

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

1. REQUISITION NUMBER: PAGE 1 OF 15  
 2. CONTRACT NO. SPM-300-12-D-3563  
 3. AWARD/EFFECTIVE DATE: 6-15-12  
 4. ORDER NUMBER  
 5. SOLICITATION NUMBER: SPM300-03-R-0005  
 6. SOLICITATION ISSUE DATE: 4/19/2003

7. FOR SOLICITATION INFORMATION CALL: Margaret Conforto  
 a. NAME: Margaret Conforto  
 b. TELEPHONE NUMBER (No collect calls): (215) 737-2871  
 8. OFFER DUE DATE/LOCAL TIME: 5/22/2003

9. ISSUED BY: DLA Troop Support, Directorate of Subsistence, Bldg 6, 700 Robbins Avenue, Philadelphia, PA 19111-5098  
 CODE  
 10. THIS ACQUISITION IS: UNRESTRICTED OR SET ASIDE: % FOR: SMALL BUSINESS, EMERGING SMALL BUSINESS, HUBZONE SMALL BUSINESS, SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS 8(A)  
 NAICS: 311999  
 SIZE STANDARD: 500

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: RFP

15. DELIVER TO: SEE SCHEDULE  
 CODE  
 16. ADMINISTERED BY: SEE BLOCK 9  
 CODE

17a. CONTRACTOR/OFFEROR: US FOODSERVICE, 120 LONGS POND ROAD, LEXINGTON, SC 29072  
 CODE: 09P251  
 FACILITY CODE  
 18a. PAYMENT WILL BE MADE BY: DFAS BVDP (SL4701), P.O. Box 369031, Columbus, Ohio 43236-9031  
 CODE: SL4701

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
	IAW 10 U.S.C. 2304 (C) (1). All terms and conditions of SPM300-11-D-3442 are extended under this award for South Carolina. Performance period: 17 June 2012 - 16 June 2013  Contract SPM300-12-D-3563 & Admin. Contract SPM300-12-D-N-084 (see next page)  <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>				

26. ACCOUNTING AND APPROPRIATION DATA: 97X4930 5CBX 001 2620 S33189  
 28. TOTAL AWARD AMOUNT (For Govt. Use Only): \$64,094,825.52

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA: ARE NOT ATTACHED  
 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA: ARE

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 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: Steven M. Russell  
 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER): Margaret Conforto

30b. NAME AND TITLE OF SIGNER (Type or print): Steven M. Russell, VP Chain Accounts  
 30c. DATE SIGNED: 15 June 12  
 31b. NAME OF CONTRACTING OFFICER (Type or print): MARGARET CONFORTO  
 31c. DATE SIGNED: 6-15-12

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	<p>Includes FAR Clauses:            52.225 - Prohibition on Engaging in Sanctioned Activities Relating to Iran--Certification (Nov 2011),            52.203-13 - Contractor Code of Business Ethics and Conduct (Apr 2010), 52.215-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items (May 2012) and DFARS Clause 252.212.7001 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items (May 2012).            All terms and conditions from the original solicitation SPM300-03-R-0005 and resulting contracts to include the bridge contracts SPM300-08-D-3057, SPM300-10-D-3057, and SPM300-11-D-3442 with the addition of the Rapid Gate process are in effect and remain the same.            TOTAL ESTIMATED VALUE: \$42,729,883.68            10% GUARANTEED MIN (est): \$4,272,988.37            150% CONTRACT MAX : \$64,094,825.52</p> <p>The awardee is required to complete FAR 52.212-3 annual representations and certifications April 2012 and may do so electronically at <a href="http://orca.bpn.gov">http://orca.bpn.gov</a>. DFARS 252.209-7999 and DFARS 252.209-7998 are an additional certification requirement and must be agreed to prior to award.            See additional information attached.</p>				

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
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY ( <i>Print</i> )
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE
42b. RECEIVED AT ( <i>Location</i> )	
42c. DATE REC'D (YY/MM/DD)	42d. TOTAL CONTAINERS

Any terms and conditions that were updated in a prior contract or modification with the language, "All referenced FAR, DFARS, DLAD, and DLA Troop Support clauses are hereby updated and are incorporated" shall be limited to those clauses specifically set forth in the contract award or modification containing such language. Clauses may be updated if appropriate and as mutually agreed upon.

**52.225-25 – Prohibition on Engaging in Sanctioned Activities Relating to Iran--Certification.**

**Prohibition on Engaging in Sanctioned Activities Relating to Iran—Certification (Nov 2011)**

**(a) Definition.**

**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.

(b) Certification. Except as provided in paragraph (c) of this provision or if a waiver has been granted in accordance with FAR 25.703-2(d), by submission of its offer, the offeror 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 of 1996. 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.

(c) Exception for trade agreements. The certification requirement of paragraph (b) of this provision does not apply if--

(1) This solicitation includes a trade agreements certification (e.g., 52.225-4, 52.225-11 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.

**52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items.**

**Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (May 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, Combating 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:

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 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 (Jun 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 (Feb 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).

X (6) 52.209-6, Protecting the Government' 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 Public Law 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. 110-161).

\_\_\_ (9) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

X (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 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.
- (14) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).
- (15) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637 (d)(4).)
- (ii) Alternate I (Oct 2001) of 52.219-9.
- (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 (Nov 2011) (15 U.S.C. 637(a)(14)).
- (18) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (19) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (ii) Alternate I (June 2003) of 52.219-23.
- (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 Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).
- (23) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2012) (15 U.S.C. 632(a)(2)).
- (24) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2012) (15 U.S.C. 637(m)).

(25) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2012) (15 U.S.C. 637(m)).

(26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

(27) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Mar 2012) (E.O. 13126).

(28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

(29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(30) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(32) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

(33) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

(34) 52.222-54, Employment Eligibility Verification (Jan 2009). (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 Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

(ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

(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.

(38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011).

(39) 52.225-1, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

(40) (i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (May 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, and 112-42).

(ii) Alternate I (Mar 2012) of 52.225-3.

(iii) Alternate II (Mar 2012) of 52.225-3.

(iv) Alternate III (Mar 2012) of 52.225-3.

- (41) 52.225-5, Trade Agreements (May 2012) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- (42) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 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)).
- (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).
- (51) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).
- (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, 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:

- (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 (Sep 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) and (d) of this clause, the Contractor is not required to flow down 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 subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million 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 (Oct 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). Flow down required in accordance with paragraph (f) of FAR clause 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, Combating 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 Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(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.

**252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.**

**CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES  
OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF  
COMMERCIAL ITEMS (MAY 2012)**

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

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 Defense FAR Supplement 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)  252.203-7000, Requirements Relating to Compensation of Former DoD

Officials (SEP 2011) (Section 847 of Pub. L. 110-181).

(2)  252.203-7003, Agency Office of the Inspector General (APR 2012)(section 6101 of Pub. L. 110-252, 41 U.S.C. 3509).

(3)  252.205-7000, Provision of Information to Cooperative Agreement

Holders (DEC 1991) (10 U.S.C. 2416).

(4)  252.219-7003, Small Business Subcontracting Plan (DoD Contracts)

(SEP 2011) (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) X 252.225-7001, Buy American Act and Balance of Payments Program

(OCT 2011) (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) \_\_\_ 252.225-7009,  
Restriction on Acquisition of Certain Articles Containing Specialty Metals (JAN 2011)  
(10 U.S.C. 2533b).

(9) X 252.225-7012,  
Preference for Certain Domestic Commodities (JUN 2010) (10 U.S.C. 2533a).

(10) \_\_\_ 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools

(JUN 2005) (10 U.S.C. 2533a).

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

(12) \_\_\_ 252.225-7017, Photovoltaic Devices (MAY 2012) (Section 846 of Pub.

L. 111-383).

(13)(i) \_\_\_ 252.225-7021, Trade Agreements (MAY 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).

(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 Act—Free Trade Agreements—

Balance of Payments Program (MAY 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301

note).

- (ii) \_\_\_ Alternate I (OCT 2011) of 252.225-7036.
- (iii) \_\_\_ Alternate II (OCT 2011) of 252.225-7036.
- (iv) \_\_\_ Alternate III (OCT 2011) of 252.225-7036.
- (v) \_\_\_ Alternate IV (MAY 2012) of 252.225-7036.
- (vi) \_\_\_ Alternate V (MAY 2012) of 252.225-7036.
- (17) \_\_\_ 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (18) \_\_\_ 252.225-7039, Contractors Performing Private Security Functions (AUG 2011) (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 (SEP 2011), if applicable (see 227.7102-4(c)).
- (23) X 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).
- (24) \_\_\_ 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. 108-376).
- (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 Pub. L. 111-84).

(28) X 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge  
Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 110-417).

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

(ii) 252.247-7023, Alternate I (MAR 2000) of 252.247-7023.

(iii) 252.247-7023, Alternate II (MAR 2000) of 252.247-7023.

(iv) 252.247-7023, Alternate III (MAY 2002) of 252.247-7023.

(30) X 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 (FAR 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) 252.226-7039, Contractors Performing Private Security Functions (AUG 2011)  
(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. 111-389).

(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 (SEP 2011), 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 (SEP 2010) (Section 884 of Pub. L. 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).

### **CONTRACTOR BASE ENTRY PASS PROCEDURES**

Many bases currently require enrollment in RapidGate and will not allow entry without RapidGate clearance. During the contract start-up/implementation period, the Contractor must contact all customer locations to determine whether enrollment in RapidGate or another security program is required for access to each location. If RapidGate or other security enrollment is required, the contractor must take all necessary steps to obtain this in time for the start of performance under this contract. Failure to have RapidGate clearance may result in a vendor being turned away from the base and being unable to complete delivery. The contractor is responsible for the additional cost for RapidGate enrollment and must ensure that a RapidGate enrolled driver is available for all deliveries. We currently estimate that RapidGate enrollment will cost about \$250 per company and \$200 per enrolled employee for 1 year of access to multiple locations, but the cost of RapidGate or other security enrollment may vary, so the contractor should contact RapidGate to determine its own costs. If more than one driver is required, RapidGate enrollment must be obtained for each driver. Note that enrollment can take several weeks, so an awardee that is not already enrolled must begin enrollment at the time of award notification at the latest. If difficulty or delay in enrollment in RapidGate is encountered during the start-up/implementation period, the contractor MUST contact RapidGate and/or the Security Officer at the applicable customer locations to resolve any issues with processing RapidGate enrollment so that the contractor will be able to deliver as required. For additional information regarding RapidGate, including enrollment instructions, please visit their website at [www.rapidgate.com](http://www.rapidgate.com).

Please note that RapidGate is currently a requirement for access to some military bases; however, these and other locations may require enrollment in other security programs at some time in the future. In this event, the contractor is responsible for obtaining all required enrollments and clearances for each of their drivers as soon as they receive notice of such a requirement.

Deviation 2012-00004

Class Deviation- Prohibition Against Contracting With Corporations That Have an Unpaid Delinquent Tax Liability or a Felony Conviction under Federal Law

**252.209-7999 Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law.**

REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW  
(DEVIATION 2012-00004) (JAN 2012)

(a) In accordance with sections 8124 and 8125 of Division A of the Consolidated Appropriations Act, 2012, (Pub. L. 112-74) none of the funds made available by that Act may be used to enter into a contract with any corporation that-

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that-

(1) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all

judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Deviation 2012-00007

Class Deviation-Additional Responsibility Matters When Using Fiscal Year 2012 Funds.

**252.209-7998 Representation Regarding Conviction of a Felony Criminal Violation under any Federal or State Law.**

REPRESENTATION REGARDING CONVICTION OF A FELONY CRIMINAL VIOLATION UNDER ANY FEDERAL OR STATE LAW (DEVIATION 2012-00007) (MAR 2012)

(a) In accordance with section 514 of Division H of the Consolidated Appropriations Act, 2012, none of the funds made available by that Act may be used to enter into a contract with any corporation that was convicted of a felony criminal violation under any Federal or State law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government.

(b) The Offeror represents that it is  is not  a corporation that was convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.