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|--|-----------------------------------|--|--|--|---|
| SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i> | | | | 1. REQUISITION NUMBER ARS00-2322-00100 | PAGE 1 OF 48 |
| 2. CONTRACT NO. | 3. AWARD/EFFECTIVE DATE | 4. ORDER NUMBER | 5. SOLICITATION NUMBER SP0300-03-R-7059 | 6. SOLICITATION ISSUE DATE APR 02, 2003 | |
| 7. FOR SOLICITATION INFORMATION CALL: | | a. NAME James A. Lecollier | b. TELEPHONE NUMBER (No collect calls) (215) 737-3625 | 8. OFFER DUE DATE/ LOCAL TIME SEE PAGE 2 | |
| 9. ISSUED BY Defense Supply Center Philadelphia Directorate of Subsistence, Bldg. 6 700 Robbins Avenue Philadelphia, PA 19111-5098 Phone: (215) 737-3625 Fax: (215) 737-7774 | | CODE SP0300 | 10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: %FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV. BUSINESS <input type="checkbox"/> (8(A)) SIC: 2032 SIZE STANDARD: 1000 | | 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. THIS ACQUISITION IS <input type="checkbox"/> RFP <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP |
| 15. DELIVER TO FOB Origin/See Schedule, page 3 | | CODE | 18. ADMINISTERED BY | | CODE |
| 17a. CONTRACTOR/OFFEROR | CODE | FACILITY CODE | 18a. PAYMENT WILL BE MADE BY | | CODE |
| TELEPHONE NO. | | 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/> | | 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a, UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM | |
| 19. ITEM NO. | 20. SCHEDULE OF SUPPLIES/SERVICES | | 21. QUANTITY | 22. UNIT | 23. UNIT PRICE |
| See page 3 | | | | | |
| | | | <i>(Attach Additional Sheets as Necessary)</i> | | |
| 25. ACCOUNTING AND APPROPRIATION DATA | | | 29. TOTAL AWARD AMOUNT (For Govt. Use Only) | | |
| <input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA | | | <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. | | |
| <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA | | | <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED. | | |
| 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN. | | | 29. AWARD OF CONTRACT: REFERENCE <u>1</u> COPIES DATED <u>1</u> YOUR OFFER ON SOLICITATION (BLOCK <u>5</u>), 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) James A. Lecollier | | 31c. DATE SIGNED |
| 32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED | | 33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | | 34. VOUCHER NUMBER | 35. AMOUNT VERIFIED CORRECT FOR |
| 32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE | | 32c. DATE SIGNED | 36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL | | 37. CHECK NUMBER |
| 41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT | | 38. S/R ACCOUNT NUMBER | | 39. S/R VOUCHER NUMBER | 40. PAID BY |
| 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER | | 41c. DATE SIGNED | 42a. RECEIVED BY (Print) | | |
| | | | 42b. RECEIVED AT (Location) | | |
| | | | 42c. DATE REC'D (YY/MM/DD) | | |

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

Page 1, continued

1. Block 8

Offer Due Date/Local Time: 05 May 2003, 3:00 PM

2. Block 9 (continued)

Mailed offers should be sent to:

Defense Logistics Agency
Defense Supply Center Philadelphia
P. O. Box 56667
Philadelphia, PA 19111-6667

Handcarried offers, including delivery by commercial carrier, should be delivered to:

Defense Supply Center Philadelphia
Business Opportunity Office
Bldg. 36, 2nd Floor, Wing E
700 Robbins Avenue
Philadelphia, PA 19111-5062

Note: All hand carried 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 "hand carries" the package to the depository specified above for hand carried 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.

Facsimile offers (if authorized; see "Addendum" to 52.212-1 (b)) or offer modifications/withdrawals should be transmitted to:

(215) 737-9300, 9301, 9302, or 9303

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.)

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

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

5. Continuation of Blocks 19-24**Block 19 Item Number**

0001

0002

Block 20 Scheduled of Supplies/Services:

0001 NSN: 8970-01-467-1753 Meal Cold Weather (MCW)

0002 NSS: 8970-01-467-1749 Long Range Patrol (LRP)

Blocks 20, 21 & 22**BASE YEAR:**

| <u>Line Item</u> | <u>Min Qty</u> | <u>Unit</u> | <u>Max Qty</u> | <u>Unit</u> | <u>Required Delivery Date</u> |
|------------------|----------------|-------------|----------------|-------------|-------------------------------|
| 0001 | 19,008 | cases | 38,016 | cases | NLT 120 days after award |
| 0002 | 5,760 | cases | 11,320 | cases | NLT 120 days after award |

This acquisition contains two one year options. Acceptance of the option provision(s)/clauses(s) contained herein is mandatory. The option is deemed exercised when mailed or otherwise furnished to the contractor.

Option Pricing:

Failure to offer on the option quantities in the schedule at Section B may result in the rejection of the offeror's entire proposal.

Offerer may offer different unit prices from the base year.

OPTION YEAR I:

| <u>Line Item</u> | <u>Min Qty</u> | <u>Unit</u> | <u>Max Qty</u> | <u>Unit</u> | <u>Required Delivery Date</u> |
|------------------|----------------|-------------|----------------|-------------|-------------------------------|
| 0001 | 19,008 | cases | 38,016 | cases | NLT 120 days after award |
| 0002 | 5,760 | cases | 11,320 | cases | NLT 120 days after award |

OPTION YEAR II:

| <u>Line Item</u> | <u>Min Qty</u> | <u>Unit</u> | <u>Max Qty</u> | <u>Unit</u> | <u>Required Delivery Date</u> |
|------------------|----------------|-------------|----------------|-------------|-------------------------------|
| 0001 | 19,008 | cases | 38,016 | cases | NLT 120 days after award |
| 0002 | 5,760 | cases | 11,320 | cases | NLT 120 days after award |

SECTION C**C-1 ITEM DESCRIPTION****ACR-M-001, Meal Cold Weather/Food Packet Long Range Patrol, Combined Ration, Assembly Requirements**

The Meal, Cold Weather/Food Packet, Long Range Patrol provides an operational ration for two separate operational scenarios. The Meal, Cold Weather (MCW) is intended for cold weather feeding, it will not freeze and supplies extra drink mixes for countering dehydration during cold weather activities. It can be issued at three per day for complete cold weather ration. The Food Packet, Long Range Patrol (LRP) is a restricted calorie ration meant for special operations, where resupply is not available and weight and volume are critical factors. It is issued at one per soldier per day for up to ten days. The combined product assembly consists of twelve ration/meals packets per shipping container.

C-2 ASSEMBLY REQUIREMENTS**A. Components.**

- (1) Menu components. The components required for menu assembly shall be as specified in Table I.

TABLE I. Components

| <u>Component</u> | <u>Reference</u> | <u>Menu</u> |
|--|---|-------------|
| Entrees | | |
| Beef Stew | PCR-B-015, Style A or B | 7 |
| Beef Stroganoff with Noodles | PCR-B-016, Style A or B | 2 |
| Beef Teriyaki with Rice | PCR-B-017, Style A or B | 9 |
| Chicken and Rice | PCR-C-025, Style A or B | 5 |
| Chicken, Spicy Oriental with Rice | PCR-C-026, Style A or B | 1 |
| Egg, Scrambled | PCR-E-001, Style A or B | |
| Scrambled Eggs and Bacon Pieces | Type II | 11 |
| Scrambled Eggs with Cheese, | Type III | 10, 12 |
| Western Style | | |
| Lasagna with Meat and Sauce | PCR-L-001, Style A or B | 6 |
| Pork, Sweet and Sour with Rice | PCR-P-010, Style A or B | 3 |
| Spaghetti with Meat Sauce | PCR-S-008, Style A or B | 8 |
| Turkey Tetrazinni | PCR-T-002, Style A or B | 4 |
| Starches | | |
| Cereal, Wheat, Enriched Farina, Instant, Brown Sugar Cinnamon, Maple Brown Sugar, or Apple and Cinnamon | A-A-20108A, Type I, Style B, Flavor 2, 3 or 4, Package A or B | 10 1/ |
| Cereals, Rolled Oats, Instant, Apple and Cinnamon, Maple and Brown Sugar, Cinnamon and Spice, or Strawberries and Cream | A-A-20090B, Type II, Flavor B, C, E or F, Package A or B | 11, 12 1/ |
| Soup, Noodle, Ramen, Instant, Fried Noodle, Cup (Repacked to Pouch). | A-A-20297, Type I, Style A, Flavor 1 or 2, Package A or B | 3, 5 1/ |

Beef or ChickenSnacks and Candy

| | | |
|--|--------------------------------|--------------|
| Cakes and Brownies, Shelf-Stable | PCR-C-007B, Package A or B | |
| Cakes: Vanilla, Lemon, Orange, | Type I, Flavors 1, 2, 3, 4, 6 | 7 1/ |
| Pineapple, Lemon Poppy Seed or Spice | or 7 | |
| Fudge Brownie with Chocolate Drops | Type II, Flavor 1, Style C | 4, 12 |
| Candy and Chocolate Confections | A-A-20177B, Package A or B | |
| Toffee Rolls, Chocolate Flavored | Type II | 7 |
| Chocolate Pan Coated Disks | Type VI, Flavor 1 | 8 |
| Chocolate with Peanut Butter Pan | Type VI, Flavor 4 | 12 |
| Coated Disks | | |
| Starch Jelly Candy | Type VIII | 2 |
| Cheese Spread, Cheddar, Plain, with | MIL-C-595E, Type I, II or III, | 4 1/ |
| Jalapeno Peppers or with Bacon | White or Tan Package | |
| Chocolate Sports Bar | PCR-C-004, White or Tan | 2, 10 |
| | Package | |
| Cookies, Regular, Fig Bar, Soft and | A-A-20295A, Type I, Style P, | 1, 11 |
| Chewy, Individual Serving | Bake Type b, Class 1, | |
| | Package A or B | |
| Cookies, Regular, Shortbread, Plain, | A-A-20295A, Type I, Style A, | 6, 9 |
| Crisp, Individual Serving | Flavor 1, Bake Type a, Class | |
| | 1, Package A or B | |
| Cookies, Oatmeal, and Brownies, | MIL-C-44072C, Type II, | 5, 7 |
| Chocolate Covered | White or Tan Package | |
| Crackers, Plain or Vegetable | MIL-C-44112D, Type I or II, | 1, 3, 4, |
| | White or Tan Package | 9 1/ |
| Nut Raisin Mix | PCR-N-002, Style A or B | 2, 6, 8, 11 |
| Peanut Butter, Regular, Creamy, | A-A-20328, Type I, Class 1, | 1, 3, 9 |
| Stabilized, Grade A, Fortified | Texture A, Style 1, Grade A, | |
| | Fortificat. b, Package A or B | |
| Snack Foods, Filled Pretzels, Cheddar or | A-A-20195B Type II, Style F, | 10 1/ |
| Nacho Cheese | Flavor 1 or 2, Package A or B | |
| Toaster Pastry, Regular, Unfrosted, | A-A-20211A, Type I, Style A, | 6, 8 |
| Brown Sugar Cinnamon, Rectangular, | Flavor C, Shape I, Servings a, | |
| Single Serving, Shelf Stable | Class 1, Package A or B | |
| <u>Beverages</u> | | |
| Beverage Base, Powdered, Sweetened | A-A-20098B, Type II, Package | |
| with Nutritive Sweetener | A or B | |
| Orange, Fortified with Vitamin Premix | Flavor 1, Fortification c | 4, 5, 10, 11 |
| Lemon, Lime, Lemon-Lime, Grape or | Flavor 2, 3, 4, 5 or 6 | 1 1/ |
| Cherry, Fortified with Ascorbic Acid | | |
| Cocoa Beverage Powder, Regular, | MIL-C-3031J, Type I, Class 1, | 2, 5, 8, |
| Fortified | White or Tan Package | 10, 11, 12 |
| Coffees, Flavored, Instant, Powdered, | A-A-20336, Type II, Style A, | 1, 3, 6 1/ |

Cappuccino, Regular, French Vanilla or Mocha Flavor 1 or 2, Package A or B

Other

Spoon, Fork, Knife and Spoon, Picnic, Plastic, High Impact, 7-inch, Brown A-A-3109, Type 4, Item 13 All

1/ An equal quantity of at least three flavors of cakes (menu 7), two flavors of cream of wheat (menu 10), three flavors of oatmeal (menus 11, 12), two flavors of cheese (menu 4) two flavors of filled pretzels (menu 10), two flavors of soup (menu 3, 5), two flavors of crackers (menus 1, 3, 4, 9), three flavors of beverage base (menu 1) and two flavors of cappuccino (menus 1, 3, 6) will be procured and distributed in as uniform manner as possible.

(2) Accessory packet components. The components required for accessory packet assembly shall be as specified in Table II.

TABLE II. Accessory Packet Components

| Component | Reference | Packet |
|--|--|---------|
| Coffee, Instant, Freeze Dried, Regular | A-A-20184, Type III, Style A | All |
| Creamer, Non-Dairy, Dry | A-A-20043A | All |
| Sugar, White, Granulated | A-A-20135B, Type I, Style A, 1/7 oz. | All |
| Beverage Base, Powdered, Apple Cider, Sweetened with Nutritive Sweetener, Fortified with Ascorbic Acid | A-A-20098B, Type II, Flavor 12, Fortification b | C, F 2/ |
| Tea, Instant, Regular, Sweetened with Nutrient Sweetener, Lemon | A-A-20183A, Type I, Style B, Flavor 2 | B, E 2/ |
| Chewing Gum, Tablet, Regular, Peppermint or Spearmint | A-A-20175A, Type I, Class A, Flavor 1 or 2 | All |
| Hot Sauce, Extra Hot | A-A-20097C, Type II, 1/8 fl. oz. | All 1/ |
| Salt | Monograph, 4 gram | A, B, C |
| Hand Cleaner (Pre-Moistened Towelette) | A-A-461B, Type II | All |
| Toilet Paper | A-A-59594, Style I, Type A, Class 1, Size a | A, B, C |
| 2 Packets | | D, E, F |
| 1 Packet | | All |
| Matches, Paper, 20 Splint Book | A-A-59489, Type I, Class A | All |

1/ Alternatively, hot sauce may be packed loose in the meal bag.

2/ If apple cider (menus 7, 9) is a 17 gram package, two commercial packages are required for a 34 gram serving. Instant tea (menus 4, 6, 12) requires a 17 gram commercial package.

(3) Menu contents. The menu contents shall be as specified in Table III.

TABLE III. Menu Contents

| Menu #1 | Menu #2 |
|----------------------------------|------------------------------|
| Spicy Oriental Chicken with Rice | Beef Stroganoff with Noodles |
| Fig Bar | Chocolate Sports Bar |
| MRE Crackers 1/ | Starch Jellies |
| MRE Peanut Butter | Nut Raisin Mix |
| Cappuccino 1/ | Cocoa Beverage Powder |
| MRE Beverage Base 1/ | LRP: Accessory Pack A |
| LRP: Accessory Pack A | MCW: Accessory Pack D |
| MCW: Accessory Pack D | Spoon |
| Spoon | |
| Menu #3 | Menu #4 |
| Sweet & Sour Pork with Rice | Turkey Tetrazzini |
| MRE Crackers 1/ | Fudge Brownie |
| MRE Peanut Butter | MRE Crackers 1/ |
| Soup, Noodle, Ramen, Instant 1/ | MRE Cheese Spread 1/ |
| Cappuccino 1/ | Beverage Base, Orange |
| LRP: Accessory Pack A | LRP: Accessory Pack B |
| MCW: Accessory Pack D | MCW: Accessory Pack E |
| Spoon | Spoon |
| Menu #5 | Menu #6 |
| Chicken & Rice | Lasagna with Meat & Sauce |
| Soup, Noodle, Ramen, Instant 1/ | Nut Raisin Mix |
| Chocolate Covered Cookies | Toaster Pastry |
| Beverage Base, Orange | Shortbread Cookies |
| Cocoa Beverage Powder | Cappuccino 1/ |
| LRP: Accessory Pack A | LRP: Accessory Pack B |
| MCW: Accessory Pack D | MCW: Accessory Pack E |
| Spoon | Spoon |

TABLE III. Menu Contents (cont'd)

| Menu #7 | Menu #8 |
|---------------------------|--|
| Beef Stew | Spaghetti with Meat Sauce |
| Cake 1/ | Nut Raisin Mix |
| Chocolate Toffee Roll | Toaster Pastry |
| Chocolate Covered Cookies | Chocolate Disks, Pan Coated |
| LRP: Accessory Pack C | Cocoa Beverage Powder |
| MCW: Accessory Pack F | LRP: Accessory Pack A |
| Spoon | MCW: Accessory Pack D |
| | Spoon |
| Menu #9 | Menu #10 |
| Beef Teriyaki with Rice | Scrambled Eggs with Cheese, Western style |
| Shortbread Cookies | Cream of Wheat Cereal 1/ |
| MRE Crackers 1/ | Chocolate Sports Bar |
| MRE Peanut Butter | Filled Pretzels 1/ |
| LRP: Accessory Pack C | Beverage Base, Orange |
| MCW: Accessory Pack F | Cocoa Beverage Powder |
| Spoon | LRP: Accessory Pack A |
| | MCW: Accessory Pack D |
| | Spoon |
| Menu #11 | Menu #12 |
| Scrambled Eggs with Bacon | Scrambled Eggs with Cheese, Western Style |
| Oatmeal, Flavored 1/ | Oatmeal, Flavored 1/ |
| Nut Raisin Mix | Fudge Brownie |
| Fig Bar | Chocolate w/Peanut Butter Disks |
| Beverage Base, Orange | Cocoa Beverage Powder |
| Cocoa Beverage Powder | LRP: Accessory Pack B |
| LRP: Accessory Pack A | MCW: Accessory Pack E |
| MCW: Accessory Pack D | Spoon |
| Spoon | |

1/ An equal quantity of at least three flavors of cakes (menu 7), two flavors of cream of wheat (menu 10), three flavors of oatmeal (menus 11, 12), two flavors of cheese (menu 4) two flavors of filled pretzels (menu 10), two flavors of soup (menu 3, 5), two flavors of crackers (menus 1, 3, 4, 9), three flavors of beverage base (menu 1) and two flavors of cappuccino (menus 1, 3, 6) will be procured and distributed in as uniform manner as possible.

SECTION D**D-1 PACKAGING****A. Components.**

(1) Meal bag. The meal bag shall be made from food grade, low density polyethylene (LDPE). Polyethylene tubing shall have a minimum thickness of 0.010 inch. The inside dimensions of the bag shall not exceed 8-1/8 x 12-1/2 inches. The color of the meal bag for food packet LRP shall conform to number 20219, 30219, 30279, 30313, 30324, or 30450 of FED-STD-595, Colors Used in Government Procurement. The color of the meal bag for MCW shall conform to number 37778 to 37886 of FED-STD-595. The bag manufacturer's seal shall be a minimum of 1/8-inch wide, continuous, peelable seal that forms an hermetic closure. The seal shall be designed with an inverted "V" shaped peel indicator along the seal path (see Figures 1 and 2). The seal strength of each seal shall be not less than 4 pounds per linear inch and the peelable seal shall be not greater than 10 pounds per linear inch.

(2) Accessory packet. The accessory packet shall be a preformed pouch or a form-fill seal packet. The color of the exterior of the packet shall be clear or tan for the food packet LRP, conforming to number 20219, 30219, 30279, 30313, 30324, or 30450 of FED-STD-595, or clear or white for the MCW, conforming to number 37778 through 37886 of FED-STD-595. The packet shall be fabricated from polymeric films or film combinations with adequate strength and thickness to contain and protect the components throughout assembly and storage. The water vapor transmission rate (WVTR) of the film shall not exceed 6.2 gm/m²/24 hrs/90%rh/100°F when tested in accordance with ASTM F 372, ASTM E 96, or Method 3030 of FED-STD-101. The inside dimensions of the packet shall not exceed 5-1/8 x 7-3/8 inches. A tear notch or serrated edge shall be located on the outer edge of one or both side seals. The seal strength of the seals shall be not less than 3.5 pounds per linear inch.

(3) Time-temperature indicator (TTI) label. The TTI label shall be a pressure sensitive adhesive label. The TTI label shall have an activation energy (E_a) of 24 to 30 kcal/mole, shall be protected from ultraviolet radiation and shall have a shelf life of 1100 days at 80°F as pivot point.

B. Meal bag.

(1) Menu assembly. One each of the applicable components indicated in Table I shall be inserted in the meal bag specified in D-1,A.(1). The open end of the bag shall be hermetically sealed with a heat seal not less than 1/8 inch wide. The closure seal shall have a seal strength of not less than 4 pounds per linear inch (see section E,A.(3)). The torn test samples shall be visually examined to verify the presence of a seal "witness" (a pale trace) of the cohesive bond. Any evidence of a seal witness on any of the seal strength samples shall be considered evidence that the peelable additive is present in the bag.

(2) Accessory packet assembly. One of each of the applicable components indicated in Table II shall be inserted in the accessory packet specified in D-1,A (2). When a preformed pouch is used, a minimum of 1/8 inch wide heat seal shall be applied to effect closure of the pouch. When a form-fill seal packet is used, components shall be placed in the tray-shaped or flat sheet body and the cover applied by heat sealing. The sealed accessory packets shall not show any evidence of material degradation or delamination from packet fabrication, forming, or heat sealing. The average seal strength of the packet seals shall be not less 3.5 pounds per inch of width and no individual specimen shall have a seal strength of less than 3.0 pounds per inch width when tested in accordance with section E,A. (3).

D-2 LABELING

A. Meal bag. Each meal bag shall be printed on at least one face in dark contrasting colored permanent ink with the information contained in Figures 1 and 2.

B. Accessory packet. Accessory packet, if not of clear material, shall be printed on one side in dark contrasting colored permanent ink:

ACCESSORY PACKET

C. Shipping containers. The time-temperature indicator (TTI) shall be adhered to the side of the box, with a 1/4 inch quiet zone around it containing no labels or marking. Identification markings shall be placed on the sleeve end.

D-3 PACKING

A. Packing. Twelve rations, one of each menu as specified in Table III, shall be packed in a fiberboard box. The fiberboard box shall conform to style RSC-SL, grade V2s of ASTM D 5118, Standard Practice for Fabrication of Fiberboard Shipping Boxes. Water-resistant adhesive shall be used to form the manufacturer's joint of the box and sleeve. Inside box dimensions shall be 16-1/4 inches in length, 9-1/8 inches in width, and 9-3/4 inches in depth. The box shall be closed in accordance with method 2A1 of ASTM D 1974, Standard Practice for Methods of Closing, Sealing, and Reinforcing Fiberboard Shipping Containers. Boxes shall be reinforced in accordance with ASTM D 1974 with two nonmetallic straps.

D-4 UNITIZATION

A. Unit loads. Forty-eight boxes shall be arranged on a 40 x 48 inch flush or double wing, partial 4 way entry wood pallet. Each prepared load shall be bonded with nonmetallic strapping, or shrink film, or stretch film.

D-5 MARKING

A. Marking. Marking of shipping containers and unit loads shall be in accordance with DPSC Form 3556, Marking Instructions for Shipping Cases, Sacks and Palletized/Containerized Loads of Perishables and Semiperishable Subsistence.

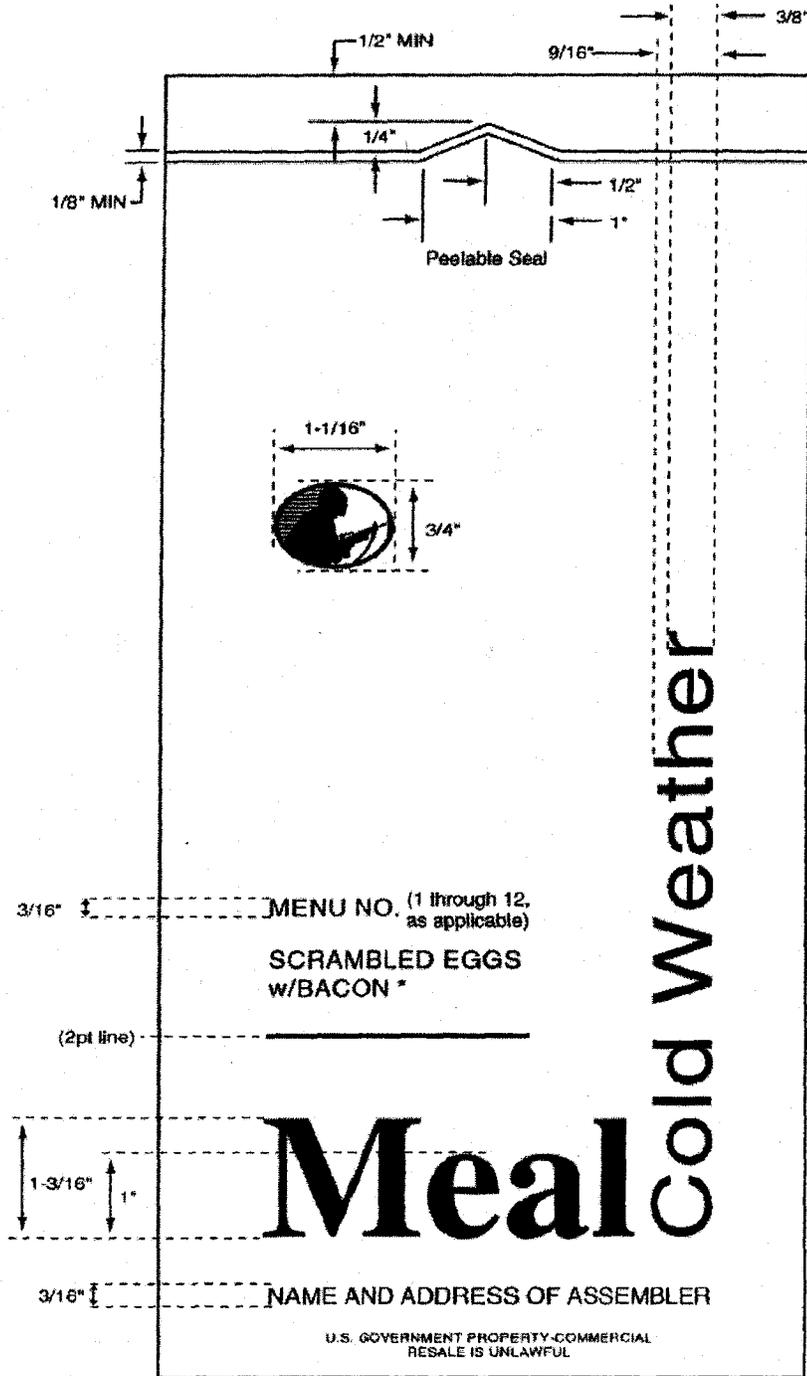


FIGURE 1. GRAPHIC DESIGN AND LETTERING HEIGHT **

* Name of applicable entree component as listed in table I component column

** A tolerance of plus or minus 1/16 inch is applicable to letter height requirements

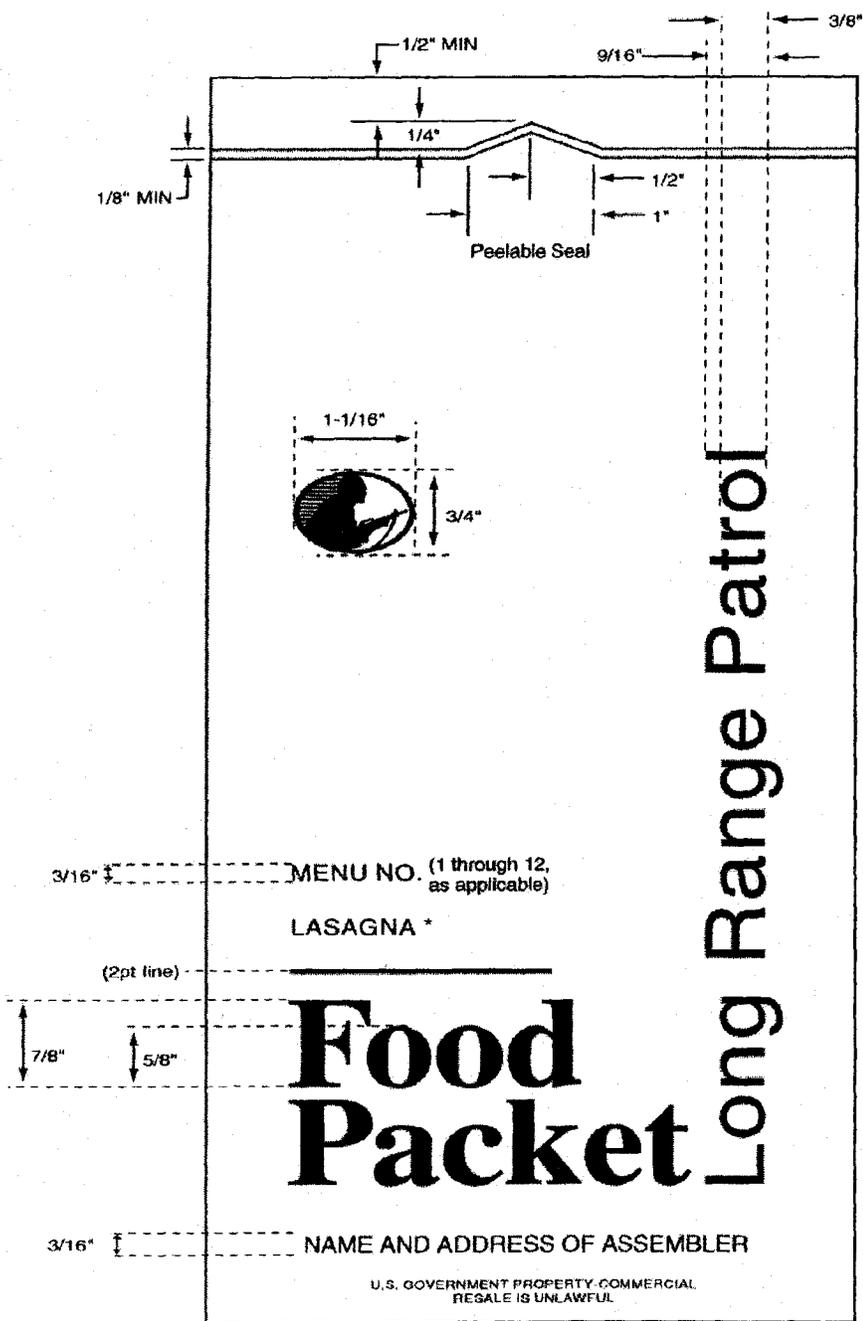


FIGURE 2. GRAPHIC DESIGN AND LETTERING HEIGHT **

* Name of applicable entree component as listed in table I component column

** A tolerance of plus or minus 1/16 inch is applicable to letter height requirements

SECTION E INSPECTION AND ACCEPTANCEDefinitions.

(1) Critical defect. A critical defect is a defect that judgment and experience indicate would result in hazardous or unsafe conditions for individuals using, maintaining, or depending on the item; or a defect that judgment and experience indicate is likely to prevent the performance of the major end item, i.e., the consumption of the ration.

(2) Major defect. A major defect is a defect, other than critical, that is likely to result in failure, or to reduce materially the usability of the unit of product for its intended purpose.

(3) Minor defect. A minor defect is a defect that is not likely to reduce materially the usability of the unit of product for its intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the unit.

Quality Assurance Provisions.

The following quality assurance criteria, utilizing ANSI/ASQC Z1.4-1993, Sampling Procedures and Tables for Inspection by Attributes, are required.

A. Packaging examination.

(1) Accessory packet. Material shall be certified by a certificate of conformance or by laboratory examination. The filled and sealed packets shall be examined for the defects listed in Table IV. The lot size shall be expressed in packets. The sample unit shall be one packet. The inspection level shall be S-4 and the acceptable quality level (AQL), expressed in terms of defects per hundred units, shall be 2.5 for major defects and 4.0 for minor defects.

TABLE IV. Accessory packet defects

| Category | | Defect |
|----------|-------|--|
| Major | Minor | |
| 101 | | Not clean. 1/ |
| | 201 | Effective heat seal closure width less than 1/8 inch at any point. |
| | 202 | Tear, nick, notch, or serrations missing; or do not facilitate easy opening; or assembler's seal extends into or below tear, nick, or notch. |
| | 203 | Dimensions not as specified. |
| | 204 | Tear, hole, or open seal. |
| | 205 | Evidence of delamination. |
| | 206 | Labeling missing, incorrect, or illegible. |
| | 207 | Missing or unserviceable component. |
| | 208 | Foreign odor. |

1/ Outer packaging shall be free from foreign matter, which is unwholesome, has the potential to cause package damage (for example, glass, metal fillings, etc.), or generally detracts from the clean appearance of the package. The following examples shall not be scored as defects for unclean:

a. Foreign matter which presents no health hazard or potential package damage and which can be readily removed by gently shaking the package or by gently brushing the package with a clean dry cloth.

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b. Localized dried product which affects less than 1/8 of the total surface area of one pouch face, or an aggregate of scattered dried product which affects less than 1/4 of the total surface area of one pouch face.

(2) Assembled meal bag examination. Material shall be certified by a certificate of conformance or by laboratory examination. The filled and sealed meal bags shall be externally inspected and then opened and the components inspected for the defects listed in Table V. The lot size shall be expressed in bags. The sample unit shall be one bag. The inspection level shall be S-4 and the AQL, expressed in terms of defects per hundred units, shall be 2.5 for major defects and 4.0 for minor defects. A minimum of 50 samples shall be examined for critical defects. The finding of any critical defect shall be cause for rejection of the lot.

TABLE V. Assembled meal bag defects

| Category | | Defect |
|----------|-------|--|
| Critical | Major | Minor |
| 1 | | Tear, hole, or puncture in cheese spread. |
| 2 | | Swollen cheese spread pouch. |
| | 101 | Menu component missing or incorrect assortment for menu package. <u>1/</u> |
| | 102 | Not clean, the meal bag or any of the outer packaging of its contents. <u>2/</u> |
| | 103 | Foreign odor. |
| | 104 | Meal bag or component labeling missing, incorrect, or illegible. |
| | 105 | Tear, hole, puncture, or open seal in component packages. |
| | 106 | Loss of vacuum in vacuum packaged components. <u>3/</u> |
| | 107 | Crushed or broken component. |
| | 108 | Broken spoon. |
| | 109 | Candy not in barrier pouch. |
| | 201 | Tear notch or slit missing or not as specified. |
| | 202 | Tear, hole, open seal, or split in meal bag. |
| | 203 | Tear, hole, puncture, or open seal in accessory packet bag. |
| | 205 | Inverted "V" shaped peel indicator missing or not located as specified. |
| | 206 | Color, when used, incorrect. |

1/ Hot sauce shall be either loose in meal bag or packed in the accessory packet.

2/ Outer packaging shall be free from foreign matter, which is unwholesome, has the potential to cause package damage (i.e. glass, metal filings, etc.), or generally detracts from the clean appearance of the package. The following examples shall not be scored as defects for unclean:

a. Foreign matter which presents no health hazard or potential package damage and which can be readily removed by gently shaking the package or by gently brushing the package with a clean dry cloth.

b. Localized dried product which affects less than 1/8 of the total surface area

b. Localized dried product which affects less than 1/8 of the total surface area of one pouch face, or an aggregate of scattered dried product which affects less than 1/4 of the total surface area of one pouch face.

3/ When vacuum retention cannot be determined visually by obvious cling of the bag walls to the contents, retention shall be verified by testing as specified in the Packaging Requirements and Quality Assurance Provisions for Dehydrated Product in a Brickpack Pouch.

(3) Seal strength testing. Seals of the meal bag and the accessory packet shall be tested for seal strength in accordance with ASTM F 88, Seal Strength of Flexible Barrier Materials. The lot size shall be expressed in bags or packets. Sample unit shall be one sealed bag or packet. The inspection level shall be S-1. The results shall be reported to the nearest 0.1 pound per inch of width. Any result failing to meet the requirements of D-1,A (1) for meal bag or D-1,A (2) for accessory packet shall be cause for rejection of the lot.

B. Packing.

(1) Shipping container examination. The filled and closed shipping container shall be examined for the defects listed in Table VI. The lot size shall be expressed in shipping containers. The sample unit shall be one shipping container fully packed. The inspection level shall be S-3 and the AQL, expressed in terms of defects per hundred units, shall be 4.0 for major defects and 10.0 for total defects.

TABLE VI. Shipping container defects

| Category | | Defect |
|----------|-------|---|
| Major | Minor | |
| 101 | | Marking missing, incorrect or illegible. |
| 102 | | Missing ration. |
| 103 | | Not one of each menu specified. |
| | 201 | Not packaged or arranged as specified. |
| | 202 | Time-temperature indicator missing or not located as specified. |

SECTION J REFERENCE DOCUMENTS

DPSC FORMS

DPSC FORM 3556 Marking Instructions for Shipping Cases, Sacks and
Palletized/Containerized Loads of Perishable and Semiperishable
Subsistence

FEDERAL STANDARD

FED-STD-101 Test Procedures for Packaging Materials
FED-STD-595 Colors Used in Government Procurement

NON-GOVERNMENTAL STANDARDS

AMERICAN SOCIETY FOR QUALITY CONTROL (ASQC)

ANSI/ASQCZ1.4-1993 Sampling Procedures and Tables for Inspection by Attributes

AMERICAN SOCIETY FOR TESTING AND MATERIALS (ASTM)

D 1974 Standard Practice for Methods of Closing, Sealing, and Reinforcing
Fiberboard Shipping Containers
D 5118 Standard Practice for Fabrication of Fiberboard Shipping Boxes
E 96 Standard Test Methods for Water Vapor Transmission of Materials
F 88 Seal Strength of Flexible Barrier Materials
F 372 Standard Test Method for Water Vapor Transmission of Flexible Barrier
Materials Using and Infrared Detection Technique

AOAC INTERNATIONAL Official Methods of Analysis of the AOAC International

SECTION I - CONTRACT CLAUSES

52.216-18 ORDERING (OCT 1995)

(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 Schedule. Such orders may be issued from date of award through date of expiration of contract

(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) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

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

52.216-9P06 DELIVERY ORDER LIMITATIONS (JAN 1992) DSCP

(a) Minimum Order.

When the government requires supplies or services covered by this contract in an amount of less than 1 Box, 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 single item in excess of max quantity;

(2) Any order for a combination of items in excess of 500,000 or

(3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(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) above.

52.216-9P06 (continued)

(d) Notwithstanding paragraphs (b) and (c) above, the contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order(s) is returned to the ordering office within 2 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.

(e) The delivery order(s) shall specify delivery(ies) no less than 7 days from the date of issuance of the delivery order. Changes and/or cancellations to delivery order(s) may be made by giving contractor no less than 24 hours notice to be computed from time of receipt by the contractor of the written or oral change(s) or cancellation(s).

on which warranty action is proposed, even though the sample size may be less than that required for such quantity. The original inspection lots need not be reconstituted, nor shall the contracting officer be required to use the same lot size as on original inspection. Within a reasonable time after the notice, the contracting officer may exercise one or more of the following options, and also, following the exercise of any option, may unilaterally change it to one or more of the other options set forth below:

- (i) Require an equitable adjustment in the contract price for any supplies or group of supplies;
- (ii) Screen the supplies grouped under this clause at contractor's expense and return all nonconforming supplies to the contractor for correction or replacement;
- (iii) Require the contractor to screen the supplies at depots designated by the government within the continental united states and to correct or replace all nonconforming supplies;
- (iv) Return any supplies or group of supplies under this clause to the contractor (irrespective of the F.O.B. point or the point of acceptance) for screening and correction or replacement;
- (v) Return or hold for contractor's account any supplies or group of supplies delivered hereunder, whereupon the contractor shall repay the contract price paid therefor. In such event, the government may reprocur similar supplies upon such terms and in such manner as the contracting officer may deem appropriate, and charge to the contractor the additional cost occasioned the government thereby.

(3) When either option three or four of this clause is exercised, the contractor is required to submit in writing and within 30 days after receipt of notice of such invocation a schedule for either:

- (i) correction and/or replacement of all defective supplies and subsequent redelivery of the returned supplies; or,
- (ii) screening defective supplies at each depot involved and subsequent redelivery of all corrected and/or replaced supplies. Such schedule will become a part of the contract delivery schedule upon agreement thereto by the government. If the contractor fails to provide an agreeable schedule within the specified period, or any extension agreed to by the government, the government may correct the items and charge the contractor's account, or issue a contract for correction of the items and charge the contractor's account, or exercise one or more of the remedies specified in paragraph (4) below.

(4) If the contractor fails to accept return of the nonconforming supplies, or fails to make redelivery of the corrected or replaced supplies to the government within the time established, or fails to make progress after their return to correct or replace them so as to endanger performance within the time established for redelivery and does not cure such failure within a period of 10 days (or such longer period as the contracting officer may authorize in writing) after receipt of notice from the contracting officer specifying such failure, the contracting officer may exercise one or more of the following remedies:

- (i) Retain or have the contractor return the nonconforming supplies and require an equitable adjustment in the contract price.
- (ii) Return or hold the nonconforming supplies for contractor's account, or require the return of the nonconforming supplies and then hold for contractor's account, whereupon the contractor shall repay the contract price therefor. In such event, the government may reprocur similar supplies upon such terms and in such manner as the contracting officer may deem appropriate, and charge to the contractor the additional costs occasioned the government thereby.

52.246-9P35 WARRANTY OF SUPPLIES (JAN 1992) DSCP**(a) Definitions.**

"Acceptance", as used in this clause, means the act of an authorized representative of the government by which the government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

"Correction", as used in this clause, means the elimination of a defect.

"Supplies", as used in this clause, means the end item furnished by the contractor and related services required under the contract. The word does not include "data".

(b) Contractor's Obligations.

(1) Notwithstanding inspection and acceptance by the government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the contractor warrants that for 12 months after receipt of supplies at destination:

(i) all supplies furnished under this contract will be free from defects in material or workmanship and will conform with all requirements of this contract; and

(ii) the preservation, packaging, packing and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

(2) When return of the supplies to the contractor and redelivery, if applicable, is required, transportation charges and responsibility for the supplies while in transit shall be borne by the contractor. Contractor shall also be liable for:

(i) handling costs and incidental charges incurred by the government in the preparation of the above described supplies for return to the contractor and in return of said supplies to storage, after redelivery by the contractor; and

(ii) for cost of government examination of the corrected or replaced supplies computed and charged at the flat rate of \$49.28 per hour.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of receipt at destination of the corrected or replaced supplies.

(4) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) Remedies Available to the Government.

(1) The contracting officer shall give written notice to the contractor of any breach of warranties in paragraph (b)(1) of this clause within 13 months from receipt of supplies at destination.

(2) Conformance of supplies or parts thereof subject to warranty action shall be determined in accordance with the inspection and acceptance procedures contained in the contract except as provided herein. If the contract provides for sampling, the contracting officer may group any supplies delivered under this contract. The size of the sample shall be that required by the sampling procedure specified in the contract for the quantity of supplies on which warranty action is proposed, except when projecting sampling results. Warranty sampling results may be projected over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection and regardless of whether such supplies have been issued or consumed, provided; the supplies from which the samples were drawn are reasonably representative of the quantity on which warranty action is proposed; and the defects found in the sample size are sufficient to reject the quantity of supplies

(iii) If the contractor fails to furnish timely disposition instructions, dispose of the nonconforming supplies for the contractor's account in a reasonable manner, in which case the government is entitled to reimbursement from the contractor or from the proceeds for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for any other costs incurred or to be incurred.

(5) The rights and remedies of the government provided in this clause are in addition to, and do not limit, any rights afforded to the government by any other clause of this contract.

(d) Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "disputes" clause of this contract.

(e) When the contract specifies ultimate delivery of supplies to a location outside the contiguous United States, such location shall be deemed the destination for purposes of this clause.

52.249-9000 Administrative Costs of Reprourement After Default (May 1988)

If this contract is terminated in whole or in part for default pursuant to the clause included herein entitled "default", 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, as provided in paragraph (B) of the "default" clause of the contract, or any other damages resulting from such default, the contractor shall pay, and the Government shall accept the sum of \$900.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for default following which the Government repurchases the terminated supplies or services, regardless of whether any other damages are incurred and/or assessed.

FAR 52.212-4 Contract Terms and Conditions-Commercial Items (Feb 2002)

(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. 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.

(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.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and OMB prompt payment regulations at 5 CFR part 1315. 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.

(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 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.* 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. 327, *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.

(End of clause)

FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (May 2002)

(a) The Contractor shall comply with the following 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) 52.222-3, Convict Labor (E.O. 11755).
- (2) 52.233-3, Protest after Award (31 U.S.C. 3553).
- (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 or components:

[Contracting Officer must check as appropriate.]

- (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.219-3, Notice of Total HUBZone Small Business Set-Aside (Jan 1999).
- (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer).
- (4)(i) 52.219-5, Very Small Business Set-Aside (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
- (ii) Alternate I to 52.219-5.
- (iii) Alternate II to 52.219-5.
- (5) 52.219-8, Utilization of Small Business Concerns (15 U.S.C. 637 (d)(2) and (3)).
- (6) 52.219-9, Small Business Subcontracting Plan (15 U.S.C. 637(d)(4)).
- (7) 52.219-14, Limitations on Subcontracting (15 U.S.C. 637(a)(14)).
- (8)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (ii) Alternate I of 52.219-23.
- (9) 52.219-25, Small Disadvantaged Business Participation Program-Disadvantaged Status and Reporting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (10) 52.219-26, Small Disadvantaged Business Participation Program-Incentive Subcontracting (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (11) 52.222-21, Prohibition of Segregated Facilities (Feb 1999)
- (12) 52.222-26, Equal Opportunity (E.O. 11246).
- (13) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212)
- (14) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793).
- (15) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212).
- (16) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (E.O. 13126).
- (17)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (42 U.S.C. 6962(c)(3)(A)(ii)).

- ___ (ii) Alternate I of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- ___ (18) 52.225-1, Buy American Act-Supplies (41 U.S.C. 10a - 10d).
- ___ (19)(i) 52.225-3, Buy American Act-North American Free Trade Agreement-Israeli Trade Act (41 U.S.C. 10a - 10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).
- ___ (ii) Alternate I of 52.225-3.
- ___ (iii) Alternate II of 52.225-3.
- ___ (20) 52.225-5, Trade Agreements (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- ___ (21) 52.225-13, Restriction on Certain Foreign Purchases (E.O. 12722, 12724, 13059, 13067, 13121, and 13129).
- ___ (22) 52.225-15, Sanctioned European Union Country End Products (E.O. 12849).
- ___ (23) 52.225-16, Sanctioned European Union Country Services (E.O. 12849).
- (24) 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration (31 U.S.C. 3332).
- (25) 52.232-34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration (31 U.S.C. 3332).
- ___ (26) 52.232-36, Payment by Third Party (31 U.S.C. 3332).
- ___ (27) 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).
- ___ (28)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).
- ___ (ii) Alternate I of 52.247-64.

(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 or components:

[Contracting Officer check as appropriate.]

- ___ (1) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, *et seq.*).
- ___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (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) (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 (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).
- ___ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, *et seq.*).

(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) 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 listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components-

- (1) 52.222-26, Equal Opportunity (E.O. 11246);

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- (2) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (38 U.S.C. 4212);
 (3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C. 793);
 (4) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996); and
 (5) 52.222-41, Service Contract Act of 1965, As Amended (41 U.S.C. 351, *et seq.*).

FAR 52.212-3 Offeror Representations and Certifications-Commercial Items (July 2002)

(a) *Definitions.* As used in this provision:

"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

"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.

"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 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.

"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.

(b) *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 (b)(3) through (b)(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 United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal 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 _____

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. 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.

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) *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.

(7) *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:

(8) **Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.**
[Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) *[Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).]* The offeror represents as part of its offer that it is, is not an emerging small business.

(ii) *[Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).]* Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

| Number of Employees | Average Annual Gross Revenues |
|--------------------------------------|--|
| <input type="checkbox"/> 50 or fewer | <input type="checkbox"/> \$1 million or less |
| <input type="checkbox"/> 51-100 | <input type="checkbox"/> \$1,000,001-\$2 million |
| <input type="checkbox"/> 101-250 | <input type="checkbox"/> \$2,000,001-\$3.5 million |
| <input type="checkbox"/> 251-500 | <input type="checkbox"/> \$3,500,001-\$5 million |
| <input type="checkbox"/> 501-750 | <input type="checkbox"/> \$5,000,001-\$10 million |
| <input type="checkbox"/> 751-1,000 | <input type="checkbox"/> \$10,000,001-\$17 million |
| <input type="checkbox"/> Over 1,000 | <input type="checkbox"/> Over \$17 million |

(9) *[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-Disadvantaged 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 database maintained by the Small Business Administration (PRO-Net), 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)(9)(i) of this provision is accurate for the small disadvantaged business concern 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: _____.

(10) *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)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.]

Each HUBZone small business concern participating in the 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 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 parts 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 \$100,000.) 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.

(f) *Buy American Act Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act-Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act-Supplies" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(2) *Foreign End Products:*

| Line Item No. | Country of Origin |
|---------------|-------------------|
| | |
| | |
| | |

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American Act-North American Free Trade Agreement-Israeli Trade Act Certificate.* (Applies only if the clause at FAR 52.225-3, Buy American Act-North American Free Trade Agreement-Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product as defined in the clause of this solicitation entitled "Buy American Act-North American Free Trade Agreement-Israeli Trade Act" and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States.

(ii) The offeror certifies that the following supplies are NAFTA country end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act-North American Free Trade Agreement-Israeli Trade Act":

NAFTA Country or Israeli End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| | |
| | |
| | |

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American Act-North American Free Trade Agreement-Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| | |
| | |
| | |

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act-North American Free Trade Agreements-Israeli Trade Act Certificate, Alternate I (May 2002)*. If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act-North American Free Trade Agreement-Israeli Trade Act":

Canadian End Products:

| Line Item No. |
|---------------|
| |
| |
| |

[List as necessary]

(3) *Buy American Act-North American Free Trade Agreements-Israeli Trade Act Certificate, Alternate II (May 2002)*. If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act-North American Free Trade Agreement-Israeli Trade Act":

Canadian or Israeli End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| | |
| | |
| | |

[List as necessary]

(4) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or NAFTA country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products.

Other End Products:

| Line Item No. | Country of Origin |
|---------------|-------------------|
| | |
| | |
| | |

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or NAFTA country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549).* (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; and

(2) Have, have not, within a 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, or receiving stolen property; and

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(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).]

(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.

(End of provision)

Alternate I (Apr 2002). As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(9) 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 I (Apr 2002). As prescribed in 12.301(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(9) 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 (Oct 2000). As prescribed in 12.301(b)(2), add the following paragraph (c)(9)(iii) to the basic provision:

(iii) *Address.* The offeror represents that its address is, is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arinet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

**CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE
TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (NOV 2002)**

(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.

- 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- 252.206-7000 Domestic Source Restriction (DEC 1991) (10 U.S.C. 2304).
- 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).
- 252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).
- 252.225-7001 Buy American Act and Balance of Payments Program (MAR 1998) (41 U.S.C. 10a-10d, E.O. 10582).
- 252.225-7007 Buy American Act--Trade Agreements--Balance of Payments Program (OCT 2002) (41 U.S.C. 10a-10d, 19 U.S.C. 2501-2518, and 19 U.S.C. 3301 note).
- 252.225-7012 Preference for Certain Domestic Commodities (APR 2002) (10 U.S.C. 2533a).
- 252.225-7014 Preference for Domestic Specialty Metals (MAR 1998) (10 U.S.C. 2533a).
- 252.225-7015 Preference for Domestic Hand or Measuring Tools (DEC 1991) (10 U.S.C. 2533a).
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (DEC 2000) (___ Alternate I) (DEC 2000) (Section 8064 of Pub. L. 106-259).
- 252.225-7021 Trade Agreements (OCT 2002) (19 U.S.C. 2501-

2518 and 19 U.S.C. 3301 note).

- 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (MAR 1998) (22 U.S.C. 2779).
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (DEC 1991) (22 U.S.C. 2755).
- 252.225-7029 Preference for United States or Canadian Air Circuit Breakers (AUG 1998) (10 U.S.C. 2534(a)(3)).
- 252.225-7036 Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program (MAR 1998) (Alternate I) (SEP 1999) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (Alternate I) (MAR 2000) (Alternate II) (MAR 2000) (10 U.S.C. 2631).
- 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:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (MAR 1998) (10 U.S.C. 2533a).

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

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

(End of clause)

252.225-7000 Buy American Act--Balance of Payments Program Certificate.

As prescribed in 225.1101(1), use the following provision:

**BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM
CERTIFICATE
(SEP 1999)**

(a) *Definitions.* "Domestic end product," "qualifying country," "qualifying country end product," and "nonqualifying country end product" have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* Offers will be evaluated by giving preference to domestic end products and qualifying country end products over nonqualifying country end products.

(c) *Certifications.*

(1) The Offeror certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The Offeror certifies that the following end products are qualifying country end products:

Qualifying Country End Products

Line Item Number

Country of Origin

(List only qualifying country end products.)

(3) The Offeror certifies that the following end products are nonqualifying country end products:

Nonqualifying Country End Products

Line Item Number

Country of Origin (If known)

(End of provision)

252.204-7004 Required Central Contractor Registration.
As prescribed in 204.7304, use the following clause:

REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)

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

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

(2) "Data Universal Number System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) "Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) "Registered in the CCR database" means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, 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 confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

(End of clause)

52.233-9001 Disputes: Agreement to Use Alternative Dispute Resolution (ADR).

As prescribed in 33.214, insert the following provision:

DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (JUN 2001) - DLAD

(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.

(End of provision)

52.233-9000 Agency protests.

As prescribed in DLAD 33.106 (c) a provision substantially as follows shall be inserted in all solicitations:

AGENCY PROTESTS (SEP 1999) - DLAD

Companies protesting this procurement may file a protest 1) with the contracting officer, 2) with the General Accounting Office, or 3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (Note: DLA procedures for Agency Level Protests filed under Executive Order No. 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.

(End of provision)

52.212-9000 Changes - Military Readiness

As prescribed in 12.302(b)(3)(91)), insert the following clause:

CHANGES - MILITARY READINESS (Mar 2001) - DLAD

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 within 30 days 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)).

(End of Clause)

52.246-9P31 SANITARY CONDITIONS (JAN 1998) DSCP

(a) Food Establishments.

() (1) establishments furnishing food items under DSCP contracts are subject to approval by the Military Medical Service or another agency acceptable to the Military Medical Service. The government does not intend to make any award for, no accept, any subsistence products manufactured or processed in a plant which is operating under such unsanitary conditions as may lead to product contamination or constitute a health hazard, or which has not been listed in an appropriate government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", published by the U.S. Army Veterinary Command. Suppliers also agree to inform the contracting officer immediately upon notification that a manufacturing plant is no longer sanitarily approved and/or delisted from another agency's listing, as indicated in paragraph (2) below. The contracting officer will also be notified when sanitary approval is regained and listing is reinstated.

() (1) establishments furnishing food items under DSCP contracts are subject to approval by the Military Medical Service or another agency acceptable to the Military Medical Service. The government does not intend to make any award for, no accept, any subsistence products manufactured or processed in a plant which is operating under such unsanitary conditions as may lead to product contamination or constitute a health hazard, or which has not been listed in an appropriate government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", published by the U.S. Army Veterinary Command. Bread and bakery products from an establishment inspected by the American Institute of Baking need not be listed in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement" if the contractor certifies in writing that the establishment is currently in good standing. If the establishment

should lose their good standing with the American Institute of Baking, the contractor must notify the contracting officer and provide a new source of supply.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the "Directory of Sanitarily Approved Food Establishments".

(i) Meat and meat products and poultry and poultry products from establishments which are currently listed in the "Meat and Poultry Inspection Directory", published by the Meat and Poultry Inspection Program AMS, USDA. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the agency.

(ii) Meat and meat products for direct delivery to military installations within the same state may be supplied when the items are processed under state inspection in establishments certified by the USDA as being equal to federal meat inspection requirements.

(iii) Poultry, poultry products, and shell eggs from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published by Poultry Programs, Grading Branch, AMS, USDA. Egg products (liquid, dehydrated) from establishments listed in the "Meat and Poultry Directory" published by the Food Safety Inspection Service. All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the agency.

(iv) Fish and fishery products from establishments listed in the "Approved List--Sanitary Inspected Fish Establishments", published by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

(v) Milk and milk products from plants having a pasteurization plant compliance rating of 90 or more, as certified by a state milk sanitation rating officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers", published by the U.S. Public Health Service. These may serve as sources of pasteurized milk and milk products as defined in paragraph N, Section I, Part II of the "Grade 'A' Pasteurized Milk Ordinance, 1978 Recommendations of the U.S. Public Health Service", Public Health Service Publication No. 229.

(vi) "Dairy Plants Surveyed and Approved for USDA Grading Service", published by Dairy Division, Grading Branch, AMS, USDA.

(vii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists", published by the U.S. Public Health Service.

(3) Establishments furnishing the following products are exempt from appearing in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", or other publication, but will remain subject to inspection and approval by the Military Medical Service or by another inspection agency acceptable to the Military Medical Service:

(i) Fruits, vegetables and juices thereof.

(ii) Special dietary foods and food specialty preparations (except animal products, unless such animal products are produced in establishments covered by paragraphs (2)(i), (2)(iii), or (2)(iv) above).

(iii) Food oils and fats (except animal products, unless such animal products are produced in establishments covered by paragraph (2)(i), (2)(iii), or (2)(iv) above).

(iv) foreign establishments whose prepackaged finished items are imported by distributors or brokers into the United States as brand name items and then sold to armed forces procurement agencies for commissary store resale.

(4) Subsistence items other than those exempt from listing in the U.S. Army Veterinary Command "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", bearing labels reading "Distributed By", etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

(5) When the Military Medical Service or other inspection agency acceptable to the Military Medical Service determines that the sanitary conditions of the establishment or its products have or may lead to product contamination, the contracting officer will suspend the work until such conditions are remedied to the satisfaction of the appropriate inspection agency. Suspension of the work shall not extend the life of the contract, nor shall it be considered sufficient cause for the contractor to request an extension of any delivery date. In the event the contractor fails to correct such objectionable conditions within the time specified by the contracting officer, the government shall have the right to terminate the contract in accordance with the "Default" clause of the contract.

(b) Delivery Conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent contamination of the supplies, and if applicable, equipped to maintain any prescribed temperature. (Semiperishable supplies shall be delivered in a non-refrigerated conveyance.) The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, or they constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, supplies tendered for acceptance may be rejected without further inspection.

(End of Clause)

**252.212-7000 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—
COMMERCIAL ITEMS (NOV 1995) DFARS****(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 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 the 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 clause 252.247-7023, Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

52.212-1 INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS (OCT 2000)

(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;
- (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

52.212-1 (continued)

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-

(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,

52.212-1 (continued)

unless the offeror specifies otherwise in the offer.

(i) *Availability of requirements documents cited in the solicitation.*

(1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation 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

Telephone (202) 619-8925)

Facsimile (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) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the--

Department of Defense Single Stock Point (DoDSSP)

Building 4, Section D

700 Robbins Avenue

Philadelphia, PA 19111-5094

Telephone (215) 697-2667 / 2179

Facsimile (215) 697-1462.

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained--

(A) By telephone at (215) 697-2667 / 2179; or

(B) Through the DoDSSP Internet site at <http://assist.daps.mil>.

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

(j) *Data Universal Numbering System (DUNS) Number.*

(Applies to offers exceeding \$25,000.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet to obtain one at no charge. An offeror within the United States may call 1-800-333-0505. The offeror may obtain more information regarding the DUNS number, including locations of local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet home page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

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| ADDENDUM TO 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (JUN 1999) |
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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 60 days.

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(h) Multiple awards.

- The Government intends to make one award.
 Offers may be submitted for quantities less than those specified.

5. 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 Central Contractor Registration (CCR) Database in accordance with DFARS clause 252.204-7004.

52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

- (a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered including the following factor:

Past Performance

The lowest priced offer submitted by a responsible offeror that conforms to the government specification/technical data and all other requirements will be selected for award

- (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.

-
- (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.