment. Line items are organized into contract line items, subline items, and exhibit line items. Separate line items should be established to account for separate pricing, identification (see section 211.274 of the Defense Federal Acquisition Regulation Supplement), deliveries, or funding. TheGovernment recognizes that the line item structure in this solicitation may not conform to every offeror's practices. Failure to correct these issues can result in difficulties in accounting for deliveries and processing payments. Therefore, offerors are invited to propose an alternative line item structure for items on which bids, proposals, or quotes are requested in this solicitation to ensure that the resulting contract structure is economically and administratively advantageous to the Government and the Contractor.

(b) If an alternative line item structure is proposed, the structure must be consistent with subpart 204.71 of the Defense Federal Acquisition Regulation Supplement and PGI 204.71. A sample line

item structure and a proposed alternative structure are as follows:

Solicitation:

| ITEM NO. | SUPPLIES/SERVICE | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 0001 | Computer, Desktop with CPU, Monitor, Keyboard and Mouse | 20 | EA | | |
| | | | | | |

Alternative line item structure offer where monitors are shipped separately:

| ITEM NO. | SUPPLIES/SERVICE | QUANTITY | UNIT | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|
| 0001 | Computer, Desktop with CPU, Keyboard and Mouse | 20 | EA | | |
| 0002 | Monitor | 20 | EA | | |
| | | | | | |

## DLAD 52.204-9001 Electronic Order Transmission. Nov 2011

(a) Supplies procured through the Defense Logistics Agency (DLA) may be ordered via electronic ordering. Offerors must check one of the following alternatives for paperless order transmission:

( ) Electronic data interchange (EDI) transmissions in accordance with American National Standards Institute (ANSI) X12 Standards through a DLA Transaction Services approved value added network (VAN).

( ) Electronic mail (email) award notifications containing web links to electronic copies of the Department of Defense (DD) Form 1155, Order for Supplies or Services.

(b) Offerors choosing email notification for order transmission shall register their email address on the DLA internet bid board system (DIBBS) home page at https://www.dibbs.bsm.dla.mil/ as part of the vendor registration.

(c) Offerors choosing EDI for order transmission will receive transaction sets at time of award. The Contractor shall acknowledge receipt of each order by transmitting a functional acknowledgement or order receipt message within 24 hours, except for weekends and holidays where acknowledgement shall be the next working day. Failure to establish system(s) connectivity for successfully receiving and processing EDI orders within 30 days after date of award may be grounds for termination of the contract by the Government.

(d) Issuance of an EDI transmission or email notification constitutes a binding order. Successful offerors are authorized and expected to commence performance upon receipt.

(e) Note: Information regarding EDI, ANSI X12 transactions and DLA transaction services approved VANs can be obtained from the DAAS web site by going to

https://www.transactionservices.dla.mil/daashome/edi-vanlist-dla.asp.

(f) Questions concerning electronic ordering should be directed to the appropriate supply center contact below:

DLA Land and Maritime

Post Office (P. O.) Box 3990
Columbus, Ohio 43218-3990

DLA Troop Support
Attention: J6P
Information Operations
700 Robbins Avenue
Philadelphia, Pennsylvania 19111-5092
Phone: 215-737-2130

or –

DLA Aviation
Procurement Process Support Directorate
Systems and Procedures Division
Attention: BPSC
8000 Jefferson Davis Highway
Richmond, Virginia 23297-5516

**DLAD 52.211-9042 Additional Documentation Requirements for Source Approval Request – Critical Application Item and Critical Safety Item. Nov 2011** (applies if items become CSI)

(a) If an item other than that cited in the Purchase Order Text (POT) is offered under provision 52.217-9002 of this solicitation, this provision specifies the Government's requirements for additional documentation needed to evaluate whether the offered item meets the requirements for the Critical Application Item (CAI) and/or Critical Safety Item (CSI) identified in the POT. The offeror shall determine which category applies. The specified documentation for that category, as well as that specified for all categories at subparagraph (b), shall be submitted in support of the manufacturing process. The DLA Aviation website provides the mandatory requirements to submit for CATEGORY I – III parts.

(1) Category I - Manufacturer of the same item for the Original Equipment Manufacturer (OEM) or for the Department of Defense (DoD).

(2) Category II - Manufacturer of a similar item for the OEM or DoD. (A similar item is defined as an item whose design, application, operating parameters, material, and manufacturing processes are similar to those of the item for which source approval is sought.)

(3) Category III - New manufacturer. The exact or similar item has not been previously provided to the OEM or DoD.

(b) Requirements for all categories.

(1) Documentation shall be provided stating if the company seeking approval is a nonmanufacturing source or the actual manufacturer. If the company seeking approval is a nonmanufacturing source, the required information shall also be submitted on the manufacturer.

(2) Any SAR identified to Boeing Rights Guard must comply with the Boeing Rights Guard Agreement.

**DLAD 52.215-9017 List of Documents, Exhibits, and Other Attachments April 2008**

(a) THIS SOLICITATION/AWARD CONSISTS OF THE FOLLOWING DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS:

(1) Item Description Pages

(2) Pricing Spreadsheet

**DLAD 52.215-9023 Reverse Auction November 2012**

The Contracting Officer may utilize on-line reverse auctioning as a means of conducting price discussions under this solicitation. If the Contracting Officer does not conduct a reverse auction, award may be made on the basis of initial offers or following discussions not using reverse auctioning as a pricing technique. If the Contracting Officer decides to use on-line reverse auctioning to conduct price negotiations, the Contracting Officer will notify offerors of this decision and the following provisions will apply.

(a) The award decision will be made in accordance with the evaluation factors as set forth in the solicitation. The reverse on-line auction will be used as a pricing technique during discussions to establish the final offered prices from each offeror. These prices will be used in conjunction with the evaluation factors stated elsewhere in the solicitation in order to make the award decision in accordance with the basis for award stated in the solicitation.

(b) Following the decision to conduct discussions using on-line reverse auctioning as a pricing technique, the Contracting Officer or his/her representative will provide offerors determined to be in the competitive range with information concerning the on-line auction process. The Government intends to use a commercial web-based product to conduct the reverse auction.

(c) Prior to or simultaneously with conducting the on-line reverse auction, the Contracting Officer may hold discussions with the offerors concerning matters appropriate for discussion, such as issues involving technical proposals or unbalanced pricing.

(d) The lowest offeror's price(s) for each round of the reverse auction will be disclosed to other offerors and anyone else having authorized access to the on-line auction. This disclosure is anonymous, meaning that each offeror's identity will be concealed from other offerors (although it will be known to the Government; only a generic identifier will be used for each offeror's proposed pricing, such as "Offeror A" or "lowest-priced offeror"). By submitting a proposal in response to the solicitation, offerors agree to participate in the reverse auction and that their prices may be disclosed, including to other offerors, during the reverse auction.

(e) The reverse auction system currently in use designates offers as "Lead," meaning the current low price in that auction, or "Not Lead," meaning not the current low price in that auction. In the event of a tie offer, the reverse auction provider's system designates the first offer of that price as "Lead" and the second or subsequent offer of that price as "Not Lead." Offerors shall not submit a tie offer, since this is inconsistent with the purpose of the reverse auction. If a tie offer is submitted, the "Not Lead" offeror that submitted the tie offer must offer a changed price; it will be ineligible for award if the final price in the auction is the tie offer price.

(f) An offeror's final auction price at the close of the reverse auction will be considered its final proposal revision. No price revisions will be accepted after the close of the reverse auction, unless the Contracting Officer decides that further discussions are needed and final proposal revisions are again requested in accordance with Federal Acquisition Regulation (FAR) 15.307, or the Contracting Officer determines that it would be in the best interest of the Government to re-open the auction.

(g) The following information is provided regarding the procedures to be followed if a reverse auction is conducted.

(1) Each offeror identified by the Contracting Officer as a participant in the reverse auction will be contacted by Defense Logistic Agency's commercial reverse auction service provider to advise the offeror of the event and to provide an explanation of the process.

(2) In order for an Offeror to participate in the reverse auction, such offeror must agree with terms and conditions of the entire solicitation, including this provision, and agree to the commercial reverse auction service provider's terms and conditions for using its service. Information concerning the reverse auction process and the commercial service provider's terms and conditions is embedded within the email notification sent by the on-line reverse auction pricing tool system administrator.

(3) Offerors shall secure the passwords and other confidential materials provided by the commercial reverse auction service provider or the Government and ensure they are used only for purposes of participation in the reverse auction. Offerors shall keep their own and other offerors' pricing in confidence until after contract award.

(4) Any offeror unable to enter pricing through the commercial reverse auction service provider's system during a reverse auction must notify the Contracting Officer or designated representative immediately. The Contracting Officer may, at his/her sole discretion, extend or re-open the reverse auction if the reason for the offeror's inability to enter pricing is determined to be without fault on the part of the offeror and outside the offeror's control.

(5) The reverse auction will be conducted using the commercial reverse auction service provider's website as embedded in the email notification. Offerors shall be responsible for providing their own computer and internet connection.

(6) Training:

(i) The commercial reverse auction service provider and/or a Government representative will provide familiarization training to offerors' employees; this training may be provided through written material, the commercial reverse auction service provider's website, and/or other means.

(ii) An employee of an offeror who successfully completes the training shall be designated as a 'trained offeror.' Only trained offerors may participate in a reverse auction. The Contracting Officer reserves the right to request that offerors provide an alternate offeror employee to become a 'trained offeror.' The Contracting Officer also reserves the right to take away the 'trained offeror' designation from any trained offeror who fails to abide by the solicitation's or commercial reverse auction service provider's terms and conditions.

**DLAD 52.217-9002 Conditions for Evaluation and Acceptance of Offers for Part Numbered Items (Dec 2011**

Note: This clause applies to Non Source Controlled Items on this solicitation and items that may be added in the future via the Add/Delete Clause.

(a) The product described in the acquisition identification description (AID) of this solicitation is that product which the Government has determined to be acceptable. All Offerors shall indicate below, or through an alternative means in an electronic quoting system, whether they are offering an "exact product," an "alternate product" (which includes a "previously reverse-engineered product"), a "superceding part number," or a "previously-approved product;" and shall furnish the data required for whichever is applicable. (To determine which type of product to indicate, Offerors must refer to the criteria in subparagraphs (b)-(e) of this provision, respectively.) Any product offered must be either a product cited in the AID; or be physically, mechanically, electrically, and functionally interchangeable with a product cited in the AID, including additional requirements referred to in the AID, if any.

○ Exact Product – Applies to CLIN(s): . . . . . .

○ Alternate/Previously Reverse-Engineered Product – Applies to CLIN(s):

○ Superceding Part Number – Applies to CLIN(s): . . . . . .

○ Previously-Approved Product – Applies to CLIN(s): . . . . . .

(b) "Exact product."

(1) "Exact product" means a product described by the name of an approved source and its corresponding part number, as currently cited in the AID; modified (if necessary) to conform to any additional requirements set forth in the AID; and manufactured by, or under the direction of, that approved source. If an Offeror indicates that an "exact product" is being offered, the Offeror must meet one of the descriptions in subparagraphs (i)-(iv) below. (Any Offeror not meeting one of these descriptions is not considered to be offering "exact product;" even though the item may be manufactured in accordance with the drawings and/or specifications of an approved source currently cited in the AID.) For any Offeror other than the manufacturer cited in the AID, the Contracting Officer may request evidence to demonstrate technical acceptability of the supplies offered. Evidence requested will generally include information tracing the supplies back to the original equipment manufacturer or its authorized distributor. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If an Offeror fails to provide the requested evidence/information or provides information that the

Contracting Officer finds unacceptable, its offer may be rejected without further consideration under this solicitation.

(i) An approved source currently cited in the AID offering its corresponding part number as cited in the AID;

(ii) A dealer/distributor offering the product of an approved source that meets the description in subparagraph (i) above;

(iii) A manufacturer who (A) produces the offered item under the direction of an approved source currently cited in the AID; and (B) has authorization from that approved source to manufacture the item, identify it as that approved source's name and part number, and sell the item directly to the

Government. If requested by the Contracting Officer, the Offeror must provide documentation to demonstrate such authorization, or other evidence of technical acceptability such as information that traces the supplies back to the original equipment manufacturer. Such evidence could be documentation obtained directly from the approved source or identification on a Web site maintained by the approved source confirming that the manufacturer is an acceptable source for the item identified by that approved source's name and part number. If evidence cannot be obtained directly from the approved source, this does not necessarily preclude acceptance of the offer, if the Offeror provides adequate documentation or other evidence allowing the Contracting Officer to determine the approved source has oversight of and involvement in the manufacturing process.

(iv) A dealer/distributor offering the product of a manufacturer that meets the description in subparagraph (iii) above. If requested by the Contracting Officer, the Offeror/Contractor must provide documentation that demonstrates such authorization or other evidence of technical acceptability such as information that traces the supplies back to the original equipment manufacturer or its authorized distributor. Such evidence could be documentation obtained directly from the approved source or identification on a Web site maintained by the approved source confirming that the item being offered is produced by a manufacturer that is an acceptable source for the item identified by that approved source's name and part number. If evidence cannot be obtained directly from the approved source or manufacturing source, this does not necessarily preclude acceptance of the offer, if the contracting officer can adequately document that the approved source has oversight of and involvement in the manufacturing process by other means.

(1) When the AID identifies the item being acquired as a critical safety item (CSI), offers of exact product will be evaluated in accordance with 52.211-9005.

(c) "Alternate product."

(1) The Offeror must indicate that an "alternate product" is being offered if the Offeror is any one of the following:

(i) An Offeror who (A) manufactures the item for an approved source currently cited in the AID; and (B) does not have authorization from that approved source to manufacture the item, identify it as the approved source part number, and sell the item directly to the Government;
(ii) A dealer/distributor offering the product of a manufacturer that meets the description in subparagraph (i) above;
(iii) An Offeror of a previously reverse-engineered product that is not currently cited in the AID; or
(iv) Any other Offeror who does not meet the criteria in subparagraphs (b)(1), (d), or (e) of this provision.

(1) If an alternate product is offered, the Offeror shall furnish with its offer legible copies of all drawings, specifications, or other data necessary to clearly describe the characteristics and features of the alternate product being offered. Data submitted shall cover design, materials, performance, function, interchangeability, inspection and/or testing criteria, and other characteristics of the offered product. If the offered product is to be manufactured in accordance with data the Offeror has obtained from elsewhere within the Government, the Offeror shall either furnish the detailed data specified in this paragraph, or supply a description of the data package in its possession; i.e., basic data document and revision, the date the data was obtained and from whom (Government agency/activity). If the Offeror does not furnish the detailed data with its offer, the Contracting Officer will be unable to begin evaluation of the offered product until such time as the detailed data can be obtained from the Government agency/activity possessing the data. If the alternate product is a previously reverse-engineered product, the Offeror shall provide: traceability documentation to establish that the offered item represents the item specified in the AID (i.e., invoice from an approved source or submission of samples having markings of an approved

source); number of samples that were examined; the process/logic used; raw data (measurements, lab reports, test results) used to prepare drawings or specifications for the offered item; any additional evidence that indicates the reverse-engineered item will function properly in the end item; and any evidence that life cycle/reliability considerations have been analyzed.

(3) In addition, the Offeror may be required to furnish data describing the "exact product" cited in the AID. The data required from the Offeror depends on the level of technical data describing the exact product, if any, available to the Government. The possible levels of technical data the Government may have and the corresponding data submission requirements for Offerors are identified in subparagraphs (a)-(d) below. For the item(s) being acquired under this solicitation, the level of data in the Government's possession and the corresponding requirements for data submission are identified in the AID; or, if not specified in the AID, are as follows: [buyer insert (a), (b), (c), or (d), as applicable, if AID does not identify]. (If the level of data in the Government's possession and Offeror requirements for data submission are not identified in either the AID or in this subparagraph (c)(3), then subparagraph (a) below applies.)

(a) No data: This Agency has no data available for evaluating the acceptability of alternate products offered. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish drawings and other data covering the design, materials, etc., of the exact product cited in the AID, sufficient to establish that the Offeror's product is equal to the product cited in the AID.

(b) Adequate proprietary (i.e., limited rights) data: This Agency possesses adequate drawings and/or specifications for the exact product as cited in the AID, but such data are proprietary (i.e., limited rights) and shall be used only for evaluation purposes. The Offeror must furnish the data required in subparagraph (c)(2) of this provision, but is not required to submit data on the exact product.

(c) Inadequate data: This Agency does not have adequate data available for evaluating the acceptability of alternate products offered. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish drawings and other data covering the design, materials, etc., of the exact product cited in the AID, sufficient to establish that the Offeror's product is equal to the product cited in the AID.

(d) Adequate catalog data: This is a commercial off-the-shelf item. Adequate catalog data are available at the contracting office to evaluate alternate offers. In addition to the data required in subparagraph (c)(2) of this provision, the Offeror must furnish with its offer a commercially-acceptable cross reference list; or legible copies of all drawings, specifications or other datanecessary to clearly describe the characteristics and features of the alternate product being offered, sufficient to establish that the Offeror's product is equal to the product cited in the AID. The Offeror is not required to submit data on the exact product.

(4) Except for indefinite delivery purchase orders (IDPOs), if this solicitation is automated (i.e., if the solicitation number begins with SPE; or begins with SP0 and contains "T" or "U" in the ninth position of the procurement instrument identification number (PIIN)), the Contracting Officer will not evaluate offers of alternate product (which includes offers of previously reverse-engineered product) for the current procurement. Instead, the Offeror shall submit a request to the location below for evaluation of the alternate product's technical acceptability for future procurements of the same item. The request for evaluation shall cite the National Stock Number (NSN) of the exact product and, as identified in this provision, include the applicable level of technical data on the alternate and exact products. All offers of alternate product will be handled in accordance with DLAD 17.7501(b)(4).

(i) For solicitation numbers beginning with SPE7 or SPE9; or beginning with SP0 and containing "T" or "U" in the ninth position of the PIIN:

DLA Land & Maritime ( formerly DSCC )
Directorate of Procurement

Alternate Offer Monitor, DSCC-BPI
PO Box 3990
Columbus, OH 43218-3990

(ii) For solicitation numbers beginning with SPE4; or beginning with SP0 and

containing "T" or "U" in the ninth position of the PIIN:

DLA Aviation ( formerly DSCR )
Office of the Competition Advocate
ATTN: DSCR-DU
8000 Jefferson Davis Highway
Richmond, VA 23297-5100

(iii) For solicitation numbers beginning with SPE5; or beginning with SP0 and containing "T" or "U" in the ninth position of the PIIN:

DLA Troop Support ( formerly DSCP )
ATTN: Richard A. Ryons, DSCP-NASA
700 Robbins Avenue
Philadelphia, PA 19111-5096

(iv) For solicitation numbers beginning with SPRRA1 and SPRRA2 of the PIIN:

Defense Logistics Agency
Huntsville Detachment
Bldg. 5201
Redstone Arsenal, AL 35898

(v) For TACOM DLR-Land and Maritime solicitations beginning

SPRDL1 of the PIIN:

Defense Logistics Agency
DLR Procurement Ops DSCC-ZG
6501 East Eleven Mile Road
Warren, MI 48397-5000

(vi) For CECOM DLR-Land and Maritime solicitations beginning SPRBL1 of the PIIN:

Defense Logistics Agency
DLR Procurement Ops
Aberdeen, MD 21005

(d) "Superceding part number."

(1) The Offeror must indicate that a "superceding part number" is being offered if the offered item otherwise qualifies as an "exact product," except that the part number cited in the AID has been superceded. The Offeror may be requested to furnish data, or provide confirmation through some other means, sufficient to establish that there are no changes in the configuration of the part. However, if such data are unavailable, the Offeror may be required to furnish technical data as required in paragraph (c) for "alternate products." (If such data indicate there have been changes in the configuration of the part, the offered item must be identified as an "alternate product.")

(2) For solicitation numbers beginning with SPE, any data to be furnished with an offer of a "superceding part number" should be mailed to the buyer at the procuring activity address on the solicitation. (Uploading the

information with the quotation, or including it in the "Remarks" section, will make the offer a "bid with exception," causing it not to be evaluated.)

(e) "Previously-approved product."

(1) If the product offered has previously been furnished to the Government or otherwise previously evaluated and approved, the Offeror shall indicate in the space provided below, or through an alternative means in an electronic quoting system, the contract and/or solicitation number under which the product was furnished or approved.

CLIN NR (s)_____have been previously furnished or evaluated and approved under contract/solicitation number _____.

(2) If the product was furnished or evaluated and approved by a contracting activity different from the one issuing this solicitation, Offerors are advised that the Contracting Officer may not have access to records of another activity or other information sufficient to reasonably determine the offered product's acceptability. Therefore, in order to ensure that adequate data is available for evaluation, Offerors may elect to furnish with their offer the information requested by subparagraph (b) or (c) of this provision, whichever is applicable for the offered product. Offerors are advised that if the additional data is not furnished, the Government may not be able to evaluate the offer. (For solicitation numbers beginning with SPE, the information should be mailed to the buyer at the procuring activity address on the solicitation. Uploading the information with the quotation, or including it in the "Remarks" section, will make the offer a "bid with exception," causing it not to be evaluated.)

(f) For all types of offers ("exact product," "alternate product," "superceding part number," or "previously-approved product"), Offerors shall provide the Contractor and Government Entity (CAGE) Code of the manufacturer and the part number being offered for each item in the solicitation.

(g) Failure to furnish adequate data and/or information as prescribed in subparagraph (b), (c), (d) or (e) of this provision (when required for the current procurement) within 10 business days or less, or as otherwise required by the Contracting Officer or elsewhere in this solicitation, may preclude consideration of the offer. For automated procurements, it is the responsibility of the Offeror when offering a "superceding part number" or a "previously-approved part number" to ensure that supporting documentation arrives at the contracting activity within 2 business days after the data is requested, or the offer may not be considered. The Agency will make every effort to determine, prior to award, the acceptability of the products offered which meet the dollar savings threshold shown below, and/or which have a reasonable chance to receive an award. Generally, the Agency will not evaluate alternate offers not meeting the dollar threshold. The savings potential is based on the cost of evaluation ($200.00 if only a local technical evaluation is involved, plus an additional $1,500.00 for each required Engineering Support Activity evaluation). If the time before proposed award does not permit evaluation and delay of award would adversely affect the Government, alternate offers will not be considered for the current procurement. Instead, they will be evaluated for technical acceptability for future procurements of the same item, if adequate data is submitted, as stipulated above. When an alternate offer will not be considered for the current procurement, the Contracting Officer may request that the Offeror, at its discretion, provide a sample product for testing and evaluation in addition to the data required in this provision. Although not mandatory, Offerors are encouraged to provide the sample. This may facilitate the post-award evaluation and, if the alternate product is approved, increase the likelihood of its being added to the acquisition identification description in time for the next acquisition of the item. The Offeror shall not submit a sample product until requested to do so. The testing of the sample product will be done at a testing facility; therefore, the shipping instructions will be provided with the request. Unless otherwise specified in the solicitation, samples shall be submitted at no expense to the Government, may be damaged or destroyed during testing, and consequently may not be returned to the offeror; samples that are not damaged or destroyed will be returned only at the Offeror's request and expense. For alternate offers not evaluated, the Offeror's complete technical data package will be returned.

(h) If Offerors desire to restrict the Government's use of data submitted for evaluation, the data must bear the appropriate legends as prescribed by FAR 52.215-1(e). In the event an award is made to an Offeror submitting data

without the appropriate legend, the Government will have unlimited rights to its use as defined in DFARS 252.227-7013.

(i) It is the Government that determines if the documentation or other evidence furnished by an Offeror is adequate to satisfy the requirements in this provision. The Contracting Officer may at any time, pre-award or post-award, request evidence of the technical acceptability of the supplies offered in response to this solicitation. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If the Contracting Officer requests evidence from a Contractor who received an award resulting from this solicitation and the Contracting Officer subsequently finds the evidence to be unacceptable, or if the Contractor fails to provide the requested evidence, the award may be cancelled.

**DLAD 52.217-9023 Restriction of Alternate Offers for Source Controlled Items. (JUN 2008)**

Note: This clause applies to Source Controlled items for items on this solicitation and items that may be added in the future via the Add/Delete Clause.

(a) This acquisition is restricted to source(s) specified on the source control drawing applicable to the item in the Purchase Order Text (POT). Only offers which propose to supply the exact product of the approved sources will be considered for award.
(b) DLA will not evaluate and approve alternate offers for this item. Offerors who are interested in qualifying their product for purposes of future acquisitions must contact the cognizant design activity specified on the source control drawing.

(c) Award of this solicitation will not be held pending qualification and approval of any product. If your product has been recently approved but not added to the list of approved sources cited in the source control drawing, a copy of the cognizant design activity's letter of approval must be submitted with your offer.

**DLAD 52.233-9000 Agency Protests. Nov 2011**

(a) Companies protesting this procurement may file a protest

(1) with the Contracting Officer,

(2) with the Government Accountability Office (GAO), or

(3) pursuant to Executive Order Number 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office.

(b) Protests filed with the agency should clearly state that they are an "Agency Level Protest under Executive Order Number 12979."

(Note: Defense Logistics Agency (DLA) procedures for Agency Level Protests filed under Executive Order Number 12979 allow for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer). Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

## DLAD 52.217-9007 Surge and Sustainment (S&S) Instructions to Offerors (JUN 2012)

The offeror must provide a detailed approach for covering S&S requirements in the capability assessment plan (CAP) and, if required, a validation/test plan.

(a) CAP:

Offerors must submit a CAP that describes the method and capability to meet the surge requirements identified as monthly wartime rate (MWR) or D1-D6 in the solicitation. (See 17.9301.) The CAP must also include the supplier's investment plan, stock rotation plan, and a proposed exit strategy to support the S&S requirement.

Offerors shall complete the electronic CAP (eCAP) online using the worldwide web industrial capabilities program (WICAP) website at https://wicap.hq.dla.mil/wicap/. Offerors shall print a copy of the CAP summary and submit it as part of the proposal. Any changes to the CAP before solicitation closing date or after contract award must be done using the website identified above. Instructions, examples and points of contact for the CAP are available on the website. The following are exceptions to the instruction to use eCAP:

(1) For subsistence, use the industrial capability questionnaire tool through the support planning integrated data enterprise readiness system[ (SPIDERS) website at https://spiders.dla.mil/.

(2) For medical items, use the industrial preparedness system (IPSYS) industrial capability survey tool through the DLA Troop Support DMMonline Directorate of Medical Materiel, single sign-on application website at https://www.medical.dla.mil/registration/consent/default.aspx.

(b) Validation/test plan:

Offerors shall submit a validation/test plan upon Government request. The plan must address the most cost effective way and best industry practices for evaluating the stated capability. If required, any cost associated with performing a validation/test including test plan development, testing, and testing report) will be separately priced. When possible, use statistical methods based on simulations, limited production runs, or other methods that do not require full production of the S&S requirements to conduct the validation/test. The following must be included in the validation/test plan: methodology, rating criteria (e.g., how offeror determines the stated coverage in the CAP), labor cost, material cost, and time required to conduct validation/test.

## DLAD 52.246-9039 Removal of Government Identification from Non-Accepted Supplies Nov 2011

(a) The Contractor shall remove or obliterate from a rejected end item and its packing and packaging, any marking, symbol, or other representation that the end item or any part of it has been produced or manufactured for the United States Government. Removal or obliteration shall be accomplished prior to any donation, sale, or disposal in commercial channels. The Contractor, in making disposition in commercial channels of rejected supplies, is responsible for compliance with requirements of the Federal Trade Commission Act (15 United States Code (U.S.C.) 45 et seq.) and the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), as well as other Federal or State laws and regulations promulgated pursuant thereto.

(b) Unless otherwise authorized by the Contracting Officer, the Contractor is responsible for removal or obliteration of government identifications within 72 hours of rejection of nonconforming supplies including supplies manufactured for the Government but not offered or supplies transferred from the Government's account to the cold storage Contractor's account at origin or destination. (For product rejected at destination and returned to the Contractor's plant, the 72 hour period starts with the time of Contractor receipt of returned product). After removal or obliteration is accomplished and prior to disposition, the Contractor must notify the Government inspector.

**FAR 52.214-34 -- Submission of Offers in the English Language. (Apr 1991)**

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

**FAR 52.215-20 -- Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data October 2010**

(a) *Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include --

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.*, wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities;

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market;

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for certified cost or pricing data.* If the offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The offeror shall prepare and submit certified cost or pricing data, and data other than certified cost or pricing data, and supporting attachments in accordance with the instructions contained in Table 15-2 of FAR 15.408, which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15-2 are incorporated as a mandatory format to be used I this contract, unless the Contracting Officer and the Contractor agree to a different format and change this clause to use Alternate I.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

*Alternate I (Oct 2010).* As prescribed in 15.408(l), (and see 15.403-5(b)(1)), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)

(1) The offeror shall submit certified cost or pricing data, data other than certified cost or pricing data, and supporting attachments in the following format: [*Insert description of the data and format that are required, and include access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.408, Table 15-2, Note 2. The description may be inserted at the time of issuing the solicitation, or the Contracting Officer may specify that the offeror's format will be acceptable, or the description may be inserted as the result of negotiations.*]

*Alternate II (Oct 1997).* As prescribed in 15.408(l), add the following paragraph (c) to the basic provision:

(c) When the proposal is submitted, also submit one copy each to:

(1) the Administrative Contracting Officer, and
(2) the Contract Auditor.

*Alternate III (Oct 1997).* As prescribed in 15.408(l), add the following paragraph (c) to the basic provision (if Alternate II is also used, redesignate the following paragraph as paragraph (d)).

(c) Submit the cost portion of the proposal via the following electronic media: *[Insert media format, e.g., electronic spreadsheet format, electronic mail, etc.]*

*Alternate IV (Oct 2010).* As prescribed in 15.408(l), replace the text of the basic provision with the following:

(a) Submission of certified cost or pricing data is not required.

(b) Provide information described below: *[Insert description of the data and the format that are required, including the access to records necessary to permit an adequate evaluation of the proposed price in accordance with 15.403-3.]*

## FAR 52.212-2 EVALUATION – COMMERCIAL ITEMS (JAN 1999)

(a) For each item, the Government will make an award to the responsible offeror whose offer meets or exceeds the terms and conditions set forth in the solicitation, and whose offer is most advantageous to the Government considering price and past performance.

**Technical factors are:**

☒ Significantly more important than cost or price
☐ Essentially equal to cost or price
☐ Significantly less important than cost or price

**Note:** As Technical becomes more equal price becomes more important.

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

# ADDENDUM to FAR 52.212-2 - EVALUATION:

(d) Evaluation Procedures

(1) Overview: Subsequent to the date specified in the solicitation for receipt of proposals, all timely proposals will undergo a Technical and Pricing Evaluation as described in paragraph (2) below. Unless an award(s) is/are made on the basis of initial proposals, written and/or oral discussions will be conducted with all offerors in the competitive range. Revised and "final proposal revisions" resulting from discussions will undergo further Technical and Pricing evaluations. Those proposals which are most advantageous to the Government, as determined by the evaluation of proposals according to the evaluation factors in FAR 52.212-2,"EVALUATION - COMMERCIAL ITEMS", will be selected for award. An Offeror's failure to provide complete and accurate information required by this provision may result in negative ratings or the rejection of the offer. Furthermore, Offerors are reminded of the penalties for making false statements prescribed by 18 U.S.C. 1001. Awards will be made to the responsible contractor(s) whose proposal(s) is/are the most advantageous to the Government, as determined by the evaluation of proposals according to the evaluation factors in Clause 52.212-2, "EVALUATION - COMMERCIAL ITEMS."

(2) Evaluation Process

(i) Technical (Past Performance) Evaluation:

a.The Government anticipates awarding contract(s) resulting from this solicitation to the responsible offeror(s) whose offer, conforming to the solicitation, will be the most advantageous to the Government, price and other factors considered. This process allows for a tradeoff between non-cost factors and cost/price and allows the Government to accept other than the lowest priced proposal or other than the highest technically rated proposal to achieve a best-value contract award. Past Performance will be evaluated utilizing the Automated Best Value System (ABVS). The ABVS is the DLA legacy computerized past performance system that collects a Contractor's existing past performance data and translates it into a numeric score. The Contracting Officer then uses the score when making best value award decisions.

b.DLA assigns an ABVS score to each Contractor based on the Contractor's past performance. Contractors receive scores for performance in each federal supply class (FSC) score. The FSC scores are based on DLA consolidated performance history. A Contractor may have multiple FSC scores but will have only one DLA score, which is a compilation of the Contractor's FSC scores for all business conducted with DLA.

c.The ABVS score is a combination of a vendor's delivery and quality scores; scores range from zero to a perfect score of 100. Scores are calculated daily based upon two years of data.

d.ABVS delivery scores provide quantification of the number and severity of Contractor-caused delinquencies, terminations, cancellations, and withdrawals for products in that FSC (or, if the Contractor has no history for the particular FSC, for all products the Contractor provided to DLA within the time period under consideration).

e.ABVS quality scores reflect the number and type of quality complaints (product and packaging nonconformances) issued against a Contractor for products in that FSC or for all products it provided to DLA, as described above.

f.Data sources for past performance information include:

(1) Product Data Reporting and Evaluation Program (PEDREP);
(2) Systems, Applications and Products in Data Processing (SAP);
(3) DLA Preaward Contracting System (DPACS).

g.DLA will make negative quality and delivery data reflected in the ABVS score available to Contractors daily for review and challenge. For further details concerning ABVS Score calculations and Contractor data challenge procedures, refer to the ABVS website. www.abvs.dla.mil.

h.The Contracting Officer will evaluate Contractors using the ABVS DLA score in effect at the time of evaluation. The Contracting Officer may consider the volume of business

on which the DLA score is based as a measure of confidence in the score's indication of performance risk.
i.The Contracting Officer may collect and analyze other information in addition to ABVS DLA scores including but not limited to Past Performance Information Retrieval System – Statistical Reporting (PPIRS-SR) classifications, information obtained from Dun and Bradstreet (D&B), information regarding the vendor's commercial contracts or contracts with other federal, state and local government agencies, and relevant information obtained from any independent source.
j. In accordance with FAR 15.305(a)(2)(iv), in the case of a Contractor without a record of relevant past performance or for whom information on past performance is not available, the Contractor will be evaluated neither favorably nor unfavorably on past performance.

(ii) Pricing Evaluation:
a. Each proposal will be evaluated against the requirements of the solicitation. The Government will evaluate cost or pricing data or limited pricing information, if requested with initial proposals or during discussions, in accordance with FAR Subpart 15.4.
b. The Government will evaluate the successful offeror's proprosal to determine price reasonableness.
C.Offerors must submit prices for at least 30 Core List items to be considered for award for any Core List item. If an offeror submits pricing on less than 30 items or if the offeror submits an offer on an "all or none" basis, the offer will not be evaluated and considered for award.
d. The total evaluated price for the 5-year base/option period for each item will be calculated as follows: The unit price offered for an item will be multiplied by the annual estimated quantity listed for that item to arrive at the total estimated price per year. The total estimated price per year will then be multiplied by 5 to arrive at the total evaluated price for the 2-year base and three 1-year option period. Please note that for evaluation purposes ONLY, the Government will use the unit price submitted for the base period as the option year prices.

The Contracting Officer will evaluate surge pricing for the surge quantity in accordance with FAR 15.404-1 to determine price reasonableness. If proposed surge prices are higher than the peacetime prices, the Government reserves the right to request information other than cost or pricing data, or, if applicable, certified cost or pricing data to determine price reasonableness. A breakdown of the cost attributable specifically to surge may be requested in accordance with FAR 52.217-9009. Should surge items be awarded and surge is invoked, the total estimated contract price will include the surge Monthly Wartime Rate (MWR) multiplied by the offered unit price for each surge line item.

## DLAD 52.217-9008 Surge and Sustainment (S&S) Evaluation (Nov 2011)

Surge and sustainment capability is a requirement in this solicitation. The S&S evaluation will be based on the capability assessment plan (CAP), test/validation plan (if required), surge costs/prices, and S&S performance history (see (c) below). The offeror's proposal may be deemed unacceptable for failure to submit the required S&S information in accordance with the solicitation. The Government reserves the right to require additional information if necessary. S&S will be evaluated as follows:

(a) CAP evaluation. The offeror's CAP will be reviewed and assessed for responsiveness, completeness, technical merit, and S&S performance history (see (c) below). The CAP must demonstrate the offeror's ability to provide the full S&S quantity and delivery requirements as specified in the solicitation; the technical merits of the proposed solutions to any identified shortfalls in S&S quantity and delivery requirements; and the ability to achieve these without Government investment.

(b) Validation/test plan (if required) evaluation. The offeror's validation/test plan will be evaluated to determine the extent to which the plan accurately measures the stated capability in the offeror's CAP. If the offeror requests Government investment to conduct the test, the Contracting Officer will make a unilateral determination to whether Government investment will be provided and, if it is, which phase(s) of the S&S capability testing will be funded (e.g., test plan development, testing and/or test plan report).

(c) S&S performance history evaluation. The quality and extent of the offeror's historical surge support performance will be considered in the evaluation. In the absence of or in addition to historical S&S capability support, the Contracting Officer may consider other relevant performance history where the offeror demonstrated the ability to quickly respond to and sustain higher than normal production rates or faster than normal delivery requirements, or both. This aspect of the offeror's past performance will not be considered in the evaluation of the past performance evaluation factor in this solicitation.

## DLAD 52.217-9009 Surge and Sustainment (S&S) Pricing (Nov 2011)

(a) When pricing S&S items, the offeror will use a six-month period for the purpose of providing the offered prices for S&S requirements. However, the concept of S&S requires the offeror to surge to a delivery rate and sustain that rate throughout contingency operations that may last longer than six months or when the S&S item has a lead-time greater than six months.

(b) The offeror's proposed S&S prices will be evaluated for price reasonableness and cost realism in accordance with Federal Acquisition Regulation (FAR) 15.404-1 and 15.403. If proposed surge prices are higher than the peacetime prices, the Government reserves the right to request information other than cost or pricing data, or, if applicable, certified cost or pricing data to determine price reasonableness and cost realism. A breakdown of the costs attributable specifically to surge may be requested. Information supporting offered surge prices must include sufficient description explaining the causes of the price difference. The information shall be provided as a separate attachment to the proposal and may be submitted in the offeror's own format unless the Contracting Officer requires a specific format described in the solicitation.

(c) In accordance with FAR 15.403-4, the Truth in Negotiation Act (TINA) threshold includes S&S prices. If TINA is applicable, the Contracting Officer must obtain a certified cost or pricing data if none of the exceptions in 15.403-1(b) applies. If the S&S pricing exceeds the peacetime pricing, the additional information referred to in paragraph d. below is subject to certification, as applicable, in accordance with FAR 15.406-2.

(d) The offeror should provide a proposal that contains the offeror's best terms from a price and technical standpoint. When S&S pricing exceeds peacetime pricing, the offeror's proposal must identify the additional costs, if any, for supporting S&S requirements that are above the costs associated with peacetime buys, such as premium pay for overtime and/or additional shift, cost of expedited delivery of materials from sub-tier suppliers, minimum purchase quantities from sub-tier suppliers, the cost of reserving the production capacity and maintaining extra inventory, raw materials, or components to meet the S&S requirements.

## DLAD 52.211-9003 Conditions for Evaluation of Offers of *Government* Surplus Material August 2008

(a) Definition.

"*Surplus material,*" as used in this provision, has the same meaning as in the clause at 52.211-9000, Government Surplus Material.

(b) The Agency will evaluate an offer of surplus material when the Contracting Officer determines the Offeror is otherwise in line for award, after adding the cost of evaluation ($200 for internal evaluation and, if applicable, an additional $600 for each Engineering Support Activity (ESA) evaluation, plus any additional fees required for special testing and/or inspection).

(c) When an offer is for a quantity less than the solicited quantity, the Contracting Officer will consider the $500 cost of issuing and administering more than one award. The Contracting Officer will also consider the anticipated impact on the unit price of the remaining quantity, to determine the total cost to the Government.

(d) When an offer of surplus material is received in response to a solicitation for a long-term contract, the Contracting Officer shall consider whether the quantity of surplus material meets the requirements of the solicitation. If so, the Contracting Officer shall consider the offer of surplus material to be responsive to the solicitation. If not, the Contracting Officer shall reject the offer as not conforming to the solicitation and shall forward a summary of the offer to the Item Manager (Supply Planner). The Item Manager (Supply Planner) shall take appropriate action in the best interest of the Government, based on the Item Manager's (Supply Planner's) judgment; such as initiating a separate, fixed-quantity purchase request, if warranted by the agency's supply position.

**DLAD 52.211-9011 Business Systems Modernization (BSM) delivery terms and evaluation. May 2006**

(a) This acquisition is being conducted under Business Systems Modernization (BSM). Quotes/offers in response to this solicitation will be evaluated as specified in the solicitation.

(b) Delivery shall be quoted/offered in terms of a number of days after date of order (ADO). The number of delivery days requested in this solicitation is calculated based on the Government's planned need and customer requirements. Unless delivery is identified elsewhere in the solicitation as an evaluation factor, Quoters/Offerors are encouraged to conform their delivery terms as closely as possible to the delivery days requested. If delivery is not identified as an evaluation factor, there will be no evaluation preference, or penalty, for quotes/offers of fewer delivery days than the number of delivery days requested by the Government. Quoting/offering a greater number of delivery days than requested may result in the quote/offer not being considered.

## FAR 52.217-5 Evaluation of Options (JULY 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

## FAR 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS – COMMERCIAL ITEMS (NOV 2012)

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via https://www.acquisition.gov . If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (o) of this provision.

*Please note that the representations and certifications submitted via the On-Line Representations and Certifications Application (ORCA) website address only representations and certifications required by the FAR; however, there may be additional representations and certifications required by the DFARS, DLAD, and local regulations. Therefore, notwithstanding the instruction in the above paragraph to "complete only paragraph (b)" if representations and certifications have been provided electronically via the ORCA website, the certifications referred to in paragraphs (f) and (g) of this provision may still apply (i.e., completion of the DFARS Buy American Act/Balance of Payments Program Certificate, the DFARS Trade Agreements Certificate, or the DFARS Buy American Act/Free Trades Agreements/Balance of Payments Program Certificate). If applicable, these certificates will be included in the solicitation and must be completed by the officer even if the offeror has completed the representations and certifications at the ORCA website.*

(a) *Definitions.* As used in this provision:

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR Part 127. It automatically qualifies as a woman-owned small business eligible under the WOSB Program.

"Forced or indentured child labor" means all work or service-

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Inverted domestic corporation", as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), i.e., a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 26 U.S.C. 7874.

"Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999 except:

(1) FSC 5510, Lumber and Related Basic Wood Materials;
(2) Federal Supply Group (FSG) 87, Agricultural Supplies;
(3) FSG 88, Live Animals;
(4) FSG 89, Food and Related Consumable;
(5) FSC 9410, Crude Grades of Plant Materials;
(6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
(7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
(8) FSC 9610, Ores;
(9) FSC 9620, Minerals, Natural and Synthetic; and
(10) FSC 9630, Additive Metal Materials.

"Place of manufacture" means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

"Restricted business operations" means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate --

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

"Sensitive technology ---

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically ---

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the president does not have the authority to regulate or prohibit pursuant to Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

"Service-disabled veteran-owned small business concern"---

(1) Means a small business concern---

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Subsidiary" means an entity in which more than 50 percent of the entity is owned -

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

"Veteran-owned small business concern" means a small business concern---

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

"Women-owned small business concern" means a small business concern--

(1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR Part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at https://www.acquisition.gov . After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications - Commercial Items, have been entered or updated in the last 12 months,

are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____.

*[Offeror to identify the applicable paragraphs at (c) through (o) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on ORCA.]*

**Addendum to 52.212-3 (b)(2)**

Offeror may use the following format to identify amended representation(s) and/or certification(s) that apply to this solicitation only.

| FAR Clause # | Title | Date | Change |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.*

The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents that it ☐ is, ☐ is not a women-owned small business concern.

(6) *WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in Paragraph (c)(5) of this provision.]* The offeror represents that -

(i) it ☐ is ☐ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affect its eligibility; and

(ii) it ☐ is ☐ is not a joint venture that complies with the requirement of 13 CFR Part 127, and the representation in Paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [*The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:* _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) *Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in Paragraph (c)(6) of this provision.]* The offeror represents that -

(i) it ☐ is ☐ is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) it ☐ is ☐ is not a joint venture that complies with the requirements of 13 CFR Part 127, and the representation in Paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern and other*

*small businesses that are participating in the joint venture:* _____.]
Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

NOTE: Complete Paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern). [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in Paragraph (c)(1) of this provision.* The offeror represents that it ☐ is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

(10) [*Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program – Disadvantage Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]*

(i) *General.* The offeror represents that either -

(A) It ☐ is, ☐ is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It ☐ has, ☐ has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:* _____.]

(11) *HUBZone small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that –

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUBZone small business concern participating in the joint venture. *[The offeror shall enter the name of each of the HUBZone small business concerns participating in the joint venture:* _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) *Representations required to implement provisions of Executive Order 11246--*

(1) *Previous Contracts and Compliance.* The offeror represents that--

(i) It ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation; and

(ii) It ☐ has, ☐ has not, filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that--

(i) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed $150,000.)

By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Statute-Balance of Payments Program Certificate* (The certificate at DFARS 252.225-7000 or 7020 shall be completed if it is provided as an Attachment to FAR 52.212-3).

(g) *Buy American Act - North American Free Trade Agreements – Israeli Trade Act Certificate, Alternates I and II – Trade Agreements Certificate.* (The certificate in DFARS 252.225-7035 shall be completed if it is provided as an Attachment to 52.212-3.)

(h) *Certification Regarding Responsibility Matters* (Executive Order 12689). (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals--

(1) ☐ Are, ☐ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) ☐ Have, ☐ have not, within the three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) ☐ Are, ☐ are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in Paragraph (h)(2) of this clause; and

(4) ☐ Have, ☐ have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not fully determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, Under IRC Section 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under IRC Section 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to IRC Section 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. Section 362 (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products* (Executive Order 13126). [The Contracting Officer must list in Paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).] [This list is available at www.dol.gov/ilab/ ]

(1) Listed end products.

| Listed End Product | Listed Countries of Origin |
|---|---|
| _____ | _____ |
| _____ | _____ |

(2) Certification. {If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.}

☐ (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

☐ (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of Manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly:

(1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) ☐ Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Act.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [*The Contracting Officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

[ ] (1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror ☐ does ☐ does not certify that --

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalogue or market prices (see FAR 22.1003-4(c)(2)(ii) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under this contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

[ ] (2) Certain services are described in FAR 22.1003-4(d)(1). The offeror ☐ does ☐ does not certify that --

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalogue or market prices (see FAR 22.1003-4(d)(2)(iii);

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies --

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number* (TIN) (26 U.S.C. 6109, 31 U.S. C. 7701).(Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number* (TIN).

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

(4) *Type of Organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government

☐ International organization per 26 CFR 1.6049-4;

☐ Other_____.

(5) *Common Parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name _____

TIN _____

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.*

(1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 25 U.S.C. 7874.

(2) *Representation.* By submission of its offer, the offeror represents that -

(i) it is not an inverted domestic corporation; and

(ii) it is not a subsidiary of an inverted domestic corporation.

(o) *Sanctioned activities relating to Iran.*

(1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@stae.gov

(2) *Representation and Certification* Unless a waiver is granted or an exception applies as provided in Paragraph (o)(3) of this provision, by submission of its offer, the offeror

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf of or at the direction of, the government of Iran; and

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under Section 5 of the Iran Sanctions Act.

(3) The representation and certification requirements of Paragraph (o)(2) of this provision do not apply if -

(i) This solicitation includes a Trade Agreements Certification (e.g., 52-212-3(g) or a comparable agency provision; and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

**ALTERNATE I (APR 2011)** As prescribed in 12.301(b)(2), add the following paragraph (c) (12) to the basic provision:

(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(10) of this provision.) *[The offeror shall check the category in which its ownership falls]:*

_____ Black American
_____ Hispanic American
_____ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)
_____ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia, (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
_____Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
_____Individual/concern, other than one of the preceding.

*[Alternate II is not applicable at this time to DoD contracts.]*

## ADDENDUM TO FAR 52.212-3

### DFARS 252.225-7020 Trade Agreements Certificate. JAN 2005

(a) *Definitions.* "Designated country end product," "nondesignated country end product," "qualifying country end product," and "U.S.-made end product" have the meanings given in the Trade Agreements clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, or designated country end products unless—

(i) There are no offers of such end products;
(ii) The offers of such end products are insufficient to fulfill the Government's requirements; or
(iii) A national interest waiver has been granted.

(c) *Certification and identification of country of origin.*

(1) For all line items subject to the Trade Agreements clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, or designated country end product.

(2) The following supplies are other nondesignated country end products:

(Line Item Number) (Country of Origin)

### DFARS 252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (JAN 2009)

(a) *Definitions.* As used in this provision—

(1) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries subject to this provision include: Cuba, Iran, Sudan, and Syria.

(3) "Significant interest" means—

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) *Prohibition on award.* In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) *Disclosure.* If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include—

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

## DFARS 252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DoD OFFICIALS (NOV 2011)

(a) *Definition.* "Covered DoD official" is defined in the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104-2.

## DLAD 52.233-9001 DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011)

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted

negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233-1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel (see DLA Directive 5145.1). Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

## FAR 52.209-7 Information Regarding Responsibility Matters. February 2012

(a) *Definitions*. As used in this provision—

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than $10,000,000" means—

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [_] has [_] does not have current active Federal contracts and grants with total value greater than $10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of $5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of $100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the Central Contractor Registration database via https://www.acquisition.gov (see 52.204-7).

## FAR 52.215-6 Place of Performance. October 1997

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, o intends, o does not intend [*check applicable block*] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

| PLACE OF PERFORMANCE (STREET ADDRESS, CITY, STATE, COUNTY, ZIP CODE) | NAME AND ADDRESS OF OWNER AND OPERATOR OF THE PLANT OR FACILITY IF OTHER THAN OFFEROR OR RESPONDENT |
|---|---|
| _____ | _____ |

## FAR 52.225-25 -- Prohibition on Contracting with Entities Engaging in Sanctioned Activities Relating to Iran—Representation and Certification. (Nov 2011)

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

Person--

(1) Means--

(i) A natural person;

(ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and
(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

Sensitive technology—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or
(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(b) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with 25.703-4, by submission of its offer, the offeror--

(1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran; and

(2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies.

(d) Exception for trade agreements. The representation requirement of paragraph (c)(1) and the certification requirement of paragraph (c)(2) of this provision do not apply if—

(1) This solicitation includes a trade agreements notice or certification (e.g., 52.225-4, 52.225-6, 52.225-12, 52.225-24, or comparable agency provision); and

(2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

## DFARS 252.212-7000 OFFEROR REPRESENTATIONS AND CERTIFICATIONS – COMMERCIAL ITEMS (JUNE 2005)

(a) Definitions.

As used in this clause –

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) "United States" means the 50 states, the District of Columbia, outlying areas, and the Continental Shelf as defined in 43 U.S.C. 1331.

(3) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) Certification.

By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it –

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) Representation of Extent of Transportation by Sea. (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation. The Offeror represents that it –

____ Does anticipate that supplies will be transported by sea in performance of any contract or subcontract resulting from this solicitation.

____ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting clause will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.