

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

2 CONTRACT NO SPM300-12-D-3495		3 AWARD/EFFECTIVE DATE OCT 04 2011	4 ORDER NUMBER	5 SOLICITATION NUMBER SP0300-02-R-4015	1. REQUISITION NUMBER	6 SOLICITATION ISSUE DATE
7. FOR SOLICITATION INFORMATION CALL: WILLIAM ORWAT			b TELEPHONE NUMBER (No collect calls) 215-737-4274		8 OFFER DUE DATE LOCAL TIME	

9. ISSUED BY TROOP SUPPORT DLA DIRECTORATE OF SUBSISTENCE 700 ROBBINS AVENUE PHILADELPHIA, PA 19111-5096	CODE SPM300	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> (8)(A)
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11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12 DISCOUNT TERMS N/A	13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS 115 CFR 7001 <input type="checkbox"/>	13b. RATING	14. METHOD OF SOLICITATION <input type="checkbox"/> RFO <input type="checkbox"/> IFB <input type="checkbox"/> RFP
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15 DELIVER TO SEE SCHEDULE	CODE	16 ADMINISTERED BY SAME AS BLOCK 9	CODE
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17a. CONTRACTOR/OFFEROR U.S. FOODSERVICE 15155 NORTHAM STREET LA MIRADA, CA 90638 TELEPHONE NO 714-670-3680	CODE 1TZ63	FACILITY CODE	18a PAYMENT WILL BE MADE BY DFAS-BVDP (SL4701-BSM) PO BOX 369031 COLUMBUS, OH 43236-9031	CODE
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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
	THIS IS AN AWARD UNDER OTHER THAN FULL AND OPEN COMPETITION IAW 10 U.S.C. 2304(C)(1) ALL TERMS AND CONDITIONS OF CONTRACT SPM300-10-D-3341 ARE EXTENDED UNDER THIS CONTRACT. PV FULL LINE FOOD SERVICE FOR NAVY AND RE-SUPPLY SHIPS IN SAN DIEGO, CA. CONTRACT PERIOD: 04 OCT 2011 - 29 SEP 2012 <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>				

25 ACCOUNTING AND APPROPRIATION DATA 97X49305X 5CBX 001 2620 S33189	26 TOTAL AWARD AMOUNT (For Govt Use Only) \$35,419,404.68 (EST)
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27a SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4 FAR 52.212-3 AND 52.212-5 ARE ATTACHED ADDENDA 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

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
Anne van der Horst

31a UNITED STATES OF AMERICA SIGNATURE OF CONTRACTING OFFICER
Kenneth O'Donnell

30b NAME AND TITLE OF SIGNER (Type or print)
Vice President National Sales
Anne van der Horst

30c DATE SIGNED
9/28/11

31b. NAME OF CONTRACTING OFFICER (Type or print)
KENNETH O'DONNELL

31c. DATE SIGNED
OCT 03 2011

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	10% Minimum: \$3,541,940.47 125% Maximum: \$44,274,255.85 150% Maximum Alt Ceiling: \$53,129,107.02 All referenced FAR,DFAR,DLAD, and DLA-Troop Support clauses in contract SPM300-10-D3341 are hereby updated to the current version. Distribution Fees increased . . . See Attached. All other terms and conditions of this contract remain unchanged. The awardee may complete the annual representations and certificates electronically at http://orca.bpn.gov . The main contract number is SPM300-12-D-3495 (formerly SPM300-10-D-3341) w/three admin catalogs: SPM300-12-D-3496 (formerly SPM300-10-D-3342) SPM300-12-D-3497 (formerly SPM300-11-D-3453) SPM300-12-D-CA25 (formerly SPM300-10-D-CA21) The following clauses are incorporated into the contract by reference: FAR Clause 52.225-25, Iran (Sep2010) DLAD 52.216-9064 EPA Clause dated (Nov 2009) DFARS 252.242.7005, Contractor Business Systems (May 2011) FAR 52.244-2 Subcontracts (Oct 2010) DLAD 52.244-7001, Contractor Purchasing System Administration (May 2011) FAR Clauses 52.212-5, 52.225-25 and DFARS 252.212.701 are incorporated into the contract. See Attached.				

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. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE		
32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE					
33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	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
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 (<i>Print</i>)			
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE			
		42b. RECEIVED AT (<i>Location</i>)			
		42c. DATE REC'D (<i>YY/MM/DD</i>)	42d. TOTAL CONTAINERS		

CONTRACTOR CODE OF BUSINESS ETHICS (DEC 2010) DLA TROOP SUPPORT

FAR Part 3.1002(a) requires all government contractors to conduct themselves with the highest degree of integrity and honesty. Contractors should have a written code of business ethics and conduct. 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 or 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)

If this solicitation or contract includes FAR clause 52.203-13, CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT; contained elsewhere in the solicitation or contract, 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)

CONTRACTOR BASE ENTRY PASS PROCEDURES

Vendors providing supplies to these customers are required to enroll in the RapidGate program, as some bases will not allow entry without RapidGate clearance. 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. For additional information regarding RapidGate, including enrollment instructions, please visit their website at www.rapidgate.com.

FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (AUG 2011)

(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:

[Contracting Officer check as appropriate.]

(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).

(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.)

(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010) (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).

(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).

(7) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (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).

(8) 52.219-3, Notice of Total HUBZone Set-Aside or Sole-Source Award (Jan 2011) (15 U.S.C. 657a).

(9) 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).

(10) [Reserved]

(11)(i) 52.219-6, Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).

(ii) Alternate I (Oct 1995) of 52.219-6.

(iii) Alternate II (Mar 2004) of 52.219-6.

- (12)(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.
- (13) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).
- (14)(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 (Jul 2010) of 52.219-9.
- (15) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- (16) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (17)(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.
- (18) 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).
- (19) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (20) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 I).
- (21) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).
- (22) 52.219-29 Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2011).
- (23) 52.219-30 Notice of Total Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2011).
- (24) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (25) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).
- (26) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (27) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- (28) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).
- (29) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- (30) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- (31) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- (32) 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.)

___ (33)(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.)

___ (34) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

___ (35)(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 (36) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

X (37) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

___ (38)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (June 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

___ (ii) Alternate I (Jan 2004) of 52.225-3.

___ (iii) Alternate II (Jan 2004) of 52.225-3.

___ (39) 52.225-5, Trade Agreements (AUG 2009) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

X (40) 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).

___ (41) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (42) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (43) 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)).

___ (44) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

X (45) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

___ (46) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

___ (47) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

___ (48) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (49)(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:

[Contracting Officer check as appropriate.]

- ___ (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) (41 351, *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), 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.

As prescribed in 212.301(f)(iii), use the following clause:

**CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES
OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF
COMMERCIAL ITEMS (JUN 2011)**

(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.

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 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) X 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

(2) 252.203-7003, Agency Office of the Inspector General (SEP 2010)(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) (OCT 2010) (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 (JAN 2009) (41 U.S.C. chapter 83, E.O. 10582).

(ii) Alternate I (DEC 2010) 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)(i) ___ 252.225-7021, Trade Agreements (JUN 2011) (19 U.S.C. 2501-2518
and 19 U.S.C. 3301 note).
- (ii) ___ Alternate I (SEP 2008) of 252.225-7021.
- (iii) ___ Alternate II (DEC 2010) of 252.225-7021.
- (13) ___ 252.225-7027, Restriction on Contingent Fees for Foreign Military
Sales (APR 2003) (22 U.S.C. 2779).
- (14) ___ 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR
2003) (22 U.S.C. 2755).
- (15)(i) X 252.225-7036, Buy American Act—Free Trade Agreements—Balance of
Payments Program (DEC 2010) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).
- (ii) ___ Alternate I (JUL 2009) of 252.225-7036.
- (iii) ___ Alternate II (DEC 2010) of 252.225-7036.
- (iv) ___ Alternate III (DEC 2010) of 252.225-7036
- (16) ___ 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10
U.S.C. 2534(a)(3)).
- (17) 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).
- (18) ___ 252.227-7015, Technical Data—Commercial Items (MAR 2011)
(10 U.S.C. 2320).

- (19) ___ 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- (20) X 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).
- (21) ___ 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84)
- (22) X 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).
- (23) X 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- (24) ___ 252.246-7004, Safety of Facilities, Infrastructure, and Equipment For Military Operations (OCT 2010) (Section 807 of Pub. L. 111-84).
- (25) 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).
- (26)(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.
- (27) X 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(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) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor

Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

(2) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).

(3) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417).

(4) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C . 2631).

(5) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

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