

VARIOUS POLYMERIC TRAYPACK ACQUISITION

SOLICITATION SPM300-09-R-7001

CAUTION NOTICE

1. This solicitation is for the acquisition of various polymeric traypack items, to be used as the critical components of the Services UGR-Heat and Serve Ration. The polymeric traypack container has been approved to replace the metal traypack container.

2. This is an unrestricted, negotiated procurement utilizing the Best Value Trade-Off Process between price and non-price factors. Proposals must be prepared and submitted in two volumes: a Technical Proposal and a Business Proposal. Award will be based on factors other than cost or price alone. Instructions for preparing proposals are contained at Provision 52.212-1. Evaluation factors for award are contained in Provision 52.212-2. Offerors are cautioned to take extreme care when preparing proposals for this solicitation. All terms and conditions should be reviewed carefully.

3. This solicitation is for a base period of 1 year with one (1)—12 month option period. Acceptance of the Option Period is mandatory. Failure to indicate acceptance of the option by annotating the offeror's unit prices for listed items "for Option Year 1" on the following tables in the Schedule of Supplies, Services and Prices, may be deemed as non-acceptance of the option and could result in rejection of the offeror's entire proposal.

4. Offerors are cautioned to include a completed copy of the provision 52.212-3, Offeror Representations and Certifications-Commercial Items, with their offer.

5. Proposals submitted are considered proprietary and/or competition sensitive in nature. Use of the information provided on the proposals is for evaluation purposes only and will be limited to duly accredited officials of the Department of Defense who are subject to penalties for unlawful disclosure.

6. This solicitation contains Surge Option Clause 252.217-7001, Surge and Sustainment (S&S) Clause 52.217-9006-Alternate, S&S Provisions 52.217-9007-Alternate and 52.217-9008-Alternate. The Offeror is required to submit maximum capability for item requirements by using production data on line at the Defense Supply Center Philadelphia's Subsistence Planning Integrated Data Enterprise Readiness System (SPIDERS). By submission of offer, Offeror agrees to accelerate deliveries up to the quantities entered in the table entitled "Committed Time-Phased Surge". A printed copy of the company profile and surge production data also must be returned with this solicitation.

The SPIDERS website is <https://spiders.dla.mil/spiders/home.asp>. It is a secure web server using https protocol with 128 bit encryption. New users must register online. SPIDERS is an integrated application developed for the Defense Supply Center Philadelphia (DSCP) to assist readiness analysts in predicting, evaluating and improving the ability of private industry to meet an increase in the Government's demands in a surge situation. Please contact Nick McGinty at 215-737-4252 with any concerns or questions regarding SPIDERS.

7. Quality System Plan (QSP) is required, see Section IV for details.

8. For more information, or to have the "Proposed Price" and "EPA Factor" Excel Spreadsheets emailed to you, please contact Debbie Goffman, Acquisition Specialist at (215)737-2979; or Trina Bellamy, Acquisition Specialist at (215)737-3832.

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

1. REQUISITION NUMBER _____ PAGE 1 OF _____

2. CONTRACT NO. _____ 3. AWARD/EFFECTIVE DATE _____ 4. ORDER NUMBER _____ 5. SOLICITATION NUMBER _____ 6. SOLICITATION ISSUE DATE _____

7. FOR SOLICITATION INFORMATION CALL:  a. NAME _____ b. TELEPHONE NUMBER (No collect calls) _____ 8. OFFER DUE DATE/ LOCAL TIME _____

9. ISSUED BY _____ CODE _____ 10. THIS ACQUISITION IS
 UNRESTRICTED OR SET ASIDE: % FOR:
 SMALL BUSINESS EMERGING SMALL BUSINESS
 NAICS: 311999 HUBZONE SMALL BUSINESS
 SIZE STANDARD: 500 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS 8(A)

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
 SEE SCHEDULE 12. DISCOUNT TERMS _____ 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING _____
 14. METHOD OF SOLICITATION
 RFQ IFB RFP

15. DELIVER TO _____ CODE _____ 16. 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 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
(Use Reverse and/or Attach Additional Sheets as Necessary)					

25. ACCOUNTING AND APPROPRIATION DATA _____ 26. TOTAL AWARD AMOUNT (For Govt. Use Only) _____

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

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED
 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR _____ 31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) _____

30b. NAME AND TITLE OF SIGNER (Type or print) _____ 30c. DATE SIGNED _____ 31b. NAME OF CONTRACTING OFFICER (Type or print) _____ 31c. DATE SIGNED _____

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Page 1 (Continued)

Block 8 (continued)

Offer Due Date/Local Time: 9 December 2009, 3:00 PM local Philadelphia, Pennsylvania time

Block 9 (continued)

Mailed offers should be sent to:

Defense Logistics Agency
Defense Supply Center Philadelphia
Post Office Box 56667
Philadelphia, PA 19111-6667
Solicitation No: SPM3S1-09-R-7001

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

Defense Supply Center Philadelphia
Business Opportunities Office
Bldg. 36, Second Floor
700 Robbins Avenue
Philadelphia, PA 19111-5092

NOTE: In addition to the above address, the solicitation number and closing date should be on the outside of the envelope/package.

Business Opportunities Office normal business hours are 8:00 AM to 5:00 PM local Philadelphia, Pennsylvania time, Monday through Friday except for Legal Federal Holidays as set forth in 5 USC 6103. Handcarried offers are to be delivered to the Business Opportunities Office during normal business hours.

Offerors responding to this solicitation via commercial carrier service must ensure that the commercial carrier service "hand carries" the offer/modification/withdrawal to the Business Opportunities Office prior to the scheduled closing time.

For ALL Submissions the following information is required on the outside of the Proposal Package (regular mail or Commercial Carrier): SOLICITATION NUMBER, CLOSING DATE, AND TIME.

Transmit facsimile revisions of offers to 215-737-9300, 9301, 9302, or 9303.

Facsimile transmissions and e-mail are NOT acceptable for the initial proposals.

E-mail is not an acceptable form of transmission for the submission of initial proposals. However, DSCP intends to utilize email, as well as other commercially practicable forms of communication if discussions/negotiations are held. At the discretion of the Contracting Officer, the government reserves the right to require final proposal revisions be submitted to the DSCP Business Opportunity Office. Offerors must address, in their final proposal revisions, all matters raised during negotiations that would effectuate a change from offeror's initial proposals. A failure to address these matters in final proposal revisions, in a timely and authorized manner, by the time final proposal revisions are due, may adversely affect consideration of the offer, including removal of the offer from consideration for award.

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If repeated telephone calls to DSCP go unanswered, DSCP could be closed due to hazardous weather conditions, or other unusual circumstances. The DSCP Hotline, 215-737-DSCP (3727), is available for information regarding operational status.

Block 10 (Continued): This acquisition is (1) UNRESTRICTED: All firms may offer regardless of business size.

Block 17a (Continued): Contractor/Offeror

Offeror's assigned DUNS number: _____

(If your firm does not currently have a DUNS, please contact the individual identified in Block 7a or refer to FAR 52.212-1, Instructions to Offerors – Commercial Items for information on contacting Dun and Bradstreet).

**Block 17a (Continued): Contractor/Offeror
AUTHORIZED NEGOTIATORS**

The offeror represents that the following person(s) is(are) authorized to negotiate on its behalf with the Government in connection with this request for proposals. (List names, titles, and telephone numbers of the authorized negotiators).

Block 17b: Remittance Address: (If remit to address is different from Contractor/Offeror address in Block 17a)

I. SCHEDULE OF SUPPLIES, SERVICES AND PRICES (BLOCKS 19-24)

GENERAL INFORMATION

A. Objective – It is the intention of the Government to enter into multiple indefinite quantity contracts (IQCs) to supply the following polymeric traypack component items, and to establish an industrial base that is sufficient to satisfy the Government’s requirements for these items in the event of a national crisis or mobilization.

B. Effective Period of Contract

The effective period of the contract is as follows:

Base Year: Date of Award thru 364 days after

Option Year 1: Date Option is exercised through 364 days thereafter

See contract clauses 52.216-18, Ordering and 52.216-22, Indefinite Quantity for ordering and delivery periods.

C. Minimum/Maximum Quantities:

The quantities shown in the schedule represent the quantities estimated to be ordered over the Base Year and the Option Year. Offers will be evaluated based on the estimated quantities.

The contract minimum quantity for the Base Year and the Option Year is 20% of the estimated quantity for each contract period. The government is obligated to purchase only the minimum quantity.

The maximum quantity for the Base Year and the Option Year is 200% of the estimated quantity for each contract period.

D. Options:

This solicitation is for a base period of 1 year with one (1)—12 month option period. Acceptance of the Option Period is mandatory. Failure to indicate acceptance of the option by annotating the offeror’s unit prices for listed items “for Option Year 1” on the following tables in the Schedule of Supplies, Services and Prices, may be deemed as non-acceptance of the option and could result in rejection of the offeror’s entire proposal.

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The following line items are unrestricted. All prices shall be F.O.B. Destination to Tracy Defense Depot located in Tracy, CA 95376-5000

BEEF BURGUNDY NSN: 8940-01-529-6635							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
1	DD Tracy	Dest.	Each	9,145		9,145	
BEEF, ROAST W/GRAVY NSN: 8940-01-537-0628							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
2	DD Tracy	Dest.	Each	12,262		12,262	
BEEF TACO FILLING NSN: 8940-01-529-6637							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
3	DD Tracy	Dest.	Each	3,117		3,117	
BLUEBERRY DESSERT NSN: 8940-01-455-1872							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
4	DD Tracy	Dest.	Each	23,209		23,209	
BUFFALO CHICKEN NSN: 8940-01-517-9869							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
5	DD Tracy	Dest.	Each	9,145		9,145	
CARROTS, TRAY PACK NSN: 8915-01-545-4853							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
6	DD Tracy	Dest.	Each	9,140		9,140	

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CHICKEN BREAST W/GRAVY NSN: 8940-01-445-5737							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
7	DD Tracy	Dest.	Each	4,270		4,270	
CHICKEN POT PIE NSN: 8940-01-563-1290							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
8	DD Tracy	Dest.	Each	4,675		4,675	
CHICKEN TAMALES NSN: 8940-01-556-9140							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Period	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
9	DD Tracy	Dest.	Each	7,587		7,587	
CHICKEN, STIR FRY W/VEGETABLE & SAUCE NSN: 8940-01-562-9557							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
10	DD Tracy	Dest.	Each	3,117		3,117	
CHILI DOGS NSN: 8940-01-537-0625							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
11	DD Tracy	Dest.	Each	7,586		7,586	
CORN, TRAY PACK NSN: 8915-01-545-4854							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
12	DD Tracy	Dest.	Each	8,539		8,539	

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CORNED BEEF HASH NSN: 8940-01-455-3548							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
13	DD Tracy	Dest.	Each	23,209		23,209	
CREAMED BEEF NSN: 8940-01-455-4609							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
14	DD Tracy	Dest.	Each	23,209		23,209	
GREEN BEANS, TRAY PACK NSN: 8915-01-545-4855							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
15	DD Tracy	Dest.	Each	8,539		8,539	
HOPPIN' JOHN NSN: 8940-01-557-4038							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
16	DD Tracy	Dest.	Each	3,117		3,117	
MASHED POTATOES W/CHIX GRAVY NSN: 8940-01-504-4258							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
17	DD Tracy	Dest.	Each	13,819		13,819	
MEXICAN CHILI MACARONI NSN: 8940-01-529-6844							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
18	DD Tracy	Dest.	Each	17,676		17,676	

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PORK CARNITAS W/GRAVY NSN: 8940-01-563-1292							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
19	DD Tracy	Dest.	Each	3,117		3,117	
PORK SAUSAGE LINKS NSN: 8905-01-455-3547							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
20	DD Tracy	Dest.	Each	23,209		23,209	
PORK SAUSAGE W/CREAMED GRVY NSN: 8940-01-470-3204							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
21	DD Tracy	Dest.	Each	26,325		26,325	
POTATOES, W/CHEESE AND HAM NSN: 8940-01-518-9217							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
22	DD Tracy	Dest.	Each	32,825		32,825	
PULLED PORK IN BARBECUE SAUCE NSN: 8940-01-537-0620							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
23	DD Tracy	Dest.	Each	7,586		7,586	
TURKEY TETRAZZINI NSN: 8940-01-562-9563							
Line Item	Delivery Point	FOB	Unit of Purchase	Base Year	Base Year	Option Year 1	Option Year 1
				Estimated Quantity	Offered Unit Price	Estimated Qty Per Year	Offered Unit Price
24	DD Tracy	Dest.	Each	9,350		9,350	

FAR 52.212-4 - Contract Terms and Conditions -- Commercial Items (Mar 2009)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights –

(1) Within a reasonable time after the defect was discovered or should have been discovered; and
(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

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

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

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

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

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

(g) *Invoice.*

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

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

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

(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

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Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

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

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

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

(i) Payment.

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

(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.

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

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

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

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

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

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

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

(D) Contractor point of contact.

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

(6) Interest.

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

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

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

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

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

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

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

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If 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. 3701, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under that Act; 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.

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(t) Central Contractor Registration (CCR).

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

(2)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

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

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

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

Addendum to 52.212-4:

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

1. Paragraph (a), Inspection/Acceptance, is revised to add FAR clause 52.246-2, Inspection of Supplies – Fixed Price. FAR 52.246-2 expands the definition of "Supplies," to include, but not limit to, raw materials, components, intermediate assemblies, end products, and supply lots. FAR 52.246-2 is required for Product Verification Testing (PVT), which is a requirement on any resulting contract(s). PVT is addressed in DLAD clause 52.246-9004. Each clause is contained in full text elsewhere in the solicitation.

2. Paragraph (a), Inspection/Acceptance, is revised to add the following:

Inspection at Contractor's Plant, and Acceptance at Destination, upon execution of DD Form 250 by the authorized Government representative.

(b) Resultant award(s) or contract(s) will contain the name and address of the office responsible for performance of inspection.

(c) Offeror shall indicate below the location where supplies will be inspected:

Plant: _____

Street: _____

City/State/Zip: _____

3. Paragraph (c), Changes, is deleted in its entirety and replaced with the following:

(c) Changes.

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- (1) Failure to agree to any adjustment shall be a dispute under the Disputes Clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract.

4. Paragraph (m), Termination for Cause.

Delete paragraph (m) in its entirety and substitute the following:

(m) *Termination for Cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1155.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

5. Paragraph (t), Central Contractor Registration (CCR).

Add the following:

(5) Definitions.

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

“Commercial and Government Entity (CAGE) Code” means—

- (a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or
- (b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code”.

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

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

“Registered in the CCR Database” means that—

- (a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;
- (b) The Contractor’s CAGE code is in the CCR database; and
- (c) The Government has validated all mandatory data fields and has marked the records “Active”.

FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Sep 2009)

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

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

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

[Contracting Officer shall check as appropriate.]

- (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sep 2006), with Alternate I (Oct 1995)(41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).
- (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Mar 2009) (Section 1553 of Pub L. 111-5) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).
- (4) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Mar 2009) (Pub. L. 111-5).
- (5) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999)(15 U.S.C. 657a).
- (6) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jul 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).
- (7) [Reserved]
- (8) (i) 52.219-6, Notice of Total Small Business Aside (June 2003) (15 U.S.C. 644).
 - (ii) Alternate I (Oct 1995) of 52.219-6.
 - (iii) Alternate II (Mar 2004) of 52.219-6.
- (9) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003)(15 U.S.C. 644).
 - (ii) Alternate I (Oct 1995) of 52.219-7.
 - (iii) Alternate II (Mar 2004) of 52.219-7.
- (10) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
- (11) (i) 52.219-9, Small Business Subcontracting Plan (Apr 2008)(15 U.S.C. 637 (d)(4).)
 - (ii) Alternate I (Oct 2001) of 52.219-9.
 - (iii) Alternate II (Oct 2001) of 52.219-9.
- (12) 52.219-14, Limitations on Subcontracting (Dec 1996)(15 U.S.C. 637(a)(14)).
- (13) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999)(15 U.S.C. 637(d)(4)(F)(i)).
- (14) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008)(10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - (ii) Alternate I (June 2003) of 52.219-23.
- (15) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Apr 2008)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (16) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (17) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).
- (18) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).
- (19) 52.222-3, Convict Labor (June 2003)(E.O. 11755).
- (20) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Aug 2009) (E.O. 13126).
- (21) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (22) 52.222-26, Equal Opportunity (Mar 2007)(E.O. 11246).

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- (23) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)(38 U.S.C. 4212).
- (24) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998)(29 U.S.C. 793).
- (25) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)(38 U.S.C. 4212).
- (26) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).
- (27) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- (28) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008)(42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (29) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).
- (30) (i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).
- (ii) Alternate I (Dec 2007) of 52.223-16.
- (31) 52.225-1, Buy American Act--Supplies (Feb 2009)(41 U.S.C. 10a-10d).
- (32) (i) 52.225-3, Buy American Act --Free Trade Agreements -- Israeli Trade Act (Jun 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-301, 109-53, 109-169, 109-283, and 110-138).
- (ii) Alternate I (Jan 2004) of 52.225-3.
- (iii) Alternate II (Jan 2004) of 52.225-3.
- (33) 52.225-5, Trade Agreements (Aug 2009) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- (34) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- (35) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- (36) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
- (37) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (38) 52.232.30, Installment Payments for Commercial Items (Oct 1995)(41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (39) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003)(31 U.S.C. 3332).
- (40) 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration (May 1999)(31 U.S.C. 3332).
- (41) 52.232-36, Payment by Third Party (May 1999)(31 U.S.C. 3332).
- (42) 52.239-1, Privacy or Security Safeguards (Aug 1996)(5 U.S.C. 552a).
- (43) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)(46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).
- (ii) Alternate I (Apr 2003) of 52.247-64.

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

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[Contracting Officer check as appropriate.]

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

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

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

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

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

(e)

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (May 2004)(15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

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

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)(38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998)(29 U.S.C. 793).

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- (vii) 52.222-39, Notification of Employee rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).
- (viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.)
- (ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).
____ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).
- (x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.)
- (xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, et seq.)
- (xii) 52.222-54, Employment Eligibility Verification (Jan 2009).
- (xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xiv) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

DFARS 252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUL 2009)

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

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

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

(1) [252.203-7000](#), Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

(2) [252.205-7000](#), Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

(3) [252.219-7003](#), Small Business Subcontracting Plan (DoD Contracts) (APR 2007) (15 U.S.C. 637).

(4) [252.219-7004](#), Small Business Subcontracting Plan (Test Program) (AUG 2008) (15 U.S.C. 637 note).

(5) [252.225-7001](#), Buy American Act and Balance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d, E.O. 10582).

(6) [252.225-7008](#), Restriction on Acquisition of Specialty Metals (JUL 2009) (10 U.S.C. 2533b).

(7) [252.225-7009](#), Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUL 2009) (10 U.S.C. 2533b).

(8) [252.225-7012](#), Preference for Certain Domestic Commodities (DEC 2008) (10 U.S.C. 2533a).
FULL TEXT IS CONTAINED ELSEWHERE IN THE SOLICITATION

(9) [252.225-7015](#), Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

(10) [252.225-7016](#), Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).

(11) [252.225-7021](#), Trade Agreements (JUL 2009) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301

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note).

- (12) ___ [252.225-7027](#), Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- (13) ___ [252.225-7028](#), Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- (14)(i) ___ [252.225-7036](#), Buy American Act--Free Trade Agreements--Balance of Payments Program (JUL 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- (ii) ___ Alternate I (JUL 2009) of [252.225-7036](#).
- (15) ___ [252.225-7038](#), Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (16) [252.226-7001](#), Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- (17) ___ [252.227-7015](#), Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- (18) ___ [252.227-7037](#), Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- (19) ___ [252.232-7003](#), Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227). **FULL TEXT IS CONTAINED ELSEWHERE IN THE SOLICITATION**
- (20) ___ [252.237-7019](#), Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
- (21) ___ [252.243-7002](#), Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410). **FULL TEXT IS CONTAINED ELSEWHERE IN THE SOLICITATION**
- (22) ___ [252.247-7003](#), Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUL 2009) (Section 884 of Public Law 110-417).
- (23)(i) [252.247-7023](#), Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (ii) ___ Alternate I (MAR 2000) of [252.247-7023](#).
- (iii) ___ Alternate II (MAR 2000) of [252.247-7023](#).
- (iv) ___ Alternate III (MAY 2002) of [252.247-7023](#).
- (24) ___ [252.247-7024](#), Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- (c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:
- (1) [252.237-7019](#), Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
- (2) [252.247-7003](#), Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUL 2009) (Section 884 of Public Law 110-417).
- (3) [252.247-7023](#), Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (4) [252.247-7024](#), Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

52.212-9000 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-

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- (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)).

Addendum: The following clauses are hereby incorporated into this solicitation in full text:

FAR 52.211-16 Variation in Quantity (Apr 1984)

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

(b) The permissible variation shall be limited to:

2.0 Percent increase

0.0 Percent decrease

This increase or decrease shall apply to each line item per delivery order.

FAR 52.211-17 Delivery of Excess Quantities. (Sept 1989)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to \$250 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of the Government, either be returned at the Contractor’s expense or retained and paid for by the Government at the contract unit price.

FAR 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 the effective period of the 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.

FAR 52.216-19 ORDER LIMITATIONS (OCT 1995)

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

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

- (1) Any order for a single item in excess of **150%**;

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(2) Any order for a combination of items in excess of **150%**; or

(3) A series of orders from the same ordering office within 30 calendar days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within **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.

FAR 52.216-22 Indefinite Quantity (Oct 1995)

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; **provided**, that the Contractor shall not be required to make any deliveries under this contract after 90 days of contract expiration.

FAR 52.246-2 Inspection of Supplies—Fixed-Price (Aug 1996)

(a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

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(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

(e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i)(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time—

(i) When Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract; and

(ii) When the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in paragraph (l)(1) or (l)(2) of this clause and does not cure such

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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 Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

FAR 52.246-11 Higher-Level Contract Quality Requirement (FEB 1999)

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

Title	Number	Date	Tailoring
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ANSI/ISO/ASQ Q9001 - Quality Management Systems – Requirements Standard or equivalent industry standard. If equivalent industry standard, the offeror must provide the title, date, and tailoring (if any).

<input type="checkbox"/>	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____
<input type="checkbox"/>	_____	_____	_____

FAR 52.246-15 -- Certificate of Conformance (Apr 1984)

(a) When authorized in writing by the cognizant Contract Administration Office (CAO), the Contractor shall ship with a Certificate of Conformance any supplies for which the contract would otherwise require inspection at source. In no case shall the Government's right to inspect supplies under the inspection provisions of this contract be prejudiced. Shipments of such supplies will not be made under this contract until use of the Certificate of Conformance has been authorized in writing by the CAO, or inspection and acceptance have occurred.

(b) The Contractor's signed certificate shall be attached to or included on the top copy of the inspection or receiving report distributed to the payment office or attached to the CAO copy when contract administration (Block 10 of the DD Form 250) is performed by the Defense Contract Administration Services. In addition, a copy of the signed certificate shall also be attached to or entered on copies of the inspection or receiving report accompanying the shipment.

(c) The Government has the right to reject defective supplies or services within a reasonable time after delivery by written notification to the Contractor. The Contractor shall in such event promptly replace, correct, or repair the rejected supplies or services at the Contractor's expense.

(d) The certificate shall read as follows:

I certify that on _____ [*insert date*], the _____ [*insert Contractor's name*] furnished the supplies or services called for by Contract No. _____ via _____ [*Carrier*] on _____ [*identify the bill of lading or shipping document*] in accordance with all applicable requirements. I further certify that the supplies or services are of the quality specified and conform in all respects with the contract requirements, including specifications, drawings, preservation, packaging, packing, marking requirements, and physical item identification (part number), and are in the quantity shown on this or on the attached acceptance document.

DATE OF EXECUTION: _____

SIGNATURE: _____

TITLE: _____

FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

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This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.dscp.dla.mil/contract/policy.htm>

The following additional clauses are incorporated by reference:

CLAUSE NUMBER	TITLE/DATE
FAR 52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Sep 2007)
FAR 52.204-4	Printed or Copied Double-sided on Recycled Paper (Aug 2000)
FAR 52.208-9	Contractor Use of Mandatory Sources of Supply or Services (Oct 2008)
FAR 52.209-6	Protecting the Government's Interests When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Sep 2006)
FAR 52.215-21	Requirement for Cost and Pricing Data of Information Other Than Cost and Pricing Data – Modifications (Oct 1997)
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)
FAR 52.232-17	Interest (Oct 2008)
FAR 52.242-13	Bankruptcy (Jul 1995)
FAR 52.242-15	Stop-Work Order (AUG 1989)
FAR 52.247-34	F.O.B. Destination (Nov 1991)
FAR 52.248-1	Value Engineering (Feb 2000)
DFARS 252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Jan 2009)
DFARS 252.204-7003	Control of Government Personnel Work Product (Apr 1992)
DFARS 252.209-7004	Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (Dec 2006)
DFARS 252.211-7006	Radio Frequency Identification (Feb 2007)
DFARS 252.225-7002	Qualifying Country Sources as Subcontractors (APR 2003)
DFARS 252.232-7010	Levies on Contract Payments (Dec 2006)
DFARS 252.246-7000	Material Inspection and Receiving Report (Mar 2008)
DLAD 52.211-9009	Non-Acceptability of Government Surplus Material (Apr 2002)
DLAD 52.211-9010	Shipping Label Requirements-MIL-STD-129P (May 2006)
DLAD 52.211-9014	Contractor Retention of Traceability Documentation (Oct 2008)
DLAD 52.247-9012	Requirements for Treatment of Wood Packaging Material (WPM) – (Feb 2007)

The following additional clauses are provided in full text:

DFARS 252.204-7005 Oral Attestation of Security Responsibilities (NOV 2001)

(a) Contractor employees cleared for access to Top Secret (TS), Special Access Program (SAP), or Sensitive Compartmented Information (SCI) shall attest orally that they will conform to the conditions and responsibilities imposed by law or regulation on those granted access. Reading aloud the first paragraph of Standard Form 312, Classified Information Nondisclosure Agreement, in the presence of a person designated by the Contractor for this purpose, and a witness, will satisfy this requirement. Contractor employees currently cleared for access to TS, SAP, or SCI may attest orally to their security responsibilities when being briefed into a new program or during their annual refresher briefing. There is no requirement to retain a separate record of the oral attestation.

(b) If an employee refuses to attest orally to security responsibilities, the Contractor shall deny the employee access to classified information and shall submit a report to the Contractor's security activity.

DFARS 252.217-7001 Surge Option (AUG 1992)

(a) *General.* The Government has the option to—

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- (1) Increase the quantity of supplies or services called for under this contract by no more than * percent; and/or

* To be determined at the time this option is exercised. However the maximum quantity which may be acquired will not exceed the parameters set forth in paragraph (c) (3) of this clause.

- (2) Accelerate the rate of delivery called for under this contract, at a price or cost established before contract award or to be established by negotiation as provided in this clause.

(b) *Schedule.*

- (1) When the Production Surge Plan (DI-MGMT-80969) is included in the contract, the option delivery schedule shall be the production rate provided with the Plan. If the Plan was negotiated before contract award, then the negotiated schedule shall be used.

- (2) If there is no Production Surge Plan in the contract, the Contractor shall, within 30 days from the date of award, furnish the Contracting Officer a delivery schedule showing the maximum sustainable rate of delivery for items in this contract. This delivery schedule shall provide acceleration by month up to the maximum sustainable rate of delivery achievable within the Contractor's existing facilities, equipment, and subcontracting structure.

- (3) The Contractor shall not revise the option delivery schedule without approval from the Contracting Officer.

(c) *Exercise of option.*

- (1) The Contracting Officer may exercise this option at any time before acceptance by the Government of the final scheduled delivery.

- (2) The Contracting Officer will provide a preliminary oral or written notice to the Contractor stating the quantities to be added or accelerated under the terms of this clause, followed by a contract modification incorporating the transmitted information and instructions. The notice and modification will establish a not-to-exceed price equal to the highest contract unit price or cost of the added or accelerated items as of the date of the notice.

- (3) The Contractor will not be required to deliver at a rate greater than the maximum sustainable delivery rate under paragraph (b)(2) of this clause, nor will the exercise of this option extend delivery more than 24 months beyond the scheduled final delivery.

(d) *Price negotiation.*

- (1) Unless the option cost or price was previously agreed upon, the Contractor shall, within 30 days from the date of option exercise, submit to the Contracting Officer a cost or price proposal (including a cost breakdown) for the added or accelerated items.

- (2) Failure to agree on a cost or price in negotiations resulting from the exercise of this option shall constitute a dispute concerning a question of fact within the meaning of the Disputes clause of this contract. However, nothing in this clause shall excuse the Contractor from proceeding with the performance of the contract, as modified, while any resulting claim is being settled.

Surge Option Submission Requirements

The Offeror is required to submit maximum capability for item requirements by using production data on line at the Defense Supply Center Philadelphia's Subsistence Planning Integrated Data Enterprise Readiness System (SPIDERS). By submission of offer, Offeror agrees to accelerate deliveries up to the quantities intered

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in the table entitled "Committed Time-Phased Surge". A printed copy of the company profile and surge production data also must be returned with this solicitation.

The SPIDERS website is <https://spiders.dla.mil/spiders/home.asp>

252.225-7012 Preference for Certain Domestic Commodities (DEC 2008)

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

- (1) "Component" means any item supplied to the Government as part of an end product or of another component.
- (2) "End product" means supplies delivered under a line item of this contract.
- (3) "Qualifying country" means a country with a memorandum of understanding or international agreement with the United States. The following are qualifying countries:

Australia
Austria
Belgium
Canada
Denmark
Egypt
Finland
France
Germany
Greece
Israel
Italy
Luxembourg
Netherlands
Norway
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland.

- (4) "United States" means the 50 States, the District of Columbia, and outlying areas.
 - (5) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.
- (b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been grown, reprocessed, reused, or produced in the United States:

- (1) Food.
- (2) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia.
- (3) Tents, tarpaulins, or covers.
- (4) Cotton and other natural fiber products.
- (5) Woven silk or woven silk blends.
- (6) Spun silk yarn for cartridge cloth.
- (7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.
- (8) Canvas products.
- (9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).
- (10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing fibers, yarns, fabrics, or materials listed in this paragraph (b).

(c) This clause does not apply—

- (1) To items listed in section 25.104(a) of the Federal Acquisition Regulation (FAR), or other items for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;
- (2) To incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool—
 - (i) Is not more than 10 percent of the total price of the end product; and
 - (ii) Does not exceed the simplified acquisition threshold in FAR Part 2;
- (3) To waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives;
- (4) To foods, other than fish, shellfish, or seafood, that have been manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. Fish, shellfish, or seafood manufactured or processed in the United States and fish, shellfish, or seafood contained in foods manufactured or processed in the United States shall be provided in accordance with paragraph (d) of this clause;
- (5) To chemical warfare protective clothing produced in a qualifying country; or

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- (6) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if—
- (i) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include—
 - (A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);
 - (B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;
 - (C) Upholstered seats (whether for household, office, or other use); and
 - (D) Parachutes (Federal Supply Class 1670); or
 - (ii) The fibers and yarns are para-aramid fibers and yarns manufactured in a qualifying country.
- (d)(1) Fish, shellfish, and seafood delivered under this contract, or contained in foods delivered under this contract—
- (i) Shall be taken from the sea by U.S.-flag vessels; or
 - (ii) If not taken from the sea, shall be obtained from fishing within the United States; and
- (2) Any processing or manufacturing of the fish, shellfish, or seafood shall be performed on a U.S.-flag vessel or in the United States.

DFARS 252.232-7003 Electronic Submission of Payment Requests and Receiving Reports (MAR 2008)

- (a) *Definitions.* As used in this clause—
- (1) “Contract financing payment” and “invoice payment” have the meanings given in section 32.001 of the Federal Acquisition Regulation.
 - (2) “Electronic form” means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.
 - (3) “Payment request” means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.
- (b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at <https://wawf.eb.mil/>.
- (c) The Contractor may submit a payment request and receiving report using other than WAWF only when—
- (1) The Contracting Officer authorizes use of another electronic form. With such an authorization, the Contractor and the Contracting Officer shall agree to a plan, which shall include a timeline, specifying when the Contractor will transfer to WAWF;
 - (2) DoD is unable to receive a payment request or provide acceptance in electronic form;
 - (3) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer’s determination with each request for payment; or
 - (4) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System).
- (d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.
- (e) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

DFARS 252.243-7002 Requests for Equitable Adjustment (MAR 1998)

- (a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

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(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including—
(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to—

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustments under an incentive provision of the contract.

**52.209-9019 REQUESTS FOR WAIVER OF FIRST ARTICLE TESTING REQUIREMENTS
(SEP 2008) – DLAD**

(a) The Government reserves the right to waive the first article testing requirement when all the following criteria are met [Offeror shall insert information in space provided below, attach documentation to offer, or provide under separate cover to Contracting Officer.]

(1)(i) Source has manufactured the product within the last five (5) years; or

(ii) Identical or similar supplies were previously furnished by the Offeror within the past three (3) years and approved by the Government:

(A) Contract Number(s):

Date(s):

Issuing Government Agency(ies):

(B) Item previously furnished, identified by part number, type, model number, etc.):

(C) Engineering control document/change number of item previously furnished:

(2) There have been no changes to manufacturing processes, tooling, or locations;

(3) There have been no changes to manufacturing data (e.g., drawing revisions that change materials, dimensions, processes, inspection or testing requirements; or subcontractors used to manufacture the items successfully in the past);

(4) There has been no adverse quality history for the material manufactured in the last three (3) years; and

(5) Item supplied will be of same design and manufactured by same method at same facilities as item previously approved.

(b) Alternative prices. Offerors who ask to be considered for a waiver of the first article testing requirement may provide alternative offered prices. [Offeror shall insert information in space provided below, attach documentation to offer, or provide under separate cover to Contracting Officer.] An alternative offered price will not be a factor in evaluation for award, unless the Government determines to waive the first article testing requirement for the prospective Contractor involved. If no alternative prices are offered, evaluation shall be based on pricing as shown elsewhere in the offer.

ALTERNATIVE PRICES OFFERED IF FIRST ARTICLE TESTING REQUIREMENT IS WAIVED:

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ITEM NUMBER:
 PRICE:

52.211-9046 FDA COMPLIANCE (APR 2008 MEDICAL and SUBSISTENCE) – DLAD

If any supplies acquired hereunder are recalled under the provisions of the Federal Food, Drug and Cosmetic Act, and regulations there under, the contractor shall, at the Government's option, either reimburse the Government or repair/replace the recalled supplies. Additionally, the contractor shall notify the contracting officer immediately when a firm decides to voluntarily recall or withdraw any product from the marketplace. Upon notification by the contracting officer that supplies acquired hereunder have been recalled, the contractor shall either (a) accept Certificates of Destruction from the Government after the supplies have been properly disposed of, (b) request return of the supplies, or (c) if supplies may be repaired on site without transporting them from their location, furnish all materials necessary to effect repairs. Replacement or reimbursement will be accomplished by the contractor immediately on receipt of Certificates of Destruction or returned supplies. The costs of replacement or repair of supplies, and transportation and handling costs for movement of returned, replaced or repaired supplies within the continental United States shall be paid by the contractor. The provisions of this clause are applicable only when the value of the recalled supplies in the possession of the Government amounts to \$100 or more. 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 in the contract.

52.216-9054 ECONOMIC PRICE ADJUSTMENT - POLYMERIC TRAYPACK RATION (JUL 2009) - DLAD

(a) WARRANTIES. For the portion of the schedule that is covered by this EPA clause, the Contractor warrants that the unit prices included in the Schedule do not include allowances for any portion of the contingency covered by this clause. Refer to clause [DLAD 52.217-9001](#), OPTION TO EXTEND THE TERM OF THE CONTRACT - SEPARATE FIRM FIXED PRICE & FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT PORTIONS, contained elsewhere in this solicitation.

(b) The base unit prices for the purpose of the adjustment calculations under this clause shall be the arithmetic average of the weekly or monthly prices of each applicable economic indicator only (e.g. an average of beef indices for beef products, an average of poultry indices for poultry products, etc.) for the period specified under the "Adjusted (ADJ.) Unit Price" below immediately preceding either the solicitation closing date for proposals (if no discussions are held), the due date for final proposal revisions (if discussions are held) or the solicitation opening date (if sealed bidding is used).

TRAY PACK ITEM	EPA FACTOR	ECONOMIC INDICATOR	PUBLICATION / PUBLISHER	PUBLISHED	BASE UNIT PRICE	ADJ. UNIT PRICE
Beef, ground, Creamed	Beef	Boneless process Beef, trimmings, Weighted Average, 85%, BPN U24	Weekly National Carlot Meat Report / USDA	Weekly	52 week period	52 week period
Turkey Cutlets In gravy	Turkey	Breasts, B/S, TOM, National Young Turkey Parts & Bulk Meat, Weighted Average Price	USDA Turkey Market News Report (Monday Edition) / USDA	Weekly	52-week period	52 week period

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Ham Slices Potatoes w/cheese & ham	Ham	Ham bone-in, trimmed, 23-27#m spec 1, BPN U62	Weekly National Carlot Meat Report USDA	Weekly	52-week period	52 week period
Pork diced in sweet & sour	Pork	Picnics, fresh, Smkr trm,RS, Combo, weighted average, BPN U50	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52 week period
Chili Macaroni w/beef, corn and beans	Beef	Boneless process Beef, trimmings, Weighted average 85% BPN U24	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52 week period
Corned Beef hash	Beef	IMPS 167A, round, knuckle, trimmed, Weighted Average, BPNU12	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52 week period
Turkey Sausage Links	Turkey	Breasts, B/S, TOM, National Young Turkey Parts & Bulk Meat, Weighted Average Price	USDA Turkey Market News Report (Monday Edition) / USDA	Weekly	52-week period	52 week period
Meatballs in gravy	Beef	Boneless process Beef, trimmings, Weighted Average 85%, BPN U24	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52 week period
Spaghetti w/meatballs	Beef	Boneless process Beef, trimmings, Weighted Average 85%, BPN U24	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52 week period
Chicken breasts In gravy	Chicken Breast	Breasts – B/S, Georgia FOB Dock Prices.	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52 week period
Chicken	Chicken	Breasts – B/S,	USDA Broiler	Weekly	52-week	52 week

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breast in lemon pepper sauce	Breast	Georgia FOB Dock Prices.	Market News Report (Monday Edition) / USDA		period	period
Chicken, Buffalo Style in spicy sauce	Chicken	Heavy Type Hens, S.E. Heavy Live Hen Report, At Farm Buyer Loading, Weighted Average	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52 week period
Stuffing w/sausage	Pork	Picnics, fresh, Smkr trm,RS, Combo, Weighted Average, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Pork sausage Links	Pork	Picnics, fresh, Smkr trm,RS, Weighted Average, Combo, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Pork ribs in BBQ Sauce	Pork	Picnic cushion Meat, combo 92%, fresh or frozen BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Pork sausage in Cream gravy	Pork	Picnics, fresh, Smkr trm,RS, Combo, Weighted Average, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Pasta w/ground hot Italian sausage	Pork	Picnics, fresh, Smkr trm,RS, Combo, Weighted Average, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Beef taco filling	Beef	IMPS 167A round knuckle, trimmed, Weighted Average, BPN U12	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Blueberry dessert	Blueberries	Frozen, 30 lb f.o.b. Michigan	The Food Institute Report Monthly Price Range / USDA	Monthly	12 month period	12 month period

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Beef Burgundy	Beef	IMPS 167A round knuckle, trimmed, Weighted Average, BPN U12	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52 week period
Chicken in Szechwan Style Sauce	Chicken Breast	Breasts –B/S, Georgia FOB Dock Prices.	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52 week period
Polypropylene (PP) Resin	PP Resin	Polypropylene Large Buyer Contract Price	Chemical Data/ Monthly Petrochemical & Plastics Analysis	Monthly	12 month period	12 month period
Linerboard	Linerboard	Linerboard (42-lb) Unbleached kraft, East	PPI Pulp & Paper Week	Monthly	Semi-annual	Semi-annual

In addition to the components shown above, the following are also included:

<u>TRAY PACK ITEM</u>	<u>EPA FACTOR</u>	<u>ECONOMIC INDICATOR</u>	<u>PUBLICATION / PUBLISHER</u>	<u>PUBLISHED</u>	<u>BASE UNIT PRICE</u>	<u>ADJ. UNIT PRICE</u>
Hoppin John Black Eye Peas	Pork	Pork Belly, Seedless, Fresh, Skin on , Trimmed 14-16#, Weighted, C9	Weekly National Carlot Meat Report / USDA	Weekly	52-week period	52-week period
Chicken Tamales	Chicken	Heavy Type Hens, S.E. Heavy Live Hen Report, At Farm Buyer Loading, Weighted Average	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52-week period
Chicken Pot Pie	Chicken	Heavy Type Hens, S.E. Heavy Live Hen Report, At Farm Buyer Loading, Weighted Average	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52-week period
Turkey Tetrazzini	Chicken	Heavy Type Hens, S.E. Heavy Live Hen Report, At Farm Buyer	USDA Broiler Market News Report (Monday Edition) / USDA	Weekly	52-week period	52-week period

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		Loading, Weighted Average				
Carnitas Entrée pylene (PP) Resin	Pork	Picnic cushion, Meat, combo 92%, fresh or frozen, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52-week period
Pull Pork	Pork	Picnic cushion, Meat, combo 92%, fresh or frozen, BPN U50	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52-week period
Chili Dogs	Beef	Boneless process Beef, trimmings, Weighted Average, 85%, BPN U24	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52-week period
Beef Roast	Beef	IMPS 167A Round Knuckle Trimmed Weighted Average BPNU12	Weekly National Carlot Meat Report /USDA	Weekly	52-week period	52-week period

(c) The adjusting unit prices shall be the arithmetic average of the weekly or monthly prices of each applicable economic indicator only for the period specified under the Adjusting Unit Price column shown in paragraph (b) immediately preceding the effective date the option term is exercised.

(d) An established market price is a price that is established in the course of ordinary and usual trade between buyers and sellers free to bargain and that can be substantiated by data from sources independent of the offeror(s); and the net price after applying any standard trade discounts offered by the Contractor. The established market price under this clause may reflect industry-wide and/or geographically based market price fluctuations for commodity groups or specific supplies. The established market price that shall be used for the EPA factors subject to price adjustments under this clause, and the economic indicators and publications to be used are listed in paragraph (b) of this clause.

(1) The base unit prices for the purpose of the adjustment calculations under this clause shall be the arithmetic average of the weekly or monthly prices of each applicable economic indicator only for the period specified under the Base Unit Price column in paragraph (b) immediately preceding (i) the closing date for proposals, if no discussions are held, (ii) the due date for final proposal revisions, if discussions are held, or (iii) the opening date, if sealed bidding is used.

(2) The adjusting unit prices shall be the arithmetic average of the weekly or monthly prices of each applicable economic indicator for the period specified under the Adjusting Unit Price column in paragraph (b) immediately preceding the effective date the option term is exercised, except for linerboard which shall require one additional adjustment six months after each option term is exercised.

(e) With respect to increases or decreases under this clause, no adjustment shall be made to the base term contract unit prices. One adjustment calculation shall be made annually to determine the unit prices applicable to the forthcoming option term (if exercised), except linerboard which will be adjusted on a semi-annual basis.

(f) ALLOWANCE FACTOR: For the purpose of price adjustment pursuant to this clause, it shall be conclusively presumed that the amount shown under "Portion Subject to EPA" represents the cost of each item

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that is subject to adjustment. The portion subject to EPA refers to the element of cost for each item that is outside the control of the vendor and in "Schedule B" the offerors will be required to fill in this amount. This is the only portion of the cost that will be subject to the EPA provision. The EPA provisions based on changes in market prices for product material costs such as beef, turkey, ham, pork, chicken, and blueberries are subject to the EPA, because there is serious doubt concerning the stability of market conditions. The balance of product costs for items such as labor, overhead, General and Administrative (G&A), transportation, and profit, are those contingencies that can be included in the contract price and can be identified and covered separately through firm-fixed-price. This allowance factor remains fixed throughout the life of the contract unless a Government authorized change is made to the contract which affects this allowance.

(1) The United States Army Research, Development and Engineering Command (RDECOM) Natick Soldier Center (NSC) who prepares the specifications has moved from Military Specifications to Performance Requirements. The Government no longer states the specific amount of meat, potatoes, gravy, etc that goes into a tray pack item, only an overall amount with a protein and carbohydrate requirement. Meeting the protein requirement indicates that the contractor has put in sufficient meat quantities in the tray/pouch to satisfy the requirement. Different contractors will put in differing quantities of beef, turkey, ham, pork, chicken breast, etc. to meet the protein performance requirements. This is why specific weights or quantities cannot be specified in advance in this EPA as would be used in a Military Specification and the cost for the items subject to adjustment will be entered by the contractor in Section B. The Government performs oversight to ensure that the performance requirements are met or exceeded.

(g) Adjustments shall be calculated as follows: (Round to four decimal places)

(1) Compute the Adjusting Unit Price and the Base Unit Price.

(2) $(\text{Adjusting Unit Price} - \text{Base Unit Price}) / \text{Base Unit Price} = \text{Market Price Change (+ or -)}$.

(3) $\text{Market Price Change} \times \text{Allowance Factor} = \text{Price Adjustment (+ or -)}$.

(4) Determine the Contract Unit Price Adjustment by computing the sum total of the price Adjustment of all items subject to EPA.

(5) The original option unit price(s) for each option will be the sum of the firm fixed price portion and the portion subject to the EPA (as discussed in section (f) above, the portion of the price subject to the EPA is the Allowance Factor). The adjusted unit price(s) for each option shall be determined by increasing or decreasing (as appropriate) the EPA Allowance Factor by the Contract Unit Price Adjustment and adding that to the firm fixed price portion agreed to at the time of award for the option period being adjusted.

(h) Price adjustments pursuant to this clause shall be made by contract modification showing the calculations used to derive the adjusted contract unit price.

(i) PAYMENTS: Payment for an adjustment under this clause shall be at the current contract price until an adjustment modification has been effected. The Government shall pay the Contractor, upon submission of proper invoices or vouchers the unit price stipulated in the contract modification for the applicable option period. The contractor also represents by submitting its final invoice that the total amount billed under this contract reflects all increases or decreases required or authorized by this clause.

(j) Any pricing actions pursuant to the "CHANGES" clause or other provisions of the contract will be priced as though there were no provisions for economic price adjustment.

(k) No adjustment will be made under this clause unless the total change in the contract amount is \$500.00 or more.

(l) UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT: The total increase in any contract unit price shall not exceed 10% per year of the original option unit prices agreed to at time of award. There is no percentage limit on downward adjustments under this clause.

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(m) REVISION OF MARKET PRICE INDICATOR: In the event that (i) any applicable market price indicator is discontinued or its method of derivation is altered substantially; or (ii) the Contracting Officer determines that a particular market price indicator consistently and substantially fails to reflect market conditions, -- the parties shall mutually agree upon an appropriate and comparable substitute and the contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions.

(n) DISPUTES: If the parties fail to agree on an appropriate substitute market price indicator or implementation of other matters addressed by this EPA clause then the matter shall be resolved in accordance with the DISPUTES clause of the contract.

(o) Authority to add additional traypack items to Polymeric Traypack Ration EPA clause. Paragraph (b) of this clause identifies 23 unique components contained in the polymeric traypack ration. These components are selected based on historical data and may not be included in every polymeric traypack ration. Refer elsewhere in the solicitation/contract for listing of the exact component makeup. Due to customer requirements, the contracting officer may add additional components to the polymeric traypack ration. The contracting officer will show within paragraph (b) the additional components(s).

(p) EXAMINATION OF RECORDS: The Contractor agrees that the Contracting Officer or designated representative shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the provisions of the clause.

(q) In the event any applicable market price indicator is not published for any week(s), that week will not be included in calculating the base unit price or the adjusting unit price as applicable. For instance, if within a 52 week period an indicator is not published 4 times, the average of the 48 published prices only will be calculated. When a range of prices is provided, for the purposes of the calculations the arithmetic average of the high and low number will be calculated to determine the indicator for that period.

52.217-9006 Surge and Sustainment (S&S) Requirements (Jun 2009) – ALTERNATE I (DLAD)

This solicitation includes items that are critical to support the Department of Defense's ability to conduct contingency operations. These items are designated as the S&S requirements, **including the Services' go-to-war requirements. S&S requirements are identified as "Surge Quantity Option" expressed in a percent or exact quantity in this solicitation, and are in addition to peacetime quantities.** The objective of this requirement is to obtain contractual coverage to meet the S&S quantities and sustainable accelerated delivery specified in this solicitation. S&S coverage includes access to production capability as well as vendor owned or managed inventory/safety stocks. Offerors will be evaluated on their ability to meet the terms and conditions of the S&S requirements. **S&S requirements are defined as follows:**

a. **Surge and Sustainment Capability** means the ability of the supplier to meet the increased quantity and/or accelerated delivery requirements, using production and/or supplier base capabilities, in support of DOD contingencies and/or emergency peacetime requirements. This capability includes both the ability to ramp-up to meet early delivery or increased requirements (i.e., Surge), as well as to sustain an increased production and delivery pace throughout the contingency (i.e., Sustainment). The spectrum of possible contingencies ranges from major theater wars to smaller-scale military operations.

b. **S&S Quantity and Accelerated Delivery Schedule** are identified on an individual item basis, based on the Services wartime planning requirements. **The surge quantity option is expressed as a percent or an exact number with a sustainable accelerated delivery.** The S&S quantity and delivery requirements are above and beyond the **peacetime** requirements in the schedule of supplies.

c. **S&S Capability Assessment Plan (CAP), (previously known as the "Surge Plan")**. The CAP provides the offeror's method of covering the S&S quantity and delivery requirements, identification of competing priorities for the same resources, and date the contractor can provide the required S&S capability. If

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any of the S&S quantity and delivery requirements cannot be met, the offeror must identify the shortfall and provide the best value solutions to include a proposed investment strategy to offset the shortfall. For example, the CAP may include, but is not limited to, one of the following scenarios to address wartime delivery requirements:

- (1) The S&S quantity and delivery requirements can be fully covered within the supplier's resources.
- (2) The S&S delivery schedule can be fully covered with early deliveries due to unit pack shipping.
- (3) The total S&S quantity and delivery requirements can be met but at a different delivery rate, and the supplier has no cost-effective investment strategy that would improve the capability to deliver according to the quantity and delivery requirements.
- (4) The total S&S quantity and delivery requirements can be met but at a different delivery rate, and includes an investment strategy that would improve the supplier's capability to deliver according to the **surge quantity option** (e.g., the **surge quantity option calls for 50% of estimated annual demand quantity or an exact quantity of 20 boxes) every 10 days**, and the vendor can meet the schedule starting in the third ordering period but needs Government investment to **become** capable of meeting deliveries in the first two months).
- (5) The S&S quantity and delivery requirements can be partially covered (the supplier can only provide a fraction of the total quantities specified); however, the supplier has no cost-effective investment strategy that would improve the capability to deliver at the **surge quantity option**.
- (6) The S&S quantity and delivery requirements can be partially covered (the supplier can only provide a portion of the **surge quantity option** specified), and includes an investment strategy that would improve the supplier's capability to deliver at the **surge quantity option**.

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

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

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

g. **Government Changes, Additions and Deletions to S&S Requirements.** The identification of new S&S items in the peacetime schedule or increases in quantities of items already in the S&S schedule will be done through bilateral contract modifications. Deletion of S&S requirements or decreases in quantities will be made by the Government through unilateral contract modifications. The government reserves the right to obtain S&S requirements from other sources without liability to the supplier. This language does not relieve the

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supplier of the responsibility to provide, in accordance with the applicable delivery schedule, non-S&S and S&S quantities agreed to in the Schedule and CAP during the contingency.

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

52.237-9001 Contractor Personnel Changes and Key Personnel Requirements (APR 2008) DLAD

1. Contractor Personnel Changes:

(a) The contractor shall have the right to remove his personnel assigned to perform the tasks hereunder and to substitute other qualified personnel provided that the Contracting Officer is notified of (and in certain circumstances approves) such removal and replacement. The contractor shall notify the Contracting Officer prior to such change, giving the new employee's name, security clearance and technical qualifications.

(b) Any removals or replacements for the convenience of the contractor shall be at no additional cost to the Government. Cost to be borne by the contractor include but are not limited to time of travel, travel and training costs for replacement personnel.

(c) Removals or replacements of contractor personnel shall be considered for the convenience of the contractor except when such removal is for:

- (1) employees removed as a result of cancellation or completion of the contract,
- (2) employees replaced due to death or incapacitating illness or injury,
- (3) or employees removed or replaced at the Government's request.

(d) If any employee removes him/herself from the employ of the contractor, such removal will be at no additional cost to the Government.

2. Key Personnel Requirements:

(a) Certain experienced, professional and/or technical personnel are essential for successful accomplishment of the work to be performed under this contract. These are defined as "Key Personnel" and are those persons whose resumes were submitted for evaluation of the proposal and are listed in paragraph 2. (c) below. The contractor agrees that such personnel shall not be removed from the contract work or replaced without compliance with the following:

1) If one or more of the key personnel, for any reason, becomes or is expected to become unavailable for work under this contract for a continuous period exceeding 30 work days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, the contractor shall, subject to the concurrence of the Contracting Officer or an authorized representative, promptly replace personnel with personnel of equal ability and qualifications.

2) All requests for approval of substitutions hereunder must be in writing and provide a detailed explanation of the circumstances necessitating the proposed substitutions. The request must contain a resume for the proposed substitute, and any other information requested by the Contracting Officer. The Contracting Officer shall promptly notify the contractor of approval or disapproval in writing.

(b) If the Contracting Officer determines that suitable and timely replacement of Key Personnel who have been reassigned, terminated or have otherwise become unavailable for the contract work is not reasonably forthcoming or that the resultant reduction of productive effort would be so substantial as to impair successful

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completion of the contract, the Contracting Officer may terminate the contract for default or for the convenience of the Government, as appropriate, or make an equitable adjustment to the contract to compensate the Government for any resultant delay, loss or damage.

(c) The follow positions are identified as Key Personnel :
(Insert Key Personnel Positions)

**52.246-9001 MANUFACTURING PROCESS CONTROLS AND IN-PROCESS INSPECTIONS
(Jun 1998) - DLAD**

This clause supplements (Process Control) **guidance** of the **ISO (ANSI/ASQ) 9000 Series standard, or equivalent standards with process controls**, and is applicable when the contract requires a **higher-level quality system** in accordance with **FAR 46.202-4**.

MANUFACTURING PROCESS CONTROLS AND IN-PROCESS INSPECTIONS

The Contractor shall:

(a) Ensure that all manufacturing operations are carried out under controlled conditions which will adequately assure that product characteristics and criteria specified by contract are achieved and maintained in the produced item. Controlled conditions include documented process control and in-process inspection procedures, adequate methods for identifying and handling material, and adequate production equipment and working environments.

(b) As a minimum, perform inspections (examinations and/or tests) during manufacturing on those product characteristics which cannot be inspected at a later stage, and ensure that process controls are implemented and effective.

(1) Manufacturing processes shall be evaluated to determine which process characteristics have an effect on the quality of the produced item. These manufacturing processes shall be identified and requirements for their control shall be specified in written process control procedures.

(2) When in-process inspection of material is not practical, control by monitoring processing methods, equipment, and personnel shall be provided. Both in-process inspection and process monitoring shall be provided when control is inadequate without both.

(3) Prompt corrective action shall be taken when noncompliance or out of control conditions occur.

(c) Clearly identify each in-process inspection and process control point at appropriate locations in the manufacturing operation.

(d) Prepare clear, complete, and current written procedures for:

(1) Each in-process inspection. Identify: the type, frequency, and amount (sampling plan/100 percent) of inspection; product characteristics to be inspected; criteria for approving and rejecting product; the record for documenting inspection results; and the method for identifying the inspection status of approved and rejected product.

(2) Each process control. Identify: the criteria, frequency, and records used verifying control of the process.

(3) Assessing the adequacy of in-process inspections and process controls. The Contractor's quality organization shall assure by periodic surveillance that procedures are followed and are effective. Records of this surveillance will be maintained.

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(e) Make the documented inspection system available for review by the Government Quality Assurance Representative prior to the initiation of production and throughout the life of the contract. The Government is under no obligation to perform verification inspection or to accept product produced under the contract until the Government has received acceptable written procedures, and has been afforded the opportunity to evaluate the inspection system. Acceptance of the Contractor's inspection system by the Government does not bind the Government to accept any nonconforming supplies that may be produced by the Contractor. Periodic evaluations of the system may be made by the Government throughout the life of the contract.

52.246-9003 MEASURING AND TEST EQUIPMENT (Jun 1998) - DLAD

Notwithstanding any other clause to the contrary, and/or in addition thereto, the contractor shall ensure that the gauges and other measuring and testing equipment, used in determining whether the supplies presented to the Government for acceptance under this contract fully conform to specified technical requirements, are calibrated in accordance with *ISO 10012-1* or *ANSI/NCL S Z540-1*.

52.246-9004 PRODUCT VERIFICATION TESTING (JUL 2008) – DLAD

(a) The requirements of FAR clause 52.246-2, "Inspection of Supplies—Fixed Price," American National Standards Institute (ANSI)/American Society for Quality Control (ASQC) Z1.4-1993, "Sampling Procedures and Tables for Inspection by Attributes," apply. These documents form the basis for the Government's right to perform product verification testing (PVT) of this product. FAR 52.246-2 is hereby incorporated by reference into the contract if not otherwise called out in the purchase document. The current version of ANSI/ASQC Z1.4 can be found at <http://asq.org>. The private sector and non-DOD agencies may purchase copies of ANSI/ASQC Z1.4 from the American Society for Quality Control, P.O. Box 3005, 611 E. Wisconsin Avenue, Milwaukee, WI 53201-4606.

(b) The Contractor is responsible for ensuring that supplies are manufactured, produced, and subjected to all tests required by applicable material specifications/drawings specified in the purchase description of the contract. Notwithstanding any other clause to the contrary, and/or in addition thereto, the Government reserves the right to conduct PVT to ascertain if any or all requirements of the purchase identification description contained elsewhere herein are met prior to final acceptance.

(c) On any given contract, the Government may require PVT through a Government-designated testing laboratory on the contract or production lot at Government expense to verify conformance. When the contract is designated by the Procurement Contracting Officer (PCO)/Administrative Contracting Officer (ACO) for PVT, the Government Quality Assurance Representative (QAR) will select a random sample, from lots presented by the contractor for Government acceptance, to verify that the entire lot tendered meets the requirements of the contract or during production to ensure critical manufacturing processes are in control and send the samples to a Government-designated laboratory for testing at the Government's expense. The PVT samples shall be shipped with a copy of the DD Form 250, a DD Form 1222 (as prepared in coordination with the QAR) and marked as follows: "PRODUCT VERIFICATION TEST SAMPLES, Contract No. _____, Lot/Item No. _____." Upon shipment of the PVT samples, the original unsigned DD Form 250, along with a copy of the DD Form 1222, shall be submitted to the PCO.

Upon notification to the contractor that PVT is invoked, the contractor shall not ship any material from the sampled lot until the contractor receives notification of acceptable PVT results. Government reserves the right to reject the lot, or withhold payment if the contractor ships prior to Government approval of the PVT. The Government will notify the Contractor of the results of the testing within 15 working days after receipt of the samples by the Government.

(d) Samples subjected to PVT are deemed to be part of the contract quantity. Samples destroyed during testing will be paid for at the contract price, provided the samples pass PVT. Those samples not destroyed during PVT will be returned to the Contractor at the Government's expense and will be included as part of the total contract quantity within the limits of the quantity variation clause specified in the contract.

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(e) The Contractor will not be paid for those samples destroyed during testing which fail PVT. Such failure will result in rejection of the entire contract lot from which the samples were taken. Those samples from a rejected lot which were not destroyed during PVT may be returned to the Contractor at the Contractor's request and expense.

(f) [This subparagraph pertains only to contracts and bilateral purchase orders.]

(1) The QAR will evaluate the test results and accept or reject the rest of the production lot based on those results. At acceptance, the QAR is authorized to notify the contractor and send copies of the report to the Product Verification Program (PVP) Office and the PCO. If the Government fails to act within the period set forth herein for notification, the Contracting Officer shall, upon timely written request, equitably adjust, under the Changes clause of this contract, the delivery or performance dates and/or the contract price and any other contractual terms affected by the delay. The Government is not required to accept/reject the supplies tendered until after receipt of the PVT results.

(2) The Government shall have the option to require the contractor to screen the entire lot tendered for any defects noted by the PVT. Any defects found shall be corrected before re-tendering the lot for acceptance by the Government. Furthermore, the Government may subject this lot to additional PVT. If the Government disapproves the lot tendered for acceptance because of a failure to pass PVT, the Contractor shall be deemed to have failed to make delivery within the meaning of the Default clause of this contract. In such case, the Government reserves all rights to remedies to which it is otherwise entitled by law, regulation, or this contract.

(g) [This subparagraph pertains only to unilateral purchase orders.]

(1) The QAR will evaluate the test results and accept or reject the rest of the production lot based on those results. At acceptance, the QAR is authorized to notify the contractor and send copies of the report to the PVP Office and the PCO. The Government is not required to accept/reject the supplies tendered until after receipt of the PVT results.

(2) The Government shall have the option to require the contractor to screen the entire lot tendered for any defects noted by the PVT. Any defects so found shall be corrected before re-tendering the lot for acceptance by the Government. Furthermore, the Government may subject this lot to additional PVT. If the Government disapproves the lot tendered for acceptance because of a failure to pass the PVT, the Government has the right to reject the entire offer, thereby releasing the parties from further obligations under the purchase order.

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When required, the contractor will select samples of end items or components or both for contractor examination or testing as required by the item specification or other contract provisions. In addition, the government may select samples of end items or components or both at origin for the purpose of conducting required inspection. The government may use, consume, destroy or retain said samples at its option. Notwithstanding any other provision of the contract, the contractor shall bear the cost of contractor and government samples selected at origin, whether the supplies are accepted or rejected. Furthermore, unless otherwise specified, any sample unit which is altered as a result of the performance of any required examination or test so as to no longer meet the required characteristic of the component or end item, shall not be included as part of the supplies delivered under the contract. Examples of such alteration include, but are not limited to, cutting an item to remove a slice or observe internal surface characteristics, procedures requiring re-canning/re-cooking of the product, thawing and refreezing.

52.246-9023 GENERAL INSPECTION REQUIREMENTS (APR 2008 SUBSISTENCE) – DLAD

(a) Inspection.

(1) The Contractor shall employ the services of the U.S. Department of Agriculture (USDA), Grain Inspection, Packers and Stockyard Administration (GIPSA) or Agricultural Marketing Service (AMS) or U.S. Department of Commerce (USDC), National Marine Fisheries Service (NMFS) to accomplish origin inspection (examination and testing) and sampling as required herein and in the applicable commodity specifications. The

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Contractor shall bear all expenses incident thereto, including costs of samples and all associated costs for preparation and mailing. Costs shall be assessed in accordance with the Government laboratory testing charges for individual test characteristics and number of tests required by the specification or contract. A list of fees may be obtained from the appropriate inspection activity. The Contractor shall furnish the Government grader/inspector a copy of the complete contract and supporting contractual documents (i.e., individual solicitation, contract modifications, waivers, and referenced specifications). Offerors may contact the appropriate Government office to discuss inspection procedures prior to submitting offers; however, nothing provided thereby shall be construed to alter the applicable specification in any manner or to reduce the responsibility of Contractor to comply with such specifications.

(2) The Contractor shall take action to correct or replace nonconforming supplies.

(3) The Government will perform an inspection at destination for identity, condition and quantity. If there is evidence that the supplies do not conform with contract requirements, the inspector shall report the findings of his inspection to the appropriate DSCP office (Operational Rations Business Unit, Food Services Business Unit, Produce Business Unit, Product Services Office, etc.). The applicable DSCP office shall report the findings to the Contracting Officer or the Ordering Officer, who shall in turn notify the Contractor.

(4) Supplies will be rejected when any evidence of insect activity (live or dead in any stage of development) or rodent activity/contamination is found in or on product, packaging, packing or unitization.

(5) Nonconforming supplies rejected at origin will not normally be accepted by the Government. However, the Contractor may elect to petition the Contracting Officer in writing to grant a waiver of the contract requirements for which supplies have been found nonconforming, and to accept the supplies "as is" with appropriate price consideration.

(6) The Contractor shall furnish all inspection gauges, instruments, scales, tools or other material required by the designated Government inspection activity to complete the necessary inspection. The Government inspector will insure that the Contractor has had such gauges, instruments, scales, tools, or other material required to complete inspection properly calibrated and, if necessary, certified. When required by the contract/solicitation the Government inspector will collect insect specimens from plant production and storage areas and submit the specimens to the nearest military entomological laboratory for identification. When the collection of insects is required, the Contractor shall be responsible for supplying and installing specified insect monitoring devices required to accomplish this task.

(b) Standby Test Samples.

The Government reserves the right to withdraw and hold standby samples of components or finished products or both (the quantity of which shall be not more than twice that required by the specification) for inspection purposes. Samples not used will be returned to the Contractor.

(c) USDA and USDC Certificates.

(1) Inspection by USDA, AMS, Fruit and Vegetable Division, Poultry Division or Dairy Division: When DD Form 250, Material Inspection Receiving Report (MIRR), is not used, the Contractor shall obtain official USDA inspection certificate, which shall:

(i) Contain the following statement in the grade section of the certificate:

(A) Supplies listed hereon conform to all quality requirements of the contract.

(B) Container condition meets all requirements of the contract.

(C) Visual examination indicates conformance to packaging, packing, unitization, labeling and marking requirements of the contract.

(ii) Indicate that supplies shipped are those inspected. This may be satisfied by means of one of the following:

(A) Each primary container must be embossed, stamped or stenciled with a code mark prior to inspection, which corresponds with the code marks listed on the USDA grade certificate.

(B) The USDA grade certificate bears a statement that all of the shipping containers comprising the inspection lot have been stamped with the official USDA stamp impression.

(C) The USDA certificate of loading, if issued, bears a cross-reference to the applicable USDA inspection document.

(iii) Indicate that the contractor has furnished a certificate of conformance for packaging, packing, labeling, marking and unitization materials.

(iv) Indicate the random samples of packaging, packing, labeling, marking and unitization materials, where applicable, have been selected by the inspector for forwarding to DLA Analytical Laboratory, 700 Robbins Avenue, Philadelphia, PA 19111 in accordance with DSCP clause 52.246-9P20.

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(v) Indicate the applicable contract or order number.

(2) Inspection by USDA, AMS, Livestock, Meat, Grain and Seed Division: For all shipments, whether DD Form 250 (MIRR) is required or not, the Contractor shall obtain a USDA agricultural products acceptance certificate (Form LS 5-3), which shall contain the information specified in paragraph (c)(1). The Contractor shall also include the applicable lot number(s).

(3) Inspection by USDA, GIPSA, Field Management Division: When DD Form 250 (MIRR) is not required, the Contractor shall obtain an official USDA inspection or examination certificate, as appropriate. In addition to the entries required by the GIPSA, the certificate shall contain the following certification: "Supplies listed hereon conform to all quality and condition requirements of the contract".

(d) Distribution of Certificates.

Copying machine duplicates of USDC certificates and USDA certificates other than USDA Form LS 5-3 are not acceptable. Copying machine duplicates of USDA Form LS 5-3 are acceptable only as provided in paragraph (2) and (3) below. Copying machine duplicates of the original signed DD Form 250 are acceptable. In addition to the prohibited use of copying machine duplicates, USDC certificates must also be embossed with the official seal of the USDC. The contractor shall distribute certificates as follows:

(1) When DD Form 250 (MIRR) signed by the inspector is provided, a copy of the USDA/USDC inspection certificate need not be furnished to the designated paying office. (Exception: When the contract or specification provides for acceptance of product with a price adjustment to the contractor" invoice, e.g., excess fat in ground beef, the original signed USDA/USDC inspection certificate must be attached to the top of the commercial invoice which is submitted to the designated paying office.)

(2) When DD Form 250 (MIRR) is not required, the original signed USDC inspection certificate or USDA inspection certificate other than USDA Form LS 5-3 must be attached to the top of the commercial invoice, which is submitted to the designated paying office. When the services of the USDA, AMS, Livestock, Meat, Grain and Seed Division are employed, the original signed USDA Form LS 5-3 or a copying machine duplicate of the original form LS 5-3 with an original signature must be attached to the top of the commercial invoice which is submitted to the designated paying office.

(3) As appropriate for any shipment, one blue or green signed copy of the original USDA Fruit and Vegetable Division certificate; one green or yellow carbon copy of the original signed USDA, AMS Dairy Division or Poultry Division certificate; one copy of the original signed USDA, GIPSA or USDC certificate; one copy of the original signed USDA Form LS 5-3 or a copying machine duplicate of the original USDA Form LS 5-3 with an original signature shall accompany each shipment to each destination and be marked ATTN: Subsistence Inspector.

(4) In the event the Contractor does not include appropriate certificate(s) with each shipment to each destination as required, the Government reserves the right to arrange for government grading/inspection and certification at destination at the Contractor's expense.

(e) Lot Identification.

The Contractor shall code or distinctively mark by embossing, stamping, printing or stenciling each shipping container for every lot of supplies offered for acceptance so as to identify the lot from any other lot produced by the Contractor. Under both in-process (on line) and stationary lot inspections, the maximum lot size, unless otherwise specified in the contract, shall be defined by the assigned inspection agency.

(f) Particular Inspection Requirements.

(1) Primary Containers: Examination of primary containers for external condition and labeling shall be in accordance with the U.S. standards for condition of food containers, except that when requirements are contained in the specification, examination shall be performed in accordance with that specification. When additional requirements are specified in the specification, examination for these requirements shall be in accordance with the specification.

(2) Unit Loads: Examination of unit loads shall be in accordance with MIL-L-35078.

(3) All Other: Examination shall be in accordance with the specification

52.246-9024 ALTERNATIVE INSPECTION REQUIREMENTS FOR SELECTED ITEMS (APR 2008 SUBSISTENCE) – DLAD

(a) Optional Contractor Testing of Contractor-Furnished Materials.

To expedite shipment, the Contractor has the option to perform, or have performed by an independent laboratory, contractually-required tests of end items or component material not specified by the U.S. Standards of Grade. The inspector for the Government agency having jurisdiction over ascertaining compliance may permit shipment, provided all other requirements of the contract are met. The designated Government inspector will

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select random samples of each lot of end items or component material for verification testing until the Contractor's testing system is determined reliable in accordance with paragraph (c) of this clause. It is the intent of the Government to rely on Contractor test results to the maximum extent practicable and minimize Government verification testing.

(b) Compliance of Product.

Acceptance of material as complying with required characteristics shall be based on the Contractor's test results; provided that Government verification indicates the Contractor's testing system is reliable, in accordance with paragraph (c) of this clause, as to each of the required characteristics. If the Contractor's test system is determined to be unreliable, product compliance will be determined based solely on Government test results. In the event the Government detects any irregularities in the Contractor's testing system, the designated Government inspector may withhold approval until Government test results indicate products conform to contract requirements. (For Meal, Ready-to-Eat (MRE) items, if Government laboratory test results show that product is nonconforming, the product shall be withheld from final assembly and subject to return and replacement by the component Contractor, even if previously approved by the Government inspector.)

(c) Reliability Conditions.

(1) To be considered reliable, the Contractor's testing system shall produce results comparable to the Government test results; unless the Government agency having jurisdiction has inspected the item produced at the Contractor's plant within the previous 120 days. Unless otherwise specified in this contract, the Government inspector will select samples randomly from the first three lots of end items presented for inspection and will conduct verification testing on a skip-lot basis. Skip-lot verification is done by random selection of samples from not less than one lot in six consecutive lots presented for inspection. The sampling procedure under skip-lot places the succeeding lots not chosen for inspection back into the universe available for subsequent inspection. (For instance, starting with a group of six lots (i.e., 1-6), one lot is randomly selected for inspection. If lot 4 is selected, the next samples will be selected from lots 5, 6, 7, 8, 9, or 10. If lot 8 is selected, the next samples will be selected from lots 9, 10, 11, 12, 13, or 14; and so on.)

(2) Contractor's testing system shall be considered unreliable when (i) the Government verification results indicate product nonconformance to contract requirements; and (ii) a significant disparity exists between Government laboratory results and Contractor test results. When a Contractor's testing system is determined to be unreliable, compliance testing will revert to the Government, and all items shall be inspected by the Government prior to shipment.

(3) Contractor's testing system will be considered doubtful when (i) a significant disparity exists between Government laboratory results and Contractor test results; (ii) the Government test results indicate significantly poorer quality than the Contractor's; and (iii) the Government laboratory test results do not indicate product nonconformance to a statistically significant degree. When the Contractor's testing system is considered doubtful, verification testing will be performed on each lot produced; however, the Government will continue to permit the Contractor to ship based on its own test results.

(4) Contractor testing system reliability will be determined by applying recognized statistical tests to the Contractor's and Government's test results. These determinations shall be accomplished by the Defense Supply Center Philadelphia, Directorate of Subsistence, Product Services Office, 700 Robbins Avenue, Philadelphia, PA 19111-5092.

(5) The Contracting Officer will notify the Contractor of any change in reliability status. Notification will include details of the statistical determinations and test results used in reliability studies. Telephonic notification and copies of these determinations will be provided to the Government by DSCP-FTRE.

(d) Procedures.

When the Contractor elects to perform testing, the following shall apply:

(1) Reporting of Contractor's Results. Test reports for each lot of end item and components shall be submitted in the format contained in this clause by the Contractor in an original and one copy to the designated Government inspector. The inspector will forward one completed copy to DSCP-FTRE.

(2) Verification Actions. The Government will perform verification testing for food items and component material required by the contract to assure that the Contractor's testing results are reliable. Verification samples will be accompanied by a DD Form 1222, Request for and Results of Tests. The Government laboratory that performs the tests will provide copies of the test results to the Government inspector and to DSCP-FTRE. The Government laboratory will telephone the results to DSCP-HS (215-737-4259) when testing identifies nonconformance. The Government reserves the right to (i) increase the rate or amount of verification testing up to and including full lot-by-lot testing, in the event the Contractor does not furnish reliable test results or certificates; or (ii) obtain additional data when significant disparities exist between the Contractor's results and

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the results of the Government laboratory testing. When any element of the Contractor testing system is determined unreliable, the Government may consider the testing system as a whole unreliable and return to full lot-by-lot verification for every test. Testing by the Government will continue until such time as the Contractor's reliability is again established.

(3) Standby Test Samples. The Government reserves the right to withdraw and hold standby test samples of component or finished product or both (the quantity of which shall be the next larger available sample size required for unit testing and the same sample size required for composite testing) for inspection purposes. Unused samples will be returned to the Contractor.

(e) Charges Applicable to Unreliable Test Status.

The prime Contractor shall be charged the costs of lot-by-lot inspection during the period that its testing system is considered unreliable. These charges will be processed and approved by the Contracting Officer.

(f) Format for Contractor/Subcontractor Test Report.

Name & Address of Contractor:

Name & Address of Subcontractor: (if applicable)

Received for Testing: (date)

Contract Number:

Sample Tested: (end item or component, indicate by name)

Quantity Tested:

Applicable Specification:

Identification of Lot: (end item or component lot number, as applicable)

Quantity in Lot: (units)

Testing Completed: (date)

Test Report

(Report test results for each sample unit tested and the sample average, if required by the specification, and identify results obtained from composite samples.)

(Typed name and title of laboratory official and signature)

The following certification shall be affixed to the test report when testing was performed on component items by supplier's laboratory or by subcontractor's laboratory.

Certification

I certify that the above test results were furnished to this firm to cover the testing of samples which are representative of the lot, and to the best of my knowledge and belief, have been found to comply with the analytical requirements of the specification, contract no. _____

Signature: _____

(typed name and title of Contractor's representative who is authorized to sign the certificate, and the date)

The following certification shall be affixed to the test report when testing was performed on component and/or end item by Contractor's laboratory or an independent laboratory.

Certification

I certify that the item presented for acceptance under terms of above referenced contract has been tested, as required by the contract, through the testing of samples that were representative of the lot, and to the best of my knowledge and belief, were found to comply with the analytical requirements of the specification and the contract.

Signature: _____

(typed name and title of Contractor's representative who is authorized to sign the certificate, and the date)

Distribution:

(Original and one (1) copy to Government inspector, who will forward one (1) copy to DSCP-FTRE; and hard copy with each shipment, when DD Form 250 (MIRR) reports are not provided.)

52.246-9025 REINSPECTION OF NONCONFORMING SUPPLIES (APR 2008 SUBSISTENCE) – DLAD

(a) When origin inspection is performed by the U.S. Department of Agriculture or U.S. Department of Commerce and supplies are found to be nonconforming at origin, the Contractor may request USDA/USDC reinspection/formal review in accordance with the regulations of the respective agency. In such instances, the next larger available sample size will be used. The decision of the USDA/USDC representative as to conformance or nonconformance shall be final. It will be within the discretion of USDA/USDC whether to assess reinspection costs against the contractor.

(b) When origin inspection is performed by the USDA or USDC and supplies are found to be nonconforming at destination, the Contractor may petition the Contracting Officer to obtain permission for a

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single reinspection, provided such petition provides valid technical reasons to believe the destination inspection findings were erroneous. The reinspection shall be performed in accordance with the original destination inspection criteria unless otherwise specified by the Contracting Officer.

(1) Reinspection of nonconforming supplies for grading factors, suspicion of fraud or substitution shall be conducted by the applicable origin inspection agency (USDA for meats and poultry, or USDC for waterfoods). All costs associated with USDA/USDC reinspection shall be borne by the Contractor; unless the reinspection results establish compliance with contractual requirements, in which case costs shall be borne by the Government.

(2) Reinspection for all other criteria shall be accomplished by the Military Medical/Veterinary Services, as coordinated by the Contracting Officer with the applicable Military Medical/Veterinary Service Headquarters. The Military Medical/Veterinary Service Headquarters will designate the activity assigned to perform the reinspection and advise the Contracting Officer and the designated activity of the reinspection schedule. Reinspection shall be performed by personnel other than those involved in the original destination inspection. Reinspection costs shall be borne by the Contractor when reinspection results substantiate the nonconformance. The Government shall bear the costs of reinspection if the products are determined to be in compliance with contractual requirements.

(c) When inspection by the USDA or USDC is not a contract requirement and supplies are found nonconforming at destination, the Contractor may petition the Contracting Officer one time only to obtain permission for a single reinspection, provided such petition provides valid technical reasons to believe the original inspection findings were erroneous. If the Contracting Officer authorizes a reinspection, the reinspection results shall be final if they differ from the original inspection to such a statistically significant degree that error in the original results is probable. Otherwise, the original inspection results shall prevail. The reinspection/formal review shall be performed in accordance with the original inspection criteria, unless otherwise specified. All costs associated with the reinspection shall be borne by the Contractor; unless the reinspection results establish compliance with the contract requirements, in which case costs shall be assumed by the Government. Reinspection shall not be authorized when original inspection findings show that the supplies are unwholesome or contain a deleterious substance.

(d) The Contractor may elect to petition the Contracting Officer to grant a waiver of those contract requirements for which supplies have been found nonconforming and accept the supplies "as is" with appropriate price consideration. However, if the Contractor intends to exercise any option under (a), (b) or (c) above, the Contractor must do so prior to requesting a waiver. The denial of a waiver by the Contracting Officer will result in final rejection of the nonconforming supplies without recourse to reinspection.

52.246-9039 REMOVAL OF GOVERNMENT IDENTIFICATION FROM NON-ACCEPTED SUPPLIES (APR 2008) – DLAD

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

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

52.246-9044 SANITARY CONDITIONS (AUG 2008) – DLAD

(a) Food Establishments.

(a) Food Establishments.

(1) All establishments and distributors furnishing subsistence items under DSCP contracts are subject to sanitation approval and surveillance as deemed appropriate by the Military Medical Service or by

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other Federal agencies recognized by the Military Medical Service. The government does not intend to make any award for, nor accept, any subsistence products manufactured, processed, or stored in a facility which fails to maintain acceptable levels of food safety and food defense, is operating under such unsanitary conditions as may lead to product contamination or adulteration constituting 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 U.S. Army Veterinary Command (VETCOM) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement, (Worldwide Directory) (available at: <https://vets.amedd.army.mil/vetcom>) Compliance with the current edition of DoD Military Standard 3006, Sanitation Requirements for Food Establishments, is mandatory for listing of establishments in the Worldwide Directory. Suppliers also agree to inform the contracting officer immediately upon notification that a facility is no longer sanitarily approved and/or removed from the Worldwide Directory and/or other Federal agency's listing, as indicated in paragraph (2) below. Suppliers also agree to inform the contracting officer when sanitary approval is regained and listing is reinstated.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the Worldwide Directory. Additional guidance on specific listing requirements for products/plants included in or exempt from listing is provided in Appendix A of the Worldwide Directory.

(i) Meat and meat products and poultry and poultry products may be supplied from establishments which are currently listed in the "Meat and Poultry Inspection Directory", published electronically by the U. S. Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS) (available at: http://www.fsis.usda.gov/Regulations/Meat_Poultry_Egg_Inspection_Directory/index.asp). The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the USDA shield and applicable establishment number. USDA listed establishments processing products not subject to the Federal Meat and Poultry Products Inspection Acts must be listed in the Worldwide Directory for those items.

(ii) Intrastate commerce of Meat and meat products and poultry and poultry products for direct delivery to military installations within the same state (intrastate) may be supplied when the items are processed in establishments under state inspection programs certified by the USDA as being "at least equal to" the Federal Meat and Poultry Products Inspection Acts. 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 inspection agency and applicable establishment number.

(iii) Shell eggs may be supplied from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published electronically by the USDA, Agriculture Marketing Service (AMS) (available at: <http://www.ams.usda.gov/POULTRY/Grading.htm>).

(iv) Egg products (liquid, dehydrated, frozen) may be supplied from establishments listed in the "Meat, Poultry and Egg Product Inspection Directory" published electronically by the USDA FSIS (available at: http://www.fsis.usda.gov/Regulations_&Policies/Meat_Poultry_Egg_Inspection_Directory/index.asp). 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 inspection agency and applicable establishment number.

(v) Fish, fishery products, seafood, and seafood products may be supplied from establishments listed under "U.S. Establishments Approved For Sanitation And For Producing USDC Inspected Fishery Products" in the "USDC Participants List for Firms, Facilities, and Products", published electronically by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration Fisheries (USDC, NOAA) (available at: seafood.nmfs.noaa.gov). All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the full name and address of the producing facility.

(vi) Pasteurized Milk and milk products may be supplied from plants having a pasteurization plant compliance rating of 90 percent or higher, as certified by a state milk sanitation officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers" (IMS), published electronically by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) (available at: <http://www.cfsan.fda.gov/~ear/ims-toc.html>). These plants may serve as sources of pasteurized milk and milk products as defined in Section I of the "Grade 'A' Pasteurized Milk Ordinance" (PMO) published electronically by the USDHHS, FDA (available at: <http://www.cfsan.fda.gov/~ear/pmo03toc.html>).

(vii) Manufactured or processed dairy products only from plants listed in Section I of the "Dairy Plants Surveyed and Approved for USDA Grading Service", published electronically by Dairy Grading Branch, AMS, USDA (available at: <http://www.ams.usda.gov/dairy/dypubs.htm>) may serve as sources of manufactured or processed dairy products as listed by the specific USDA product/operation code. Plants

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producing products not specifically listed by USDA product/operation code must be Worldwide Directory listed (i.e. plant is coded to produce cubed cheddar but not shredded cheddar; or, plant is coded for cubed cheddar but not cubed mozzarella). Plants listed in Section II and denoted as "P" codes (packaging and processing) must be Worldwide Directory listed.

(viii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists" (ICSSL), published electronically by the USDHHS, FDA (available at: <http://www.cfsan.fda.gov/~ear/shellfis.html>).

(3). Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4F/MCO P1010.31G, Veterinary/Medical Food Inspection and Laboratory Service, for a list of establishment types that may be exempt from Worldwide Directory listing. (AR 40-657 is available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; 1-800-553-6847; or download from web site: <http://www.usapa.army.mil/> .) For the most current listing of exempt plants/products see the Worldwide Directory (available at: <https://vets.amedd.army.mil/vetcom>).

(4) Subsistence items other than those exempt from listing in the Worldwide Directory, bearing labels reading "Distributed By", "Manufactured For", 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 Federal agency acceptable to the Military Medical Service determines the levels of food safety and food defense of the establishment or its products have or may lead to product contamination or adulteration, 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 tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. 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, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product 'unfit for intended purpose', supplies tendered for acceptance may be rejected without further inspection.

52.246-9045 FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESALE MEAT ACT (AUG 2008) – DLAD

(a) The contractor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act and regulations promulgated there under. This warranty will apply regardless of whether or not the supplies have been:

(1) Shipped in interstate commerce,
(2) Seized under either Act or inspected by the Food and Drug Administration or Department of Agriculture.

(3) Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said Acts and regulations promulgated there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.

(b) The government shall have six months from the date of delivery of the supplies to the government within which to discover a breach of this warranty. Notwithstanding the time at which such breach is discovered, the government reserves the right to give notice of breach of this warranty at any time within this six-month period or within 30 days after expiration of such period, and any such notice shall preserve the rights and remedies provided herein.

(c) Within a reasonable time after notice to the contractor of breach of this warranty, the government may, at its election:

(1) Retain all or part of the supplies and recover from the contractor, or deduct from the contract price, a sum the government determines to be equitable under the circumstances;

(2) Return or offer to return all or part of the supplies to the contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the

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supplies are seized under either Act or regulations promulgated there under, such seizure, at government option, shall be deemed a return of supplies within the meaning of this clause and thereby allow the government to pursue the remedy provided herein. Failure to agree to any deduction or recovery provided herein shall be a dispute within the meaning of the clause of this contract entitled "Disputes".

(d) The rights and remedies provided by this clause shall not be exclusive and are in addition to other rights and remedies provided by law or under this contract, nor shall pursuit of a remedy herein or by law either jointly, severally or alternatively, whether simultaneously or at different times, constitute an election of remedies.

52.246-9060 Warranty of Supplies (Commercial Items) (SEP 2008) – DLAD

(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 18 months after receipt of supplies at destination or, in the case of supplies required to bear an expiration date, for the expiration date indicated in the labeling thereof, all supplies furnished

(i) Are of a quality to pass without objection in the trade under the contract description;

(ii) Are fit for the ordinary purposes for which the supplies are used;

(iii) Are within the variations permitted by the contract, and are of an even kind, quality and quantity within each unit and among all units;

(iv) Are adequately contained, packaged, and marked as the contract may require; and

(v) Conform to the promises or affirmations of fact made on the container.

(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 of the corrected or replaced supplies at destination.

(c) REMEDIES AVAILABLE TO THE GOVERNMENT.

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(1) Notice Requirement: The contracting officer shall give written notice to the contractor of any breach of warranties in paragraph (b)(1) of this clause within 7 months from receipt of supplies at destination or, in the case of supplies required to bear an expiration date, no later than one month following the expiration date indicated in the labeling.

(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 (1) the supplies from which the samples were drawn are reasonably representative of the quantity on which warranty action is proposed, and (2) the defects found in the sample size are sufficient to reject the quantity of supplies 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 therefore. In such event, the Government may repro cure 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 remedy (c) (2) (iii) or (c) (2) (iv) 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

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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 therefore. 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.

(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.

52.217-9P12 OPTION FOR INDEFINITE-DELIVERY, INDEFINITE-QUANTITY CONTRACT TERM EXTENSION (OCT 2008) DSCP

(a) Acceptance of the option provision(s)/clauses contained herein is mandatory. Failure to indicate acceptance of the option by annotating the offeror's option price in the Schedule or elsewhere in the solicitation will be deemed non-acceptance of the option and may result in rejection of the offeror's entire bid/proposal.

(b) The contracting officer may extend the term of this contract for one additional one year period(s) by written notice to the contractor within the time specified in the Schedule; provided that the contracting officer shall give the contractor a preliminary written notice of intent to extend at least 60 days before expiration of the contract. The preliminary notice does not commit the Government to an extension.

(c) Performance under the option period shall continue at the same performance level specified for the basic contract.

(d) The option to extend the term of the contract shall be exercised not later than three (3) days before the expiration date of the contract.

(e) The option is deemed exercised when mailed or otherwise furnished to the contractor.

(f) If the contracting officer exercises this option, the extended contract shall be considered to include this option clause and the minimum and maximum quantities specified in the award for that option period will apply.

(g) The total duration of any options exercised under this clause, shall not exceed one year.

(h) The following provisions apply only to negotiated acquisitions:

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(1) If an option has been priced under this solicitation and is to be exercised at time of award of the basic contract, the submission of certified cost or pricing data shall be required prior to award where the combined dollar value of the basic contract and option exceeds \$650,000, unless an exemption thereto is appropriate in accordance with FAR 15.403-1.

(2) Prior to the award of any contract which will contain one or more priced options totaling \$550,000 or more, the submission of certified cost or pricing data covering the basic contract and the option(s) shall be required regardless of when the option(s) may be exercised, unless an exemption thereto is appropriate in accordance with FAR 15.403-1.

52.217-9001 OPTION TO EXTEND THE TERM OF THE CONTRACT - SEPARATE FIRM FIXED PRICE & FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT PORTIONS (JULY 1996) DLAD

(a) The Government may extend the term of this contract by written notice to the contractor no later than 3 days prior to the expiration of the contract; provided, that the Government shall give the contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option provision. Each exercise of this option, if any, will extend the term of this contract by 12 months. The total duration of this contract, including the exercise of any options under this clause, shall not exceed 24 months.

(c) The offeror agrees to furnish during the option period those items cited in the schedule that are subject to economic price adjustment (EPA), at unit prices made up of two portions:

(1) a portion applicable to the purchase costs of the specific material subject to the EPA, at the dollar value per unit in the award, modified by any adjustment under the EPA of this clause contract, and

(2) the (remaining) firm fixed price portion of the price for the same contract line item, using the applicable amount for each option period

I. FIRST ARTICLES

A. FIRST ARTICLE PROCEDURES

1. First Article Samples are required for each item awarded. The contractor shall produce the product on the equipment and in the facilities that will be used during production of the contract. Samples of First Article production, for examination and testing, will be randomly selected by the USDA employee in the quantity required by the Quality Assurance Provisions of the item specification. In addition, the USDA employee will randomly select and hold **32** samples for use by USDA and **12** more samples for use by Natick. Once the USDA passes the lot for all examination and test requirements as specified in the item specification, the set of 12 samples will be forwarded to Natick with the USDA documented inspection and analytical results, at the contractor's expense, for evaluation of overall appearance and palatability. Should the contractor at any time plan to, or actually produce the product using different raw material or process methodologies from the approved First Article, which result in a product non-comparable to the approved First Articles, the contractor may arrange for a new or additional First Article sample approval. Any resubmission of First Article samples shall be in accordance with the above; however, the contractor shall be charged for such resubmission. The charge to the contractor for resubmission and evaluation of new or additional First Articles shall be \$900.00. In any event, all product produced under this contract must meet all requirements of the specification including first article comparison.

2. Initial First Articles shall be delivered in accordance with the Contractor's accepted milestones of its

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Technical Proposal. Subsequent First Articles, which may be required as a result of addition of new items to the contract, will be required within 45 days of such contract modification, in accordance with the terms and conditions of paragraph A above.

3. Within 15 days of Natick's receipt of the First Article, the Contracting Officer shall notify the Contractor, in writing, of the conditional approval, approval, or disapproval of the First Article.

4. If the First Article is disapproved, the Contractor, upon Government approval, shall submit a new First Article for evaluation, in accordance with all terms and conditions of this solicitation. All costs related to evaluation of new First Articles (\$900.00) shall be borne by the contractor.

5. Failure to make timely delivery of an acceptable First Article shall be deemed a failure to make delivery within the meaning of the Default clause of this contract.

6. The contractor shall assure that First Articles are timely delivered to:

U.S. Army Research, Development & Engineering Command
Natick Soldier Center
ATTN: AMSRD-NCS-CF-G
Ms. Jill St. Jean
15 Kansas St.
Natick, MA 01760-5018

7. If the Government does not provide timely notification to the Contractor in accordance with paragraph 2 above, the line item delivery date will be extended by the number of days equal to the Government delay.

8. Before First Article approval, the acquisition of materials or the commencement of production under the contract shall be at the sole risk of the contractor, and these costs shall not be allocable to the contract if the contract is terminated for the convenience of the Government.

9. Natick's acceptance of the First Article samples does not constitute the sample as meeting the other requirements of the contract, nor does the recommendation of acceptance provide for the acceptance of any defects or defectives that could be present in any of the unevaluated, un-inspected reserve First Article samples. Acceptance and approval of First Article samples and the remaining First Article production lot is based on the premise of production homogeneity. Should a reserve First Article sample be opened and the sample exhibits a defect, defects or be defective in accordance with the product defect table of examination, that sample unit is to be discarded since it would not have been determined acceptable as a First Article standard if that actual sample would have been previously inspected and evaluated during the First Article approval process.

B. CONDITIONAL FIRST ARTICLES: REQUEST FOR WAIVER FOR A FIRST ARTICLE SAMPLE

The Contractor may ask for a Request for Waiver to submit samples for First Article evaluation from a production lot that does not conform to all contract requirements/specifications, based on the Contractor's premise, and assumption of all risk, that the nonconformance(s) can be corrected without a change in the product's sensory qualities. A decision by the Government to not accept any such Request for Waiver shall not reduce the Contractor's requirement to submit a timely, approved First Article. Any such Request for Waiver shall be submitted by the Contractor with the following information and Contractor's agreement to the following conditions and assumption of all risk:

First Article production lot _____ conforms to all end item specification requirements except for the following (describe the nonconformance in detail):

Specification Cite	Specification Requirement	Product Detail
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_____	_____	_____
_____	_____	_____
_____	_____	_____

The contractor's request to submit samples from this production lot for First Article evaluation is based on the Contractor's premise that the above nonconformance can be corrected without a change in the product's sensory qualities, and may be approved based on the Contractor's agreement to the following conditions:

1. If the subject lot is approved as a production standard for sensory characteristics only, the subject lot will hereafter be referred to as the "Conditional First Article." The Contractor may commence contract production, and the Contractor will replace the USDA Conditional First Article samples with product from the first production lot that conforms to all end-item requirements, including comparability to the Conditional First Article. These replacement samples will be the remaining contract First Article, with replenishment as authorized under the contract. Any request by the Contractor to ship the Conditional First Article for Government acceptance must be submitted via a Request for Waiver.

2. If a future production lot meets all end-item requirements, except for sensory comparability to the Conditional First Article, the production lot will be considered nonconforming. In that event, acceptance of the production lot will require its submission and approval as an Alternate First Article, or Request for Waiver. The contractor will be charged \$900 for evaluation of Alternate First Articles samples or Request for Waiver.

C. LIMITED PRODUCTION FIRST ARTICLES

1. Contractor may request to produce First Articles on a limited basis in which case, the batch size of the first article run will be significantly smaller than the regular full size first article. This may be warranted due to urgency in the submittal of First Article, limited availability of the raw materials, etc. Approval to produce and submit Limited Production First Article(s) must be authorized by the Contracting Officer.

2. Limited production First Articles will be produced to conform to all specification and contractual requirements except for quantities. Contractor shall produce, at a minimum, in a quantity which would include 4 trays for submittal to USDA, 4 trays to Natick, quantity required for contractor's analytical evaluations and end item examinations, and USDA's analytical evaluations and end item examination (only if the contractor does not have a reliable test system), and a minimum of 4 trays for the contractor's reserve for contractor's comparative evaluation of the first conforming production lot to be offered to USDA for replenishment of the First Articles as required in the normal contract quantity requirement.

3. Limited production First Articles shall meet all other requirements of the First Article requirements of the contract.

4. Upon approval as limited production First Articles by Natick, the contractor will commence production and the First Articles will be replenished by USDA from the first fully conforming production lot in accordance with all of the contractual requirements for First Articles.

D. REPLENISHMENT OF FIRST ARTICLES

1. Every 6 months or sooner if needed to preclude depletion of First Articles, the USDA employee will replenish the USDA supply of First Articles with 32 samples randomly selected from a lot accepted by the Government for all contractual requirements.

2. Every 12 months, the USDA employee will replenish the Natick supply of First Articles with 12 samples randomly selected from a lot accepted by the Government for all contractual requirements. The

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Contractor shall be responsible for shipping the samples to Natick.

E. USE OF APPROVED FIRST ARTICLES FOR COMPARATIVE EVALUATION BY CONTRACTOR AND USDA

The Contractor and USDA shall use the samples from the same approved First Article and/or replenished First Article lot(s) of the respective items in evaluating the production lots. The Contractor and USDA shall adhere to the requirements cited above in approval, replenishment and distribution of the First Article and replenishment samples.

F. PERIODIC REVIEW SAMPLES

Review samples are required for all Polymeric Tray items. The following are the requirements and distribution of samples: The USDA Inspector shall randomly select four samples of each item produced during each month of Polymeric Tray production. These samples shall be designated as Monthly Review Samples. The USDA Inspector will provide these samples to the Contractor's representative, who will ship them monthly to the following addresses at the contractor's expense:

Two samples of all items to:
Head, DCIS
USDA, AMS, FV, PPB
ROOM 0726, South Building
14th and Independence Avenue, SW
Washington, DC 20250

AND

Two samples of all items to:
U.S. Army Research, Development & Engineering Command
Natick Soldier Center
ATTN: AMSRD-NCS-CF-G
Ms. Jill St. Jean
15 Kansas St.
Natick, MA 01760

II. OPTIONS

This acquisition contains one (1) one-year option. Acceptance of the option provision(s)/clause(s) contained herein is mandatory. The option is deemed exercised when mailed or otherwise furnished to the contractor.

Failure to indicate offer of the option by annotating the offeror's option prices in the Schedule may be deemed non-acceptance of the option and could result in rejection of the offeror's entire proposal.

Offerors may offer option unit prices which differ from the unit prices for the base ordering period, however, option prices may only differ based on expected cost differences for factors other than the materials or factor subject to an economic price adjustment. Option prices shall not include any contingent cost increases for any material subject to an EPA.

III. ITEM DESCRIPTIONS:

A. The following item descriptions include the item specifications for this acquisition.

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8940-01-529-6635 Beef Burgundy, Shelf Stable, Cooked, 5 lb 12 oz net wt, polymeric tray PCR-B-044

8940-01-537-0628 Beef, Roasted w/Gravy, Shelf Stable, cooked, 5 lb 8 oz net wgt, polymeric tray, PCR-B-046

8940-01-529-6637 Beef Taco Filling, PCR-T010

8940-01-455-1872 Blueberry Dessert, Shelf Stable, blueberries cooked in sauce, 6 lb 2 oz (2.78 kg) net wt, polymeric tray, PCR-B-036

8940-01-517-9869 Chicken, Buffalo Style, In Spicy Sauce, Shelf Stable, cooked, 5 lb 12 oz net wt, polymeric tray, PCR-B-039

8915-01-545-4853 Carrots, Glazed, Shelf Stable, canned carrot pieces (dices or slices) in brown sugar glaze, net weight not be less than 85 ounces, polymeric tray, PCR-V-007

8940-01-445-5737 Chicken Breast in Gravy, Shelf Stable, cooked, not less than 18 intact breast halves, w/o skin, 5 lb. 5 oz. net wt, polymeric tray, PCR-C-032

8940-01-563-1290 Chicken Pot Pie Filling, PCR-C-072

8940-01-556-9140 Chicken Tamales, PCR-C-070

8940-01-562-9557 Chicken, Stir Fry w/Vegetables & Sauce, PCR-C-076

8940-01-537-0625 Chili Dogs, PCR-C-068

8915-01-545-4854 Corn, Mexican Style Sweet Corn, Shelf Stable, the sauce shall be slightly sweet and spicy, net weight not be less than 85 ounces, polymeric tray, PCR-V-007

8940-01-455-3548 Hash, Corned Beef, Shelf Stable, cooked, 5 lb 6 oz (2.44 kg) net wt, polymeric tray, PCR-H-005

8940-01-455-4609 Cream Gravy with Ground Beef, Shelf Stable, cooked, 5 lb 10 oz (2.55 kg) net wt, polymeric tray, PCR-C-040

8915-01-545-4855 Green Beans, Southern Style, Shelf Stable, the sauce shall be mild with a hint of onion, red pepper and bacon bits, net weight not be less than 85 ounces, polymeric tray, PCR-V-007

8940-01-557-4038 Hoppin' John, PCR-H-014

8940-01-504-4258 Mashed Potatoes w/Chicken Gravy, Shelf Stable, 5 lb 6 oz net wt, polymeric tray, PCR-M-010

8940-01-529-6844 Chili Macaroni, Mexican Style, W/Corn and Beans, Shelf Stable, Cooked 5 lb 15 oz net wt, polymeric tray, PCR-M-014

8940-01-563-1292 Pork Carnitas w/Gravy, PCR-P-044

8905-01-455-3547 Pork Sausage Links in Brine, Shelf Stable, cooked, 5lb 8 oz (2.49 kg) net wt, polymeric tray, PCR-P-015

8940-01-470-3204 Pork Sausage in Cream Gravy, Shelf Stable, cooked, 5 lb 9 oz (2.64 kg) net wt, polymeric tray, PCR -P-014A

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8940-01-518-9217 Potatoes w/Cheese and Ham, Shelf Stable, cooked, 5 lb 14 oz net wt, polymeric tray, PCR-C-060

8940-01-537-0620 Pulled Pork in Barbecue Sauce, PCR-P-043

8940-01-562-9563 Turkey Tetrazzini, PCR-T-013

B. AVAILABILITY OF PURCHASE DESCRIPTIONS AND OTHER SPECIFICATIONS

(a) Copies of the Contractor Technical Requirements (CTR) and Performance Based Contract Requirements (PCR) cited in this solicitation may be obtained upon request from:

Defense Logistics Agency
Defense Supply Center Philadelphia
Ms. Cynthia Henry, Food Technologist
ATTN: DSCP-FTRA
700 Robbins Avenue
Philadelphia, PA 19111-5092

Telephone: (215-737-7802)
e-mail: Cynthia.Henry@dla.mil

IV. INSPECTION AND ACCEPTANCE REQUIREMENTS

- A. For the purposes of Inspection/Acceptance and Shipment/Delivery, a manufacturer's "lot" shall be considered no greater than a single shift's production.
- B. **OPTIONAL CONTRACTOR TESTING** is provided by the alternate inspection requirements of DLAD 52.246-9024, Alternative Inspection Requirements for Selected Items.

PART I – INSPECTION AND ACCEPTANCE

D. Higher Level Quality Requirements - Documented Quality Systems Plan (QSP)

QUALITY ASSURANCE INSPECTION AND ACCEPTANCE REQUIREMENTS FOR POLYMERIC TRAY ITEMS

1. The Quality Assurance Provisions of this solicitation and Quality Assurance Provisions and Packaging Requirements of component Prime Documents cited in this solicitation are required for contractor and USDA inspection.

2. For all Operational Rations food components (MRE, MCW/LRP, Polymeric Tray Items, UGR, Unitized B, etc.), inspection shall be Contractor Paid USDA, AMS, FV, PPB inspection in accordance with DLAD Clause 52.246-9023, General Inspection Requirements, unless otherwise specified by this solicitation/contract. The regulations, file codes, etc. of the respective agency are applicable to the contract in conjunction with the quality assurance requirements of the contract. Optional contractor testing provided by DLAD Clause 52.246-9024, Alternative Inspection Requirements for Selected Items. DLAD Clause 52.246-9024 is applicable, unless otherwise specified by this solicitation/contract. When permitted by the applicable food component specification, a Certificate of Conformance (COC) for ingredients shall be provided in accordance with FAR Clause 52.246-15. Certificate of Conformance.

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3. FAR Clauses 52.246-2 and 52.246-11 are applicable to properly enforce the Higher Level Contract Quality requirements.

4. In addition to any inspection requirements cited in contract and/or prime documents, for entrees, starches and soups, and fruits, inspection for packaging, labeling and packing, and marking shall be in accordance with the Quality Assurance Provisions and Packaging Requirements for MIL-PRF-32004, Packaging of Food in Polymeric Trays, and the Quality Assurance Provisions contained in this solicitation.

5. Saving and reserving all rights under the general inspection requirements of DLAD Clause 52.246-9023, General Inspection Requirements, the procedures for inspection and acceptance will be as follows:

1. Quality Assurance Requirements for Ration Component Production Plants

1-A. Higher Level Quality Requirements - Documented Quality Systems Plan (QSP)

The contractor shall model the documented QSP after ISO/ANSI/ASQC Q9001, a system that meets other recognized industry quality standards, or a process control system that is equivalent to or better than ISO/ANSI/ASQC Q9001. The contractor shall identify the quality standard used to model their QSP. If the contractor proposes an alternate (i.e., non-standard) process control system, this shall be clearly stated in the QSP. Some contractors may have third party certification of their quality system, which the private sector devised to administer the ISO series standards. However, third party certification by any third parties, to include Government certifications, is not required. Whether or not contractors want to use third party certification is completely optional on their part. Although certification information may be provided as documentation and evidence to support the system proposed by the contractor, third party certification/registration documentation is not a substitute for Government quality assurance with regard to components used in the operational ration programs. Regardless of the standard or non-standard document used to model the documented QSP, the documented QSP shall address, at a minimum, the following elements (within each section of the element the contractor shall provide the information and address the questions, as applicable, listed in Operational Rations Quality Systems Audit Workbook I: Documented QSP Evaluation Guideline:

QSP GENERAL OUTLINE

- I. MANAGEMENT RESPONSIBILITY AND QUALITY SYSTEM DESIGN
- II. TRAINING
- III. DOCUMENT AND DATA CONTROL AND CONTROL OF QUALITY RECORDS
- IV. CONTROL OF INSPECTION, MEASURING, AND TEST EQUIPMENT
(In accordance with ANSI/NCSL Z540-1 or ISO 10012-1)
- V. CONTROL AND PROTECTION OF PRODUCT
 - 1. Handling, Storage, Packaging, Preservation, and Delivery Program
 - 2. Product Identification and Traceability Program
 - 3. Inspection and Test Status and Records
 - 4. Control of Nonconforming Product
- VI. CONTRACT REVIEW, PURCHASING AND CONTROL OF CUSTOMER-SUPPLIED PRODUCT (Government-furnished material)
- VII. RECEIPT INSPECTION AND TESTING
- VIII. IN-PROCESS AND PROCESS INSPECTION AND TESTING:
 - 1. Manufacturing Process Controls Techniques (DLAR MPC Clause)
 - 2. Statistical Process Control Techniques (SPC QAP)
- IX. REGULATORY CONTROLS
 - 1. General Regulatory Requirements (as applicable to the plant USDA-FSIS, FDA, GMP, HACCP, SSOP, USDA-Dairy, etc.).
 - 2. Integrated Pest Management and Sanitation Programs

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- X. END ITEM INSPECTION AND TESTING (In accordance with product/material specifications/documents and ANSI/ASQC Z1.4)
- XI. INTERNAL AUDITS
- XII. CORRECTIVE AND PREVENTIVE ACTION PROGRAM
- XIII. IMPROVEMENT

V. FOOD DEFENSE / SECURITY / FORCE PROTECTION PLAN (FDP) (Operational Rations, Prime vendor, and others).

FOOD DEFENSE/SECURITY/FORCE PROTECTION PLAN (FDP) (Operational Rations, Prime vendor, and others). Currently, all DSCP Subsistence contracts have a requirement for the submission and implementation of some type of Food Defense at each contractor facility. Areas of concern listed in the DSCP Food Defense Checklist must be addressed in the plan. As a result of increased risk for the potential of intentional food tampering the plan shall describe (in general terms) the type of preventive measures that are taken or will be taken to reduce food defense vulnerabilities and to protect the food intended for DSCP's customers at CONUS and OCONUS locations. The plan must include preventive steps taken to safeguard product from intentional tampering/ contamination during all stages of receipt, production, storage, assembly, delivery, and shipment. If a Food Defense Plan (including Food Defense Plans Covered in QSP) was previously submitted to DSCP, identify the office, name of the person the plan was submitted to, date of submittal, and rating assigned. The following information may be covered in the Food Defense Plan or under other pertinent areas of the QSP, if a QSP is required for the facility. If some of the food defense information is covered in the QSP (e.g., receipt inspection, storage, warehousing, training, traceability, mock recalls, etc.) cross-reference the applicable Section/Area of the QSP. If the plan is submitted with the QSP, a rating (separate from the QSP) of acceptable, marginally acceptable, or unacceptable will be assigned to the Food Defense/Security/Force Protection Plan. Note: Points will be deducted for not responding to a question with a YES, No, N/A or for not providing the information requested (e.g., establishment registration information). To download a copy of the DSCP Food Defense Checklist go to <http://www.dscp.dla.mil/subs/support/quality/index.asp> or contact the applicable DSCP Contracting Officer or the Quality Audits & Food Defense Branch (DSCP-FTSB).

Integrated Pest Management Plan: The IPM Plan is not required to be submitted but the questions concerning the facility's IPM in Section IX Regulatory Controls, Area 2, of the QSP must be addressed.

The documented QSP will be evaluated by the Operational Rations Quality System Audit Team (composed of DSCP-FTSB and USDA-AMS, Quality Systems Auditors), USDA-AMS Operational Rations Program Coordinator, and the Government In-Plant Quality Assurance Representatives (QAR) assigned to perform Government QA functions at contractors' facilities. Government personnel will use the Operational Rations Quality Systems Audit Workbook I: Documented QSP Evaluation Guideline (in conjunction with the standard or other document identified in the contractor's QSP) as the basic framework against which they will evaluate QSPs. Workbook I was developed to standardize the evaluations of documented QSPs (developed using ISO/ANSI/ASQC Q9001, other recognized industry quality standards, or a non-standard contractor's specific process control system) submitted by contractors for the purpose of demonstrating their capability to meet the higher-level contract quality requirements using any of the aforementioned documents and for the Contracting Officer to assess a contractor's capability to meet the contract requirements.

Although Government inspection personnel (USDA-AMS) are required to evaluate the contractors' QSPs, the QSP rating will be determined and assigned by DSCP-FTSB's Quality Systems Auditors.

Offerors/Contractors can request a copy of Workbook I by contacting the applicable Contracting Officer or DSCP-FTSB. Workbook I is also available online in PDF format at the following website <http://www.dscp.dla.mil/subs/support/quality/QSP.pdf>. DSCP will recognize a contractor's quality system whenever it meets the contract requirements, whether the quality system is modeled on military, commercial, national or international quality systems standards. The design and implementation of a QSP will be influenced by the varying needs of a company, its particular goals and objectives, the products produced, and the processes and specific practices employed in the operation. The intent of the requirement is for contractors to improve process capability, process control which, when used effectively, can result in a prevention-oriented

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approach rather than a detection approach that will improve product quality and lower cost through the use of a single quality system in any contractor facility.

A documented QSP is required when a contract references or requires a contractor to perform under the higher-level contract quality requirements. Contractors are responsible for complying with the quality system requirements set forth in their documented QSP in addition to all detailed requirements cited in the contract and for furnishing products that meet all requirements of the contract. Contractors are required to establish, document, submit for Government review, and maintain a quality system as a means of ensuring that product conforms to the requirements of the contract. The documented QSP shall include the quality system procedures and outline the structure of the documentation used in the quality system. When the requirements of the Statistical Process Control Quality Assurance Provision (SPC QAP) and/or the DLAR MPC Clause 52.246-9001 Manufacturing Process Controls and In-Process Inspection are applicable, these requirements must be addressed under the In-Process and Process Inspection and Testing section of the documented QSP. Redundant areas/requirements (cited in the MPC Clause or the SPC QAP) need only be addressed once in the QSP. The calibration of measuring and testing equipment shall, as a minimum, adhere to the requirements of ANSI/NCSS Z540-1 or ISO 10012-1. The Higher Level Contract Quality Requirements, Manufacturing Process Controls (MPC) Clause 52.246-9001, and Statistical Process Controls Quality Assurance Provision (SPC QAP) apply to all Polymeric Tray items.

TO THE EXTENT OF ANY INCONSISTENCY BETWEEN THE CONTRACT OR ITS GENERAL PROVISIONS AND A CONTRACTOR'S QSP AND OR IMPLEMENTED QUALITY SYSTEM, THE CONTRACT AND THE GENERAL PROVISIONS SHALL CONTROL.

The QSP shall be submitted to DSCP-FTSB, through the Contracting Officer, for review no later than at time of bid submittal to determine if the QSP meets the acquisition needs. The QSP shall be DOCUMENTED, DATED, AND SIGNED BY A RESPONSIBLE COMPANY OFFICIAL and WILL BE DISTRIBUTED UNDER COMPANY LETTERHEAD TO THE ADDRESSEES BELOW:

A. ONE COPY SHALL BE MAILED (AT TIME OF BID SUBMITTAL) TO:

DEFENSE SUPPLY CENTER PHILADELPHIA
ATTN: DSCP-FTSB (Quality Systems Audit Team or Applicable
Contracting Officer)
700 ROBBINS AVE., BLDG 6
SUBSISTENCE DIRECTORATE
PHILADELPHIA, PA 19111-5092

(NOTE: It is important for Building 6 to be included in the address above for timely delivery, especially for express deliveries.)

B. AFTER CONTRACT AWARD ONE COPY SHALL BE MAILED PRIOR TO THE INITIATION OF PRODUCTION TO EACH OF THE FOLLOWING USDA-AMS OFFICES as applicable:

1. USDA-AMS OFFICES: When USDA-AMS is responsible for performing Government source inspection at a ration facility one copy shall be mailed to each of the following USDA-AMS offices:

a. HEAD, DEFENSE CONTRACT INSPECTION SECTION

USDA, AMS, FFV, PPB (202)720-5021
ATTN: Richard Boyd/Donna Burke-Fonda
1400 INDEPENDENCE AVE. SW
STOP 0247, ROOM 0726, SOUTH BLDG.
WASHINGTON, DC 20250-0247

b. USDA-DCIS OPERATIONAL RATIONS PROGRAM COORDINATOR

USDA, AMS, FV, PPB (630)790-6957
800 ROOSEVELT ROAD

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BLDG A, SUITE 380
GLEN ELLYN, IL 60137-7688

c. **USDA-AMS INSPECTION AREA OFFICE:** The contractor/subcontractor shall contact USDA-DCIS for the applicable area office address (Weslaco, TX, East Point, GA, North Brunswick, NJ, South Bend, IN, Richmond, VA, etc) .

2. **USDA-AMS IN-PLANT INSPECTOR/GQAR:** When a Government (USDA-AMS) inspector is assigned to perform Government source inspection at a contractor/ subcontractor facility, one copy shall be **personally delivered to the Government inspector prior to the initiation of production.**

Aforementioned Government inspection personnel and In-Plant Government QARs shall fax, e-mail, or mail (via priority mail) their evaluations and comments to the contractor's QSPs and/or QSP's revisions, **within 20 calendar days** from the day of receipt of the QSP/revision.

Failure to submit comments within the suspense date may result in DSCP-FTSB Quality Systems Auditors not including the applicable inspection agency's comments in Government QSP joint evaluations. In-Plant Government QARs are also required to report quality systems noncompliances **within one working day** using the Corrective Action Request (CAR) Form. QSP evaluations and CARs shall be faxed to the DSCP-FTSB Operational Rations Quality Systems Audit Team at fax number (215) 737-0379, the current DSCP-FTSB's personnel E-mail addresses or mailed to the following address (**the preferred and most expeditious method is via E-mail or fax**):

DEFENSE SUPPLY CENTER PHILADELPHIA
ATTN: DSCP-FTSB (Quality Systems Audit Team)
700 ROBBINS AVENUE, Bldg. 6
SUBSISTENCE DIRECTORATE
PHILADELPHIA, PA 19111-5092

During the Acquisition Phase: During the acquisition phase (prior to contract award), the documented QSP will only be considered either sufficient or insufficient for production (no unacceptable/acceptable rating will be assigned). If a plan as presented is determined to be insufficient for production (which would occur if it does not address the aforementioned minimum elements and include documents/procedures indicated in Workbook I as applicable, or if it is determine that the plan as presented will result in an increase in the consumer's risk, production of nonconforming products or does not meet specification requirements/acquisition needs), the Contracting Officer, at his/her discretion, may provide the contractor with DSCP-FTSB's QSP evaluation comments as to cause(s) of why the plan was considered insufficient for production and with the opportunity to resubmit a revised QSP. **If a contractor has previously submitted a QSP and the rating was, at a minimum, marginally acceptable, the contractor may reference this QSP by date and only changes (if deemed necessary) need to be submitted at time of bid submittal for this or for future contracts. NOTE: If a contractor/subcontractor is producing under a current contract requiring a QSP and the QSP is still rated UNACCEPTABLE (after the 90-day time requirement of the current contract), the Contracting Officer reserves the right not to consider the prospective contractor/subcontractor for award of an item that requires a QSP.**

After the Acquisition Phase: After the Acquisition Phase (after contract award), if the contractor submitted a new QSP, DSCP-FTSB will assign a rating of acceptable, marginally acceptable or unacceptable (to a QSP rated sufficient for production during the acquisition phase) within 60 days of contract award. **If a contractor's QSP is rated unacceptable after contract award, the QSP must be revised to receive, at a minimum, a marginally acceptable rating within 90 days of contract award.** The contractor will also be provided with an opportunity to submit changes to improve the plan throughout the life of the contract. **NOTE: If a contractor/subcontractor QSP is rated unacceptable after contract award and fails to revise the QSP to receive, at a minimum, a marginally acceptable rating within 90 days of contract award, the contracting officer reserves the right to terminate the contract for default for failure to comply with this requirement.**

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DSCP-FTSB Quality Systems Auditors evaluate, assign QSP ratings, and approve or disapprove changes to the QSP. **QSP procedures or changes to a QSP that may involve a change to a specific contractual requirement (cited in the contract TDP/ items specification/CID) must be coordinated and approved by the Contracting Officer.** To expedite the evaluation process, all QSP changes **(that do not involve a specific contractual change) shall be simultaneously** provided to the In-Plant GQAR and a copy faxed, E-mailed, or mailed to DSCP-FTSB and each applicable office for their review. The GQAR's in-plant evaluation will be considered sufficient for production, unless specifically rejected by DSCP-FTSB after the contractor submits the change to DSCP. The contractor's documented QSP is considered a living document and continuous improvements are highly encouraged.

Implementation, compliance, effectiveness, and continuous improvement of the QSP and the implemented quality system and the Food Defense Plan will be monitored by on-site quality systems compliance audits conducted throughout the life of the contract by the Operational Rations Quality Systems Audit Team and evaluations/internal audits conducted by the In-Plant Government QARs.

If a contractor fails to submit an acceptable QSP or copies of their QSP's revisions to the Government for review or does not comply with other requirements of the contract, the Government may decline to perform verification acceptance inspection at that time and or refuse to accept any product produced in accordance with FAR 46.102 and 46.407. Additionally, the Government may also withdraw the acceptance of a QSP during the contract period if it is determined that the contractor has not implemented, complied with the documented QSP, or the implemented quality system is not sufficient to meet minimum contractual requirements.

DSCP-FTSB and/or the Government QARs shall immediately notify the Contracting Officer of **ALL** noncompliance to specific contractual requirements. DSCP-FTSB will notify and/or obtain Contracting Officer's support/involvement when a contractor fails to comply with the approved documented QSP requirements or fails to respond to quality systems deficiencies noted during an on-site compliance audit or evaluations/audits conducted by In-Plant Government QARs.

The offeror/contractor agrees to maintain current, and make available, all documents/records required by the documented QSP for Government review at any time throughout the life of the contract and for three years after final delivery on the contract (to include any documents/records maintained by any subcontractor used by the prime contractor to fulfill a Government contract).

The procedures of how a contractor intends to comply with the requirements of the MPC Clause or the SPC QAP, as applicable, shall be covered in the In-Process and Process Inspection and Testing Section of the contractors' documented QSP/Quality Manual. If the contractor uses a different/numbering system than the Section/Element number cited in the TDP, the contractor's should cross-reference each applicable section of their QSP.

1-C. The following Statistical Process Control Quality Assurance Provision (SPC QAP) applies to this contract: QUALITY ASSURANCE PROVISIONS Statistical Process Controls DSCP-H-94-001

The requirements of this QAP shall be addressed in the Documented Quality System Plan (QSP) when applicable. Redundant areas/requirements cited in this QAP or the MPC Clause need only be addressed once in the In-Process and Process Inspection and Testing Section and/or other applicable section of the contractors' documented QSP/Quality Manual. The characteristics requiring control will be those characteristics providing the best assurance of product conformance to end item contractual requirements. Therefore, the techniques (SPC/MPC) selected to control the processes shall be those that can best and most effectively/efficiently control the characteristics identified and provide the best assurance that the system implemented will consistently produce product conforming to contractual requirements. If the contractor uses a different/numbering system than the Section/Element number cited in the TDP, the contractor's QSP should cross-reference each applicable section/element of their QSP.

I. GENERAL REQUIREMENTS:

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A. The offeror /contractor agrees to manage and improve process performance through the evaluation of the quality of the product at the prime contractor and, when required by contract, at subcontractor facilities, using SPC techniques or MPC techniques.

B. Minimum criteria are established in the American Society of Quality Control (ASQC) standards B.1, B.2 and B.3 (formerly the ANSI standards Z1.1, Z1.2, and Z1.3). Alternate SPC techniques such as short run methods are also allowed where applicable.

C. This QAP applies to all work performed at the prime contractor and, when required by contract, at subcontractor facilities. However, in those instances where it is not required of the subcontractor by contract, it does not prohibit the prime contractor from requiring it from their subcontractor of their own accord.

D. The implementation of SPC techniques (or alternate MPC techniques) and procedures shall be prepared in accordance with this provision and included in the documented QSP. Each offeror shall address the requirements of this QAP in their documented QSP (Section/Element VIII) and included with the proposal, when applicable. Failure to do so may result in rejection of the offer.

E. Exclusion of documented QSP submission: If a contractor has previously submitted a QSP and the rating was, at a minimum, marginally acceptable, the contractor may reference their QSP by date and only changes (if deemed necessary) need to be submitted at time of bid submittal for this or for future contracts.

1. Offeror's who consider themselves eligible for exclusion of the documented QSP at bid submittal, based on satisfactory utilization of a previously approved QSP for identical or similar supplies, are to submit a written Request For Exclusion (RFE) to the Procuring Contracting Officer (PCO) .

The offeror shall identify in the RFE the contract number(s) under which the supplies were previously furnished by them and accepted by the Government; and the applicable item nomenclature and National Stock Number(s); and the date of the documented QSP. QSP changes/revisions/updates, if applicable, need to be submitted along with the RFE at time of proposal. NOTE: Changes/revisions/updates must be well identified, dated and organized to facilitate posting to the QSP.

2. If techniques selected (MPC, SPC, or combination of both) were determined to be adequate (in a QSP previously submitted and approved by DSCP-FTSB), the offeror shall certify that these techniques are still adequate to effectively control the processes and that the system implemented is still capable of consistently producing conforming product.

II. SPECIFIC REQUIREMENTS:

A. The offeror shall identify the characteristics to be controlled using SPC techniques (or the alternate MPC techniques). Application of SPC techniques shall be considered for all characteristics identified by performing Pareto analysis on the defects from previous production, or projection of potential defects in future production, to discern the vital few and repetitive type failures from the trivial many. Additionally, offeror's are encouraged to calculate quality costs to assist in determining what characteristics or processes to control statistically (QSP Element XIII). These defects, and all other characteristics identified by the offeror from process capability studies on current production, shall be subject to the application of SPC techniques or other analyses. The characteristics requiring control will be those characteristics providing the best assurance of product conformance to end item contractual requirements. In addition to the characteristics identified by the offeror, the following characteristics will be controlled using SPC techniques, MPC techniques, or other alternate controls methods deemed appropriate and effective in controlling the processes. Alternate controls to SPC and MPC must be clearly identified and explained in detail in the In-Process and Process Inspection and Testing Section of the contractors' documented QSP/Quality Manual. **The description of SPC or MPC techniques shall be sufficient to allow a reviewer unfamiliar with the item or the contractor's production operation to properly assess the applicability of the control measures/techniques being proposed.**

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1. For Thermostabilized or Hot Filled Items: (1) Polymeric tray integrity (absence of tears, cuts, holes, delamination, abrasions, leakage, and non-fusion bonded seals, etc.) and (2) All thermostabilized items - the critical control points of the process schedule as determined by the contractor's Processing Authority and critical control points of the retort process schedule. The critical control points, other control points, and the contractor's Processing Authority shall be clearly identified in the Regulatory Controls Section and/or the In-Process and Process Inspection and Testing Section of the contractor's QSP, as applicable.

2. For Water Activity Stabilized Items: (1) Polymeric tray integrity (absence of tears, cuts, holes, delamination, abrasions, leakage, and non-fusion bonded seals, etc.) and (2) All water activity-stabilized items - control of water activity, and oxygen scavenger placement. The control points shall be clearly identified in the In-Process and Process Inspection and Testing Section of the contractor's QSP.

B. The SPC and MPC techniques (or combination of both) will be evaluated as part of the documented QSP for the firm or firms eligible for award.

C. A documented QSP determined to be Insufficient for Production during the acquisition phase or seriously deficient may preclude the offeror from receiving an award. However, the PCO has the final authority and he/she may permit an offeror to revise a deficient QSP provided it is reasonably capable of being made sufficient for production or acceptable. Failure to negotiate a sufficient for production and/or acceptable QSP, as applicable, may also preclude the offeror from receiving an award.

D. SPC Program: The information requested in Workbook I, In-Process and Process Inspection and Testing Section (Area 1 and 2 as applicable) shall be covered in the applicable section of the contractor's QSP. For characteristics as designated by the Offeror and/or the Government to be controlled using SPC or MPC techniques as indicated above, the QSP, as a minimum, must address the following: The QSP must identify and define each In-Process Control Point (IPCP) and/or process control point (PCP) in sequence in relation to the production, subassembly/assembly flow or chain of events (from weighing/mixing/batching of ingredients/materials, packaging, to final product); clearly identify the control technique selected (SPC/MPC or combination) to control each process identified; the number of samples selected, location of sample selection, and frequency of sampling at each IPCP and PCP identified; include procedures that describe the production/assembly operations and how the contractor ensures these are carried out under control conditions to assure that product characteristics and criteria specified in the contract are achieved and maintained in the finished product (end item); and identify documents that are the basis for the SPC/MPC program including internal audits, textbooks, standards, and/ or Government documents.

E. Structure (policy/scope): The QSP shall identify the contractor's policy for applying SPC and the contractor's goals and commitments regarding SPC and continuous process improvement. The contractor may also discuss alternatives to SPC techniques (MPC techniques or other control technique) that have successfully reduced/prevented the production of defects. Information must be covered in the Management Responsibility and Quality System Design Section I of the QSP or other applicable section of the contractor's QSP.

F. SPC Training: Information must be covered in the Training Section of the QSP or other applicable section of the contractor's QSP.

G. Vendor/Subcontractor/Purchase Controls: Information must be covered in the Contract Review, Purchasing, and Customer-Supplied Product of the QSP or other applicable section of the contractor's QSP.

H. Manufacturing Controls: (IAW DLAD Clause 52.246-9001 Manufacturing Process Controls and In-Process Inspection as applicable). The information requested in Workbook I, In-Process and Process Inspection and Testing Section (Area 1 and 2 as applicable) should be covered in the applicable section of the contractor's QSP (for characteristics as designated by the Offeror and/or the Government to be controlled using SPC or MPC techniques as indicated above): The QSP must clearly identify

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the control technique selected (SPC/MPC or combination) to control each process identified. Must include procedures that describe the production/assembly operations and how the contractor ensures these are carried out under control conditions to assure that product characteristics and criteria specified in the contract are achieved and maintained in the finished product (end item).

I. Statistical Process Control Procedures (General): The information requested in Workbook I, In-Process and Process Inspection and Testing Section (Area 1 and 2 as applicable) should be covered in the applicable section of the contractor's QSP (for characteristics as designated by the Offeror and/or the Government to be controlled using SPC or MPC techniques as indicated above):

1. **Criteria for Using SPC Techniques:** How the contractor determined which processes were appropriate for use of SPC or MPC techniques; process capability studies (application); types of charts used and rationale for use; and computer hardware/software used for SPC (if applicable).

2. **SPC Auditing and Review Procedures:** This information must be covered under the Internal Audit Section or other applicable section of the contractor's QSP.

3. **SPC Records.** How the following records apply/correlate to the SPC program: Incoming inspection, manufacturing inspection, subcontractor inspection, internal and external failure reports, corrective action reports, control charts, scrap and rework reports, lessons learned, recommendations and feedback, etc. The information must be included in the In-Process and Process Inspection and Testing Section (Area 1 and 2 as applicable), the Document and Data Control and Control of Quality Records Section of the QSP or in the applicable section of the contractor's QSP.

J. When the documented QSP is rated acceptable and the system implemented is effective in consistently producing conforming product, the contractor may qualify for Government verification skip-lot inspection (Procedures for Alternative Skip-Lot End Item Inspection Requirements for Government Verification Inspections for Operational Rations). The Government reserves the right to return to the original acceptance sampling requirements if Government source inspection is waived, skip-lot is not in the best interest of the Government or for other causes as indicated in the procedure. The documented QSP shall be documented, dated, and signed by a responsible company official, and will be distributed under company letterhead as indicated in preceding paragraph "Higher Level Requirement - Quality Systems Plan (QSP)". The contractor is required to incorporate the requirements of this SPC QAP in the In-Process and Process Inspection and Testing Section (Area 1 and 2 as applicable) of the QSP or other applicable sections of the contractor's QSP.

1-D. The contractor's documented QSP and implemented Quality Systems are to be verified by the in-plant Government QARs/inspectors, when Government source inspection is required, in accordance with the Operational Rations Documented QSP Evaluation Workbook I, the regulation/file code of the respective inspection agency, and the particular requirements detailed in the contract.

2. Quality Assurance Requirements for Ration Component Production Plants

2-A-1. Quality Assurance Provisions for MIL-PRF-32004, Packaging of Food in Polymeric Trays

The following procedures for sampling and inspection shall also be applied when an end-item's filled and sealed container examination is required to be performed in accordance with paragraph 4.2, "Examination of container", of MIL-PRF-32004. These procedures shall be applied to inspection results where critical defects are a determining factor in the rejection of a lot.

Change in severity of inspection shall be based on the critical defect category and determined by component type, regardless of lot size. For Normal inspection the sample size shall be 200 sample units and for Tightened inspection 315 sample units examined for critical defects and the finding of any critical defect shall be cause for rejection of the lot. Normal inspection will be used at the start of inspection. Normal inspection shall

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continue unchanged for the critical category of defects on successive lots except where the procedures given in ANSI/ASQC Z1.4-2003, Sampling Procedures and Tables for Inspection by Attributes, require a change in the severity of the inspection, from Normal to Tightened. The procedures given in ANSI/ASQC Z1.4-2003 shall be used to switch from Tightened inspection to Normal inspection. There will be no "reduced" inspection option. The Government has the right to discontinue Government inspection as cited in ANSI/ASQC Z1.4-2003 or the MPC clause or both.

1. The Government QAR will notify the contractor of a change in the severity of inspection as a result of Government origin inspections. The contractor is required to perform inspections which provide the same risk (equal or better) as those performed by the Government (ex: the contractor must select for end item examination, as a minimum, the same number of samples selected by the Government for end item inspection).

2. Upon notification by the Government QAR of change of severity of inspection from Normal to Tightened, the contractor shall submit a corrective action plan to the Government QAR and the Contracting Officer. Government QAR will withhold inspection of lots produced after notification until corrective action plan is received and approved. The corrective action plan shall contain, as a minimum, the following:

- A. Root cause of the deficiency.
- B. Action taken to correct the deficiency.
- C. Action taken to correct and prevent recurrence of root cause of deficiency.
- D. Corrective action effective date(s).
- E. Contractor, subcontractor, or supplier representative responsible for implementing corrective action.

As authorized by the Contracting Officer. Discontinuation of inspection may be invoked by the Contracting Officer when there is a pending action against a contractor to improve the quality of the submitted product/material, a contractor fails to submit a corrective action plan, and/or a corrective action plan is not effective in correcting or in preventing recurrence of root cause of the deficiency.

In addition to the above, the Contracting Officer, at his discretion, may invoke increased inspection for critical defects at origin and/or destination when determined to be in the best interest of the Government.

2-B. The contractor will have a quality assurance program that supports continuous improvement in accordance with paragraph E-1 above and the particular requirements applicable to the polymeric tray items.

2-C. Government verification inspection and testing (conducted by the GQAR or Government laboratory) shall be withheld, at a minimum, until the contractor's completed inspection results are presented to the Government's Quality Assurance Representative (GQAR). Unless otherwise authorized, in writing, by the Contracting Officer, the GQAR and/or Government laboratory shall not perform Government verification inspection/testing unless the contractor's lot submittal package (inspection/test results-including analytical testing) provided to the GQAR indicates conformance to ALL contractual requirements.

2-D. Government verification inspection may be accomplished by utilizing smaller sample sizes provided sampling plans utilized do not increase producer's sampling risk as assessed by applicable (ANSI/ASQC Z1.4-2003) operating characteristic curves. Contracting Officer approval must be obtained prior to skip lot and/or reduced inspection.

2-E. End Item Testing. Compliance with applicable Performance-based Contract Requirements (PCR) or Commercial Item Description (CID) requirements will be determined by the contractor and by the GQAR on the finished product in accordance with the applicable provisions in the PCR, CID, solicitation, contract, and purchase order and their applicable Quality Assurance Provisions and Packaging Requirements. Regardless of the Government agency having jurisdiction upon ascertaining compliance to contractual requirements at the supplier's production/assembly facility, a USDA laboratory will perform all Government verification testing. The contractor shall bear all expenses incident thereto, including costs of samples and all associated costs for

preparation and mailing. Costs shall be assessed in accordance with the Government laboratory testing charges for individual test characteristics and number of tests required by the specification or contract. A list of fees may be obtained from the appropriate USDA laboratory.

3. Quality Assurance Requirements for Ration Component Production Plants.

3-A. Packaging and Packing Materials

Packaging components (e.g., fiberboard shipping boxes, fiberboard sleeves, roll stock/lid material, polymeric trays, adhesive, tape, etc) are subject to the FAR Clause 52.246-15, CERTIFICATE OF CONFORMANCE (APR 1984). The Government QAR shall have the responsibility for verifying CoC's as necessary. Any inspections required by the specifications may be performed by the Government to assure compliance with the specifications.

3-B. General Inspection (Examination/Testing) Requirements

(A.) When contractor determines as a result of his inspection(s) or QSP, or is informed by the QAR as a result of verification inspection, that the supplies do not conform to contractual requirements, he has the following alternatives:

1. Produce and inspect a new lot.
2. Screen or rework and reoffer conforming supplies (provided screening or reworking is not detrimental to the product and does not conflict with other requirements, e.g. time, temperature, etc.) See "Rework of Nonconforming Product Pre or Post Acceptance" for applicable situations.
3. Request the Contracting Officer to consider acceptance of the nonconforming supplies in accordance with paragraph "Request for Rework, Request for Waiver, Request for Deviation, or Reinspection of Nonconforming Supplies".
4. When valid technical reason(s) exist for suspecting the verity of the inspection results, request the Contracting Officer's permission to reinspect the supplies without screening or reworking. The request must be made in writing in accordance with paragraph "Request for Rework, Request for Waiver, Request for Deviation, or Reinspection of Nonconforming Supplies". Any lot with one or more valid critical/major A defect(s) will not be reinspected without reworking or screening of all units. Examples of valid technical reasons are:
 - A. After finding the lot nonconforming for net weight, it is discovered that the scales used for the inspection were out of adjustment or
 - B. After finding the lot nonconforming for a chemical test characteristic, it is discovered that a chemical used in the analysis has deteriorated or had not been properly prepared.

(B.) The contractor may petition the Government (through the Contracting Officer) for skip lot or a reduction in verification inspection at such time that the contractor believes his quality program is fully acceptable and reliable. There will be no "skip lot" or "reduced" inspection option for critical defects.

3-C. Government verification inspection and testing (conducted by the GQAR or Government Laboratory) shall be withheld, at a minimum, until the contractor's completed inspection results are presented to the Government's Quality Assurance Representative (GQAR). Unless otherwise authorized, in writing, by the Contracting Officer, the GQAR and/or Government laboratory shall not perform Government verification inspection/testing unless the contractor's lot submittal package (inspection/test results-including analytical testing) provided to the GQAR indicates conformance to ALL contractual requirements.

3-D. Operational Ration Component Lot Number and Lot Inspection

The component lot number for thermostabilized (retorted) products packaged in polymeric trays shall be defined as the Julian lot number assigned at the origin manufacturer's plant and the inspection lot shall include only product produced in one work-shift. For products packaged in polymeric tray containers, a lot number is defined as the quantity of finished product produced/assembled within a production day (Julian date) and the inspection lot shall include product produced in no more than one production/assembly day. The Government QAR reserves the right to separate an inspection lot into smaller inspection lots. The Sample for Government and contractor's end item lot inspection may be drawn after all units comprising the lot have been produced or

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samples may be drawn during production of the lot. If stratified sampling is utilized (drawing sub-samples from each sub-lot/sub-code during production of the lot), the sub-samples must be drawn at random from the sub-lot and not inspected until all the sub-samples are combined to make up the complete sample for the applicable lot size (the formation of the lot and lot size is defined as the manner in which the lot is to be presented for Government end item verification inspection).

3-E. Alternative Skip-Lot End-Item Inspection Requirements for Government End-Item Verification Inspections for Operational Rations

The "Procedures for Alternative Skip-Lot End Item Inspection Requirements for Government End Item Verification Inspections for Operational Rations", dated March 2001, are applicable to current and future contracts. The switching procedures cited in ANSI/ASQC Z1.4, Sampling Procedures and Tables for Inspection and Attributes shall not be used for Government verification inspections. For products requiring a drained weight examination, the following is also required: The contractor shall provide the Government Quality Assurance Representative (GQAR) a copy of the current production standard (PDM/First Article) formula (including ratios of ingredients), and formulation records for each production lot submitted for Government end item verification inspection. The GQAR shall initiate skip-lot inspection based on Government verification inspections results of each product and notification that the contractor's Quality System Plan (QSP) was rated acceptable by DSCP-FTSB. The Government verification inspection may be further decreased (e.g., skip-lot inspection frequency 1 in 6, 1 in 10, etc.) by the Contracting Officer if he/she determines that this is in the best interest of the Government or he/she may discontinue skip-lot inspection for Government verification inspection if it is determined that skip lot is not in the best interest of the Government.

The sampling plans switching procedures cited in ANSI/ASQC Z1.4, Sampling Procedures and Tables for Inspection and Attributes, are authorized to be used only by the contractors during the performance of contractor's end item verification inspections. Producers using the switching procedures, cited in ANSI/ASQC Z1.4, during the performance of their end item inspections must train personnel and follow **all of the switching rules** cited in the standard. As indicated in the standard, the sampling scheme is a combination of sampling plans with switching procedures, and each sampling plan has its own set of rules by which a lot is to be inspected and accepted or rejected. Samples may be drawn after all units comprising the lot have been produced or samples may be drawn during production of the lot. However, for those contractors that are using stratified sampling (drawing subsamples from each subplot during production of the lot), the subsamples must be drawn at random from the subplot and not inspected until all the subsamples are combined to make-up the complete sample for the applicable lot size (the formation of the lot and lot size is defined as the manner in which the lot is to be presented for Government end item verification inspection in accordance with paragraph "Operational Ration Component Lot Numbers"). All other inspection procedures must be reviewed by the GQAR, included in the QSP, and approved by the Contracting Officer. The producer's end item verification inspection results must be well documented and the GQAR must be informed in advance of the specific switching procedure (normal, tightened, reduced) being utilized for each product qualified under the standard.

3-F. Rework Of Nonconforming Product Pre or Post Acceptance

Rework Of Nonconforming Product: The Government QAR must be informed and provided documentation of all rework results when product is presented for Government verification inspection or prior to Government inspection as indicated below.

A. Corrective Action (Rework/Screen Inspections) Taken Prior To Government Verification Inspection (Receipt, In-Process And End-Item Inspections): Unless otherwise specified below, all reworks and screening inspections conducted prior to the Government verification inspection do not require approval from the Government. Although the GQAR must be informed of all reworks, the contractor is not required to obtain approval to take corrective and preventive action as deemed necessary to ensure compliance with contractual requirements. For reworks requiring the Government's approval (as specified below), the contractor may submit a Standard Rework Procedure (SRP), for certain defects, under the contractor's documented QSP section XII - Corrective and Preventive Action Program. The SRPs must be specific and these must be evaluated by DSCP-FTR, FTSB, and approved by the applicable Contracting Officer.

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NOTE: All requests for rework shall be accompanied with a comprehensive rework plan. The rework plan will include rational information and data that supports the rework plan and ensures the elimination of nonconforming material from the lot. When a contractor determines as a result of his end item inspection(s) or QSP that supplies do not conform to contractual requirements and the supplies cannot be reworked (such as drained weight, viscosity, piece size, residual air, etc), he has the alternative to request the Contracting Officer for a waiver for the nonconforming requirement. If the Contracting Officer approves the waiver request for a specific requirement, the written waiver approval shall be provided to the GQAR when the supplies are presented for Government Verification Inspection (the skip-lot inspection does not apply in this case). The GQAR shall only inspect the supplies for compliance with all requirements of the contract, except the waived requirement. The Contracting Officer, in special circumstances, may request nonconforming supplies to be inspected by the GQAR, after the waiver for the nonconforming requirement has been provisionally approved, to determine severity of nonconformance only. Due to the type of statistical sampling cited in the contract, under no circumstances shall a lot found nonconforming by the contractor be inspected by the GQAR to determine conformance to a requirement that has previously been established as nonconforming by the contractor's inspection. After any lot's failure or rework, if the lot is reinspected, it will be both Contractor and Government inspected at the next higher sample size.

B. The Following Reworks Must Be Coordinated With The Supervisory GQAR And Approved By The Applicable DSCP-FTR Office.

1. Insect or Rodent Infestation/Contamination: Reworks must be approved by FTR/FTSB.

2. Food Safety and Foreign Material: All corrective actions for product retained due to foreign material and/or processed/unprocessed container mix-ups must be approved by FTR. Thermal process deviations or deviations from the preparation, formulation or critical factors cited in the approved process schedule must be accompanied by a detailed letter from the plant's Processing Authority. The involved subcode(s), the deviation, and the disposition of the product shall be clearly identified when the complete lot is presented for Government end item verification inspection. If the producer fails to provide enough information/data in the case of a deviation, the GQAR shall contact FTR for approval to proceed with the Government end item verification inspection. These requirements are in addition to applicable Code of Federal Regulations or other regulatory requirements (USDA-FSIS, FDA) .

"Retesting/reinspection/rework of product that tested positive for food borne pathogens (salmonella, e. coli, etc.) is not authorized."

Note: Deviations (that occur during or prior to the production of a product) from specific preparation/formulation/ingredient requirements cited in the specifications shall be submitted as a request for product deviation and must be approved and coordinated with the Specification Preparing Activity (Natick) through the applicable Contracting Officer.

3. Container Integrity Defects: All reworks due to container integrity defects noted during the producer's end item inspection (for critical container defects only) or Government final lot end item verification inspection, must be approved by FTR unless 100% primary container rework of the entire lot is conducted at source. All containers exhibiting same or other container integrity defects must be removed during the 100% primary container rework and noted on the rework paperwork. Reworked lots will be inspected or re-inspected, as applicable, by the GQAR at the location of the rework using the next larger sample size (for example, from 200 samples to 315, or if a second rework, from 315 samples to 500 samples). Rework results must be included with other paperwork when the lot is presented for Government end item verification inspection.

4. Second Time Reworks: All second time reworks must be approved by the applicable FTR office.

5. Nonconformances Noted During The Government End Item Verification Inspection: All rework requests submitted for defects noted during Government verification end item verification inspections

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must be approved by the applicable Contracting Officer, unless exempted under paragraph 3 above.

C. Contractor's Quality History:

1. Effectiveness of corrective actions (rework/screen inspections) taken by the contractor prior to Government end item verification inspection (receipt, in-process and contractor's end-item inspections) will be determined by the results of the end item verification inspection performed by the GQAR. **Corrective actions taken to ensure compliance with the contractual requirements prior to the Government end item verification inspection will not be counted against the contractor's quality history.** If product is found conforming during the Government end item verification inspection, the corrective action will be determined to have been effective. However, all requests for waivers and product deviations will be counted.

2. If product is found nonconforming during the Government end item verification inspection following contractor corrective action for the same defect (or defect category in case of critical container defects) for which the contractor took a corrective action, the corrective action will be determined to have been ineffective. In addition to any action taken, the contractor must reevaluate their documented QSP and/or the implemented corrective and preventive action program by an internal audit and results must be submitted to FTSB (Quality Systems Auditors). **All corrective actions (rework/screening inspections, etc.) taken by the contractor due to a Government end item verification inspection rejection will be documented in the contractor's quality history records.**

NOTE: If the contractor elects to rework nonconforming product, it must be reworked and reoffered within 30 days from date of initial rejection.

NOTE: All requests for rework shall be accompanied with a comprehensive rework plan. The rework plan will include rational information and data that supports the rework plan and ensures the elimination of nonconforming material from the lot. See "Request for Rework, Request for Waiver, Request for Deviation, or Reinspection of Nonconforming Supplies".

3-G. Request for Rework, Request for Waiver, Request for Deviation, or Reinspection of Nonconforming Supplies

A. When contractor inspection or QSP, or Government verification by the QAR, reveals a process deviation or nonconforming lot, the contractor's written request for deviation, waiver, rework or reinspection of the nonconforming lot(s) must be furnished, as appropriate to the Contracting Officer and cognizant Government QAR and shall at a minimum contain the following:

1. Contractor's name and address.
2. Contract number, lot number(s), and quantity.
3. Item nomenclature and NSN, whether a component or end item.
4. Specification number, table/paragraph number, sample size, AC/REJ number(s), defect number(s), number of defects. Identify the container codes of defective units.
5. Classification of defects: Critical _____ Major _____ Minor _____
6. Cause of nonconformance or deviation, and corrective and preventive action.
 - a) State the root cause of the deficiency.
 - b) State the corrective action and the preventive action contractor has taken/will take to preclude recurrence.
 - c) If preventive action is not possible, state why.
7. If deviation/nonconformance is of a recurring nature, the frequency of occurrence and date/contract/lot number of last occurrence.
8. Effect on cost/price.
9. Effect on delivery schedule.
10. Full justification for request for deviation, waiver, rework or reinspection.

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11. Submit in-process data (MPC, SPC), and contractor and Government end-item records for the involved lot(s). Submit retort records, copy of process schedule and letter from Processing Authority if a process deviation.
12. Applicable to the defect found or class of defects for critical defects, identify the situations where the lot exceeded control limits (out-of-control, exceeded action level or number) according to in-process records (MPC, SPC), and identify the corrective actions taken for each instance.

NOTE: All requests for rework shall be accompanied with a comprehensive rework plan. The rework plan will include rational information and data that supports the rework plan and ensures the elimination of nonconforming material from the lot. After any lot's failure or rework, if the lot is reinspected, it will be both Contractor and Government inspected at the next higher sample size.

B. When a valid technical reason for reinspection is offered and permission is granted by the PCO, the contractor shall take corrective action to eliminate the cause of the inspection revealed failure; reinspect the non-reworked lot after taking the corrective action, and evaluate the results of the initial inspection and the reinspection by means of recognized statistical methods.

1. If the statistical tests reveal no significant difference between the results of the two inspections, acceptability will be based on reinspection results. A significant difference is one that is real and not due to chance variation. Statistically, a difference which has a 0.05 probability of occurring by chance alone is usually considered a significant difference.

2. If such statistical tests reveal no significant difference between the results of the two inspections, both results will be reported to the Contracting Officer.

a. The results of the two inspections will be averaged and acceptability will be based on whether the resulting average meets the requirement, when the requirement is an average (variable) requirement.

b. The results of the initial (original) inspection will be the basis for the acceptability decision when the requirement is a unit (attribute) requirement.

3-H. Reliability Conditions

A. The Government may perform verification inspection (examination, testing or both) to assure that the inspection performed or certificates furnished by the contractor are reliable. Initially, the amount of verification inspection may equal the amount of inspection performed by the contractor. It is the intent of the Government to be able to rely on the contractor so that the amount of verification may be reduced accordingly. In the event the Government determines by means of verification inspection, surveillance of the contractor's inspection activity, or the submission by the contractor to the Government of nonconforming supplies that the contractor's inspection results or certificates from any plant are not reliable, the Government reserves the right to increase the rate or amount of verification inspection to and including full lot-by-lot inspection and to charge the contractor for the costs incurred for any or all Government examinations and tests performed on supplies from the plant/plants determined to be unreliable after such time as the contractor is advised in writing of the particular inspection concerning which his unreliability is established. In addition, the Government reserves the right to sample and inspect for compliance with contract requirements all supplies produced for the Government remaining in the contractor's facilities at the time of notification in an other than reliable status, even though said supplies may have been produced prior to receipt of notification. It is to be especially noted that the Government is contracting for a complete and reliable inspection system as well as a product conforming to all requirements of the contractual document(s). When any element of the contractor inspection system (a particular test or examination of the end item or component) has been determined to be unreliable, the Government reserves the right to consider the inspection system as a whole unreliable, and to return to full lot-by-lot verification (and charge therefore) for each and every examination and test. Examination and testing by the Government and charges to the contractor will continue until such time as the contractor's reliability is again established to the satisfaction of the Contracting Officer. Evaluation of contractor's examination results and

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review of test results will be accomplished by the QAR. Final evaluation of contractor's test results will be accomplished by DSCP-FTR, Subsistence Supplier Operations Directorate.

B. The Government QAR may perform verification inspection on any of the lots presented by the contractor to determine if the inspection results reported by the contractor are a reliable indication of product quality. Verification inspection results may be compared with product acceptance criteria set forth in the contract and/or with contractor inspection results for the purpose of determining if verification inspection performed by the Government QAR may be reduced. This reduction in Government verification inspection may be effected through less frequent inspection (skip lot/modified skip lot), reduced severity of inspection, or both. Contracting Officer's approval must be section obtained before switching the degree of inspection severity to reduced inspection even though all criteria have been met.

C. Unless otherwise specified in the contract, verification inspection performed by the QAR will be in accordance with the specification Quality Assurance Provisions regardless of any approved alternative procedures employed by the contractor.

D. Unless otherwise specified, when the contractor inspection results have been determined to be unreliable, the next determination as to reliability will be made:

1. For examination characteristics. After the production and examination of not less than three or more than five lots.

2. For test characteristics. After six day's production or after the number of day's necessary to produce and test six inspection lots, whichever is greater.

NOTE: During the period the contractor's test system is considered unreliable, supplies will be accepted or rejected on the basis of Government laboratory test results.

3. For Certificate of Conformance. After two inspection lots of component items, except that return to a reliable status will be based on conformance of a component item to requirements if inspection results are not submitted by the contractor.

E. After a contractor has been notified that his inspection system has been found to be unreliable, the status or unreliability will continue until the Government notifies the contractor that a reevaluation has been completed and the results indicate that the inspection system is considered as regaining a reliable status. In addition to the requirements in paragraphs E-3-J-(D) 1, 2, or 3 above, time will be required by the Government to review the contractor's results by the evaluators, complete verification inspection, perform statistical analysis, and to notify the contractor. The contractor will be charged for costs incurred by the Government for inspecting lots (including costs associated with sampling) used for evaluating reestablishment of an acceptable inspection system status.

F. Whenever considered necessary as an aid in determining reliability of contractor inspection, the Government will determine, by the use of recognized statistical methods, if there is a significant difference between inspection results furnished by the contractor and the results of verification inspection.

G. Supplies, which have been found nonconforming by the contractor, may be subjected to special Government verification examination of the lot or lots in question. The verification examination results for each such lot so selected will be compared with the contractor's results using the lot-by-lot comparability determination procedure for reliability only and shall not be used for acceptance or rejection of production lots.

H. In the event the Government elects not to perform verification inspection prior to delivery and acceptance, payment will not be delayed provided the contractor's inspection results indicate the end item and components (including packaging, unitization, packing, labeling and marking materials) conform to the specification requirements, and further provided that said results are presented in the manner prescribed herein.

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I. Normally, verification inspection will be performed on a stationary lot basis, regardless of physical location, at any time prior to acceptance. Warehousing charges for labor, reconditioning, and any other such costs incident to sampling for examination and/or testing will be borne by the contractor, except when examination is performed at a point other than the premises of the contractor, sub-contractor or contractor's freezer or warehouse.

J. Conformance of supplies, or parts thereof, will be determined in accordance with the applicable specification tolerances, acceptable quality levels and sampling procedures contained in the contract except as provided herein. At destination, the original inspection lots need not be reconstituted. For sampling purposes, supplies delivered under the contract may be grouped to form lots. The size of the sample will be determined by the sampling procedures specified in the contract for the quantity of supplies on which action is proposed. Whenever the contract does not provide criteria to determine the number of sample units, the number of containers selected for appropriate number of sample units, the number of containers selected for sampling will be the square root of the number of containers in the lot. Frozen product may be inspected for determination of compliance with all terms of the contract. If necessary, the product or samples, as appropriate, may be defrosted to the extent required to accomplish this inspection. At origin, the contractor will employ a procedure for identifying the inspection status of material before, during, and after processing.

K. The contractor's inspection system will be considered unreliable if a statistical comparison of contractor and Government inspection results indicates noncomparability. The noncomparable status will serve to notify the contractor of the significant disparity between the Government verification results and the contractor's results without either result indicating nonconformance. The Contracting Officer and/or Government QAR will notify the contractor when his inspection system is considered unreliable and change inspection system status to unreliable. The Contracting Officer and/or Government QAR will notify the contractor of any change in the inspection system status and of all reevaluations, whether or not a change in the inspection system is applicable.

L. The contractor's inspection system will be considered unreliable when the Government inspection results indicate nonconforming product and a significant difference is observed between the contractor and verification inspection results. The Contracting Officer and/or Government QAR will notify the contractor of any change in the inspection system status and of all reevaluations, whether or not a change in the inspection system is applicable.

M. Standby inspection samples. The Government reserves the right to withdraw and hold, for inspection purposes, standby samples of components or finished products or both. Samples not used will be returned to the contractor.

N. The contractor may be liable for certain inspection costs for examination or tests (for end item or components, separately) performed by the Government.

O. When the contractor is liable for costs, as defined by this contract, the following will apply:

1. The Government QAR will notify the contractor in writing when the contractor's inspection system is determined to be unreliable. A copy of this letter containing the reason(s) for such determination will be forwarded through the appropriate CQAE(s) to the Procurement Contracting Officers (PCO). During the period of unreliability, the QAR will submit weekly reports of applicable inspection costs, including travel expenses, through the CQAE(s) to the PCO for review and collection. Inspection costs will be computed at the rate of \$35.00 per hour. Hours will be computed based on total hours for all inspectors used to perform inspection (i.e., three inspectors at three hours each = nine hours total). Actual travel expenses will be determined in accordance with applicable travel regulations. Upon reestablishment of reliability the QAR will notify the contractor in writing and submit a copy of this letter, along with a final report of examination costs, through the CQAE(s) to the PCO. The contractor may appeal the assessment of examination costs in writing to the PCO stating full justification to refuse these costs. The PCO will provide a written decision on the appeal to the contractor. Assessment of examination costs will be based upon the dates of QAR notification to the contractor.

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2. The Contracting Officer will notify the contractor in writing when the contractor's test system is determined to be unreliable. The Government QAR and DSCP-FTR will report applicable costs/charges related to Government sampling and testing to the Contracting Officer for collection.

3. Costs devoted to actual travel time will be computed at the current authorized hourly rate, computed to the nearest quarterly hour increment.

4. Laboratory testing costs will be assessed at the rate of \$25.00 per hour.

5. Warehouse cost. Warehouse labor costs as reported by destination will be assessed at cost.

6. Miscellaneous expenses. Related expenses which can be reasonably computed will be assessed at actual cost.

7. Administrative costs. To the direct costs which are considered assessable, additional assessments will be added, based on the following charges to cover administrative costs which have been incurred by the Government in the review and assessment of actual costs.

A. An administrative charge of \$10.00 if actual charges do not exceed \$25.00 per reliability determination.

B. An administrative charge of \$10.00 if actual charges exceed \$25.00 but do not exceed \$50.00 per reliability determination.

C. An administrative charge of \$15.00 if actual charges exceed \$50.00 but do not exceed \$75.00 per reliability determination.

D. An administrative charge of \$20.00 if actual charges exceed \$75.00 per reliability determination.

NOTE: The above administrative charges do not include the cost for processing a contract modification.

8. The contractor shall be liable for Government costs (i.e., man- hours, travel, per diem, administration, etc.) incurred as a result of the failure of the contractor to notify the inspection service of change(s) in production schedule. Costs will be computed and reported by the QAR as detailed above.

3-I. Traceability Requirements/Commingling of Lots

The shelf stable Polymeric Tray producer shall maintain records for each end item lot. The end item lot, usually one day's production, shall be clearly identified on each primary tray, and clearly identified on the exterior of each case. In addition, the shelf stable Polymeric Tray producer shall maintain records of when and where end item lots have been shipped.

3-I-1. In order to facilitate lot traceability at the Polymeric Tray producer's plant, the following is required (GFM and CFM):

A. Lots shall be shipped on a first produced (and accepted) first out basis. No product shall be older than three months at time of shipments, except when a product at the manufacturer's plant is pending disposition instructions and/or action (request for waiver, deviation, rework, reinspection, etc) and/or as authorized by the Contracting Officer.

B. Each shipping case shall contain only one manufacturer's lot. If a partial shipping case remains at the end of the production day, dunnage shall be used to fill the remainder of the case and the outside of the case shall be marked indicating the number of polymeric trays within. See paragraph 3-K-2 below for exception.

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C. Each unit load shall contain only one production lot, as a rule. However, when a partial unit load remains at the end of a production day, the contractor is permitted to complete the unit load with another lot's material. In this instance a unit load may consist of two lots to facilitate shipment.

D. It is no longer acceptable to ship two lots on one pallet.

E. Assemblers shall assemble one (1) component lot at a time, i.e., one (1) component lot shall be used at each assembly line until it becomes necessary to place another lot of the same component on the assembly line to maintain assembly flow.

F. Lot numbers and corresponding lot quantities shall be included on the shipping/receiving documentation, e.g. DD Form 250. Thermostabilized items shall cite subcodes delivered.

VI. MISCELLANEOUS TECHNICAL REQUIREMENTS FOR POLYMERIC TRAY ITEMS

A. The procedures contained in the "Integrated Pest Management (IPM) Program Requirements of Operational Rations," of March 2009 are required and apply to all polymeric tray food component operations. Each contractor is to have an IPM program in place prior to the initiation of production of Government product. The IPM plan and the associated pesticide labels and MSDS documents are not to be submitted to DSCP. The contractor shall have those documents available for on-site review during a Quality Systems Management Visit (QSMV) or Quality Systems Compliance Audit. In addition, evidence of an insect or rodent infestation, foreign material, or contamination involving any end item will be cause for rejection of the involved lot. IPM program requirements can be found on the DSCP website at: <http://www.dscp.dla.mil/subs/support/quality/ipm-cpaf.pdf>.

B. Commercial sterility test applies to all thermoprocessed/retorted polymeric tray items. Incubate one filled, sealed and thermally processed polymeric tray from each retort cook as follows:

1. Meats, poultry, and fish (with or without sauce/gravy) and vegetables with sauces: Incubate at 95 degrees Fahrenheit +/- 5 degrees for 10 days, unless otherwise specified by the inspection agency.

2. Fruits: Incubate at 80 degrees Fahrenheit +/- 5 degrees for 10 days. Any evidence of swelling or microbial activity following incubation shall be considered a test failure.

C. In addition to the requirements of any applicable COMMERCIAL ITEM DESCRIPTION (CID) or PERFORMANCE-BASED CONTRACT REQUIREMENT (PCR) for components cited herein, all requirements, including the Performance Requirements of the Quality Assurance Provisions and Packaging Requirements for the applicable CID or PCR, are applicable.

D. For all items thermostabilized by retorting, each filled and sealed polymeric tray shall be in the retort process within two hours after sealing.

E. Additionally, the following applies to perishable raw and cooked beef, chicken, pork, turkey and other meats used in the production of end items intended for operational rations. All perishable meats shipped from the supplier to the processing plant shall be accompanied by either a USDA Grading Certificate (if required) or a Certificate of Conformance (CoC) indicating compliance to specified requirements, and initial chilling or freezing date of the product as applicable. The ingredient supplier

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shall certify compliance with processing and PACKAGING requirements for formed or breaded meats. Under no circumstances shall any meat or meat product be older than 180 days at time of use:

1. Chilled meats: Meats received in the chilled state shall have not been previously frozen and shall have been held at an internal temperature of 28 to 40 degrees Fahrenheit for a period not to exceed 4 days following initial chilling and prior to preparation and further processing. Upon arrival at the processing plant, if chilled product is not used within 72 hours, it shall be frozen and stored at a temperature not to exceed 0 degrees Fahrenheit. Frozen product must be used within 180 days after initial freezing.

2. Frozen meats: Frozen meats received at the processing plant may be accepted provided the product internal temperature has never exceeded 20 degrees Fahrenheit. Upon arrival at the processing plant, if not used immediately, the product shall be stored at a temperature not to exceed 0 degrees Fahrenheit, and product must be used within 180 days after initial freezing.

F. For thermostabilized fruits and other seasonal crop components: Acceptance will be limited to product processed and packed subsequent to date of award and from the latest season's crop.

VII. TRACEABILITY

In order to facilitate an effective traceability for the Unitized Group Ration Program, the contractor shall ensure that each primary container (unit pack) and intermediate container, if required, has a lot number and/or Date of Pack (DOP). These package codes shall be permanent and legible.

Use of the Julian Date for the lot number is preferred. For example, 9269 = October 23, 2009. If the contractor's lot identification is of their own coding, the contractor shall provide the coding information for the primary containers and the contract data markings upon delivery. Package codes per case lot number shall be identified on the appropriate accompanying DD Form 250 upon delivery.

Additionally, the contractor shall ensure that traceability records include identifying ALL ingredients and ALL sources for those ingredients. This shall be accomplished for the each item, brand and component that is shipped to the Defense Depot (Assembler) for the Unitized Group Ration Programs. This information shall be made available within 24 hours.

VIII. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS

As required by 48 CFR 246.471-1 Subsistence, AR 40-657, Veterinary/Medical Food Inspection and Laboratory Service, DLAR 4155.3, inspections of Subsistence Supplies and Services, DLAD Clause 52.246-9044, "SANITARY CONDITIONS (JAN 1998) DSCP," and as clarified by the Armed Forces Food Risk Evaluation Committee, 31 JAN 1996, all Operational Ration Food Components will originate from sanitarily approved establishments. Acceptable sanitary approval is constituted by listing in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement," published by the U.S. Army Veterinary Command (VETCOM), or an establishment inspected and approved by the U.S. Department of Agriculture (USDA) or the U.S. Department of Commerce (USDA) and possessing a USDA/USDC establishment number. This requirement applies to all GFM

and CFM Operational Ration Food Components and to all Operational Ration types. Requests for inspection and "Directory" listing by VETCOM will be routed through DSCP-FTRE for coordination and action. Situations involving sole sources of supply, proprietary supply sources, and commercial Brand Name items will be evaluated directly by the Chief, DSCP-FTRE, in coordination with the Chief, Approved Sources Division, VETCOM.

IX. DATE OF PACK

Acceptance will be limited to product processed and packed subsequent to date of award of delivery order. Additionally, all shipments of components/product from a producer to destination/assembly points shall not be older than 60 days at time of shipment.

X. MISCELLANEOUS REQUIREMENTS

Compliance with the provisions contained in Title 21, Code of Federal Regulations Part 110 "Current Good Manufacturing Practice in Manufacturing, Packaging or Holding Human Food," and all regulations referenced herein, is required. In addition, the contractor is required to comply with all with the provisions contained within specific parts of the Code of Federal Regulations. For example, low-acid canned food manufacturers, Part 110 and 113 are applicable.

The Contracting Officer or any Government personnel designated by him shall be permitted entry into the contractor's and subcontractor's plants during performance of manufacturing operations. Except for inspection service, the Contracting Officer shall give prior notice of the purpose of the meetings and shall furnish dates of the visit.

XI. MARKING OF SHIPPING CONTAINERS AND MARKING OF UNIT LOADS

For shipments to Department of Defense Depots, all Shipping Containers and Unit Load shall be marked in accordance with DSCP Form 3556, entitled "Marking Instructions for Boxes, Sacks, and Unit Loads of Perishable and Semiperishable Subsistence, dated February 1, 2004."

Note: for the Inspection Test Date, the expected shelf life is found in the applicable solicitation/contract. To calculate the ITD, add the shelf life value to the month/year date of pack. Example, if the Date of Pack is June 2007, and the shelf life is 36 months (3 years), then the ITD is computed as follows: 6/07 + 3 years = 6/10. If labels are used, they shall be permanently affixed with water-resistant adhesive tape.

Shipments without the appropriate Shipping Container and Unit Load Markings will be rejected and returned to origin, or at the Contracting Officers discretion, reworked at a labor rate determined by the destination activity (not DSCP).

XII. UNITIZATION

Unit loads shall have the shipping containers arranged on a 40 inch by 48 inch commercial wood or plywood four-way entry pallet, or on a 48 inch by 40 inch Grocery Manufacturer's of America wood four-way entry pallet. The load shall be bonded with non-metallic strapping, shrink or stretch film, or others means that comply with carrier rules and regulations applicable to the mode of transportation (adhesive bonding is not acceptable).

Bonding material shall secure the load to the pallet to form a consolidated, stable cargo which can be handled as a unit. For example, when strapping is used to secure the load, the straps shall pass under the top deck boards of the pallet. When stretch or shrink film is used, it must be applied low enough on the pallet to secure the load to the pallet.

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The unit load height shall not exceed 50 inches.

Inspection of unit loads shall be in accordance with classification Type II, Class G of DSCP Form 3507 of June 1, 2007 entitled "Loads, Unit; Preparation of Semiperishable Subsistence Items."

XIII. ADDITIONAL QUALITY ASSURANCE PROVISIONS

1. All shipments must be accompanied by an accurate DD-250, and all other pertinent invoices as required.
2. All unit loads must be marked in accordance with DSCP Form 3507.
3. All unit loads shall be stable and not exceed 50 inches.
4. All delivered product shall be free of defects.
5. All shipments must contain the correct quantity as specified by DSCP.
6. Appointments must be scheduled with the receiving activity prior to delivery.
7. All delivered product must meet or exceed the appropriate product requirements as described in this Solicitation.
8. All delivered products must meet the required date of pack/shelf life requirements.
9. To determine the date of pack, any closed date code must be accompanied with documentation deciphering the closed product code.
10. All delivered products must be free of insect and rodent infestation. Failure to comply with ANY of the above conditions may result in the shipment(s) being rejected and returned to origin, or at the Contracting Officer's discretion reworked at a labor rate determined by the destination activity (not DSCP).

XIV. Delivery Requirements

USDA Execution of Invoices/DD250s. The USDA inspector shall not sign the DD Form 250 prior to completion of the full incubation period for thermostabilized and thermohydrostabilized tray pack cans or polymeric trays. Additionally, the contractor shall not ship product which has not completed the full incubation period without the USDA (Meat and Poultry Inspection 'regulations, Subpart G, Section 318.309), and the contracting officer approval.

XV. EFFECTIVE PERIOD OF CONTRACT

The effective period of the base year is from date of award to 365 days after.

XVI. ENTRY INTO PLANT:

The Contracting Officer or any Government personnel designated by him shall be permitted entry into the Contractor's and Subcontractor's plants at anytime during the effective period of the contract. Except for inspection services, the Contracting Officer shall give prior notice of the purpose of the meeting and shall furnish dates of the visit.

XVII. PLACE OF PERFORMANCE

- (a) The offeror must stipulate in its technical proposal to this solicitation information pertinent to the place of performance.
- (b) Any change in place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the contracting officer.
- (c) Any change in place of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the Contracting Officer.

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XVIII. PRE-AWARD PLANT SURVEY

To determine the responsibility of prospective contractors, the government reserves the right to conduct physical surveys of the plants which are to be used in the performance of a contract.

In the event the government is prevented from making such survey by; the offeror or its proposed subcontractor, the offer may be rejected. As a part of the pre-award survey, the offeror may be required to obtain from its intended sources of supply, letters confirming availability of components, materials machinery and tooling.

FAR 52.212-1 Instructions to Offerors—Commercial Items (June 2008)

(a) North American Industry Classification System (NAICS) code and small business size standard.

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

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

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) "Remit to" address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR [52.212-3](#) (see FAR [52.212-3](#)(b) for those representations and certifications that the offeror shall complete electronically);
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the [SF 1449](#), include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

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

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

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

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

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

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered

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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, 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 East L'Enfant Plaza, SW
Washington, DC 20407

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

(i) ASSIST (<http://assist.daps.dla.mil> z).

(ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

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

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

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

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

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

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

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

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

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

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

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- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

ADDENDUM to FAR 52.212-1 Instructions to Offerors – Commercial Item

1. Paragraph (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, handcarried or faxed (when authorized).

Facsimile and E-mail offers are not acceptable forms of transmission for the submission of initial proposals. However, DSCP intends to utilize facsimile and email, as well as other commercially practicable forms of communication if discussions/negotiations are held. At the discretion of the Contracting Officer, the government reserves the right to require final proposal revisions be submitted to the DSCP Business Opportunity Office. Offerors must address, in their final proposal revisions, all matters raised during negotiations that would effectuate a change from offeror's initial proposals. A failure to address these matters in final proposal revisions, in a timely and authorized manner, by the time final proposal revisions are due, may adversely affect consideration of the offer, including removal of the offer from consideration for award.

Offers that fail to furnish required representations, or information, or that reject any of the terms, conditions and provisions of the solicitation, may be excluded from consideration. Offers must contain the required signatures. The Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile offer.

Submitted prices must be on a CD in MSEXCEL Spreadsheet format as well as a paper copy.

2. Paragraph (c), Period for Acceptance of Offers.

Period of acceptance is 120 days.

3. Paragraph (d), Product Samples.

First Articles shall be required in accordance with the solicitation.

4. Paragraph (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.

5. Paragraph (i), Availability of Requirements Documents Cited in the Solicitation

Contact: Cynthia Henry, Food Technologist or Debra Goffman, Contract Specialist for the applicable specifications described in the solicitation, at:

e-mail: Cynthia.Henry@dla.mil or Telephone: (215-737-7802)

e-mail: Debra.Goffman@dla.mil or Telephone: (215-737-2979)

SUBMISSION REQUIREMENTS:

Offerors are required to submit a technical proposal, the completed solicitation, and the pricing proposal. The technical proposal must be a separate document from the completed solicitation and business proposal, hereafter referred to as the business proposal. All submissions will be utilized in concert with information previously available to the Government from sources outside or within the Government, to formulate an assessment of the offerors capability according to the criteria set forth in FAR 52.212-2 of this solicitation. A cover letter may accompany the proposal to set forth any information you wish to bring to the attention of the

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Government. The information in the technical/business management proposal will be used for evaluation purposes only. However, the Government reserves the right to make any part of the proposal a contractual requirement at time of award.

The Trade-Off Method of "Best Value" Source Selection will be utilized in this acquisition. This competitive negotiated acquisition will employ the use of other factors in addition to cost or price in determining successful awardees. Trade-Off procedures are designed to maximize competition, ensure impartial and comprehensive evaluation and ensure selection of the sources most likely to provide the best value to the Government. Accordingly, the use of Best Value Trade-Off procedures provides a higher probability for success.

Offerors are also required to submit the information requested in Surge and Sustainment Clauses and Provisions 252.217-7001, 52.217-9006, 52.217-9007, and 52.217-9008 prior to award of contract.

(a) Proposal Organization

(1) Your proposal shall be prepared in two separate volumes and provided in the quantities shown below. Proposals that do not provide the required information in the prescribed format may be excluded from further consideration.

Volume	Volume Title	No of Copies	Suggested Page Limit
I	Technical Proposal	3	NONE
II	Business Proposal	2	NONE

(2) During proposal evaluation, each volume will be reviewed separately. All cost/price data/information, if required, must be in Volume II. No reference to cost/price data/information shall be included in the technical proposal. Each volume shall be separately bound (stapled is acceptable) to facilitate evaluation.

(b) Volume I, Technical Proposal (see Attachment I to this solicitation)

(1) The technical proposal must demonstrate the offeror's ability to meet the Government's requirements as set forth in this solicitation. To be considered acceptable, the offeror's technical proposal must provide, as a minimum, the information requested. Failure to provide the information requested by any of the technical evaluation factors may be considered a "no response" and a rating of "unacceptable" given to the applicable factor, subfactor, element or subelement. Offerors are advised to indicate, when appropriate, that they have no relevant past performance.

(2) In order to receive full consideration, firms are encouraged to provide factual and complete information. To ensure that an accurate proposal is submitted, address each factor and each factor's sub-factor in the order in which presented in the submission requirements for each volume. Following the prescribed order ensures that the offer contains all relevant information and facilitates government review and evaluation. Continuation sheets shall clearly identify the solicitation number and your firm's name on each page.

(c) Volume II, Business Proposal (see Attachment II to this solicitation, if a Business Proposal is required (see para (a)(2) above)).

(1) If this solicitation contains FAR 52.215-20, the offeror is required to furnish cost or pricing data or information other than cost or pricing data in the format specified in the clause or its Alternates.

(2) To be acceptable, an offeror's business proposal must be complete, realistic and reasonable.

(3) The Government may require the submission of a Business Proposal during discussions, even if one was not requested with initial offers.

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(d) Proposals that are unrealistic in terms of technical or schedule commitments, or unrealistically low in price, will be considered indicative of a lack of understanding of the solicitation requirements.

TECHNICAL PROPOSAL SUBMISSION REQUIREMENTS – VOLUME I

Technical merit will be determined by assessment of the following evaluation factors, listed in descending order of importance. Factor 1 is more important than Factors 2 and 3, which are of equal importance and are more important than Factors 4, 5 and 6. Factor 4 is more important than Factors 5 and 6, which are of equal importance. Subfactors 2.1 and 2.2 are of equal importance and more important than Subfactors 2.3 and 2.4, which are of equal importance. Subfactors 3.1 and 3.2 are of equal importance.

- 1.0 Surge and Sustainment Capability**
- 2.0 Past Performance**
 - 2.1 Delivery**
 - 2.2 Quality History**
 - 2.3 Socio Economic**
 - 2.4 AbilityOne**
- 3.0 Manufacturability/Production Plan**
 - 3.1 Production Capability**
 - 3.2 Quality System Plan**
- 4.0 Food Defense (Force Protection)**
- 5.0 Socioeconomic Plan**
- 6.0 AbilityOne**

1.0 Surge and Sustainment Capability

The offeror must submit a comprehensive capability assessment plan indicating how required increases for production during surge will be met. Based on the submitted plan the Government will determine how well the offeror supports its ability to attain increased capacity, for what period of time the increase can be sustained, and how the time frame needed to reach the maximum capacity was developed. Offerors who have a greater and quicker surge capability and are capable of delivering greater quantities over longer periods of time will receive a higher rating on this factor. Refer to 52.217-9006 on page 34 and 52.217-9007 on page 36.

The offeror must describe their available equipment and equipment not currently available, how they will obtain equipment not available, and any need for specific GFE that is available. The government will evaluate readiness and take into consideration how well it details its current and committed capabilities in areas such as manpower, equipment, facilities, and material management. Offeror should identify problem items, or long lead time issues for which surge and sustainment cannot be easily met along with proposed solutions.

The offeror shall be obligated to accelerate deliveries under the terms of the solicitation and the resulting contract up to the quantities entered in their capabilities assessment plan. The Government will evaluate the offered capabilities assessment plan to confirm the reasonably expected time-phase surge production capacity of the offeror.

The Capability Assessment Plan should include a plan of action if the offerors facility is damaged or otherwise not able to conduct normal operations. This plan of action should include but is not limited to (1) how quickly a secondary production operation could be set up and running. (2) backup communications plan to alert DSCP personnel of the activation of this Emergency Operations Plan. Plan should address actions to be taken for continued support of in house orders at time of damage.

The offeror shall describe its capability to satisfy the Services' crisis requirements, to include Joint Chiefs of Staff (JCS) Logistics Exercises, Military Operations and Mobilization, as defined in Section IV of the Schedule. Using the industrial capability questionnaire tool through the SPIDERS website at <https://spiders.dla.mil/spiders/home.asp>, offerors shall complete the Industrial Capabilities Questionnaire for Surge/Mobilization. Offeror shall identify and support maximum production (and committed quantities) using contractor owned or leased production equipment, how surge will be attained, the percent of increase that can

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be attained, the duration the increase can be sustained, and the time frame needed to reach the maximum capacity.

The offeror shall fully describe and support how it will increase its delivery capacity from the maximum order quantity(s) in clause 52.216-19, Delivery Order Limitations, to the time-phased deliveries committed in the surge Option Production Plan. Supporting details should address manpower, equipment, facilities and material management.

2.0 Past Performance

a. Offerors shall describe the extent of experience, similar to the proposed contract requirements of their own corporate entity and any partners, joint ventures, subcontractors, etc., who will be performing on the proposed contract.

b. Offerors shall provide a list of contracts, commercial or government, performed within the last two years from date of issuance of solicitation. Offerors shall provide a point of contact address, telephone number, average dollar amount of the contract per annum, period of performance, and a sample listing of the items provided for the commercial contracts. For government contracts, provide the government agency, point of contact, telephone number, contract number, dollar value, period of performance, and a sample listing of the items provided.

c. Offerors shall provide a list of any problems or discrepancies (i.e. late deliveries, shortages, overages, damages, defects, mis-shipments, etc) experienced in the past two years for the customers reported in response to paragraph b above including quality and delivery issues. Include a brief description of how these problems or discrepancies were handled and remedied.

d. Offerors shall provide information regarding Socio-Economic and AbilityOne achievements within the last two years of issuance of solicitation as part of their past performance information..

3.0 Manufacturability/Production Plan

3.1 Production Capability

Offeror's proposal must demonstrate it understands the Statement of Work and contract requirements, and that it has the facilities, equipment, manpower and technical expertise to successfully produce and deliver the required products and quantities within the order lead-times. Such information should include, at a minimum, the following: a list of equipment to be used; complete illustration or description of the facilities; and the production process.

b. Production Milestones – Offerors shall provide complete production milestones. At a minimum, milestones shall begin on the estimated date of award and order and finish with the first delivery. Orders for equipment, required facility improvements, etc., shall be listed, to include dates of lease/purchase, delivery, installation completion, pre-production work and ready to use. Milestones should also include required timeframes for First Article approval.

c. In accordance with clause 52.216-19, Order Limitations (OCT 1995), deliveries shall be required 30 days from date of issuance of the delivery order (after a successful first article which has been produced on the initial delivery as negotiated based on milestones above, has been completed). In order to complete clause 52.216-19 of the contract, the offeror shall provide: the maximum order, or delivery, quantity for any item, or sum of items, due 30 days after order, and the maximum quantity which may be ordered for delivery each week and/or each month thereafter, i.e. days 37, 44, 51, etc after order, or days 60, 90, etc. after order. This information will be used to complete para. (b) of the clause.

NOTE: The information provided in paragraphs 3.1 (b) and (c) above shall be part of any contract awarded.

3.2 Quality System Plan (QSP)

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The offeror shall submit its QSP as described in "Part 1- Inspection and Acceptance." An electronic copy of the DSCP Quality Systems Audit Workbook I - Documented Quality Systems Plans (QSP) Evaluation Guideline is available at <http://www.dscp.dla.mil/subs/support/quality/qsp.pdf>.

4.0 Food Defense (Force Protection)

The DSCP Subsistence Directorate provides worldwide subsistence logistics support during peacetime as well as during regional conflicts, contingency operations, national emergencies and natural disasters. At any time, the United States Government, its personnel, resources and interests may be the target of enemy aggression to include espionage, sabotage or terrorism. This increased risk requires DSCP to take steps and insure steps are taken to prevent the deliberate tampering and contamination of subsistence items.

As the holder of a contract with the Department of Defense, the awardee should be aware of the vital role they play in supporting our customers. It is incumbent upon the awardee to take all necessary actions to secure product delivered to all military customers as well as any applicable commercial destinations. We strongly recommend all firms review their security plans relating to plant security and security of the product in light of the heightened threat of terrorism.

The contractor will insure that products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Contractor will immediately inform DSCP Subsistence of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.

Accordingly, the offeror shall submit its Food Defense Plan to describe what procedures are, or will be, in place to prevent product tampering and contamination, and assure overall plant security and food safety. The Plan should be formatted in accordance with, and address the issues contained in, the DSCP Food Defense Checklist. As part of the Food Defense Plan, offeror will be required to submit a completed checklist. An electronic copy of the DSCP Food Defense Checklist is available at http://www.dscp.dla.mil/subs/fs_check.pdf.

NOTE: The contractor's Food Defense Plan (Plan) may be audited by the AVI or the DSCP Quality Audit Team. Failure to comply with the provisions of the Plan will be considered a deficiency(s), and the contractor will be required to take corrective action. Failure to take corrective action or repetitive or recurring deficiencies will be considered a failure by the contractor to comply with the terms and conditions of the contract.

The Offeror's Food Defense submittal will be evaluated, and assigned a rating of Acceptable, Marginally Acceptable or Unacceptable. In no event will an award be made without a Food Defense Plan that is considered acceptable to prevent product tampering and other security issues. The offeror's Food Defense proposal shall be part of any contract awarded.

5.0 Socio-Economic Proposal

a. Both large and small business offerors must provide the following:

1. Offerors shall provide a description of the efforts its company will make to assure that small business, small disadvantaged, women-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business concerns will have equal opportunity to compete for subcontracts under any resulting contract. Offerors will describe current proposed range of services, supplies, and any other support that will be provided to them, including specific names of subcontractors to the extent they are known and any future plans their company has for developing additional subcontracting opportunities.

Offerors shall specify what proportion of their proposal, as a percentage of dollars, will be subcontracted to small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business. The following format shall be used: (All % figures shall be as a % of the total est. contract price)

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	Base Year		Option 1	
Total Est. Contract Price	\$	100 %	\$	100 %
Total to be Subcontracted	\$	%	\$	%
A. To Large Business	\$	%	\$	%
B. To Small Business	\$	%	\$	%
1. Small Disadvantaged Business	\$	%	\$	%
2. Woman-Owned Small Business	\$	%	\$	%
3. HubZone Small Business	\$	%	\$	%
4. Veteran-Owned Small Business	\$	%	\$	%
5. Service Disabled Veteran Small Business	\$	%	\$	%

Offerors shall specify what type of performance data they will accumulate and provide to the Contracting Officer regarding support of small business, small disadvantaged business, women-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business during the period of contract performance. Offerors shall also provide the name and title of the individual principally responsible for ensuring company support to such firms.

Large business offerors are required to submit the small and small disadvantaged business subcontracting plan information as required by clause 52.219-9 small and small disadvantaged business subcontracting plan, in addition to the information requirement of this section of the proposal. This submission must contain separate small and small disadvantaged business subcontracting percentages and dollar levels for the base year, as well as each option period. (To assist the offerors, the Small Business and Small Disadvantages Business Subcontracting Plan guide will be attached to solicitation.

6.0 AbilityOne

Offerors shall provide a description of the efforts their companies will make to assure that AbilityOne qualified nonprofit agencies for the blind or other severely disabled will have equal opportunity to compete for subcontracts under any resulting contract. Offerors will describe their current and proposed range of services, supplies, and any other support that will be provided to them by AbilityOne concerns. Offerors shall include specific names of such subcontractors, to the extent they are known.

Offerors shall specify what proportion of their proposal, as a percentage of dollars, will be subcontracted to AbilityOne qualified nonprofit agencies for the blind or other severely disabled. The following format shall be used: (All % figures shall be as a % of the total est. contract price)

	Base Year		Option 1	
Total Est. Contract Price	\$	100%	\$	100%
Total to be Subcontracted	\$	%	\$	%
1. To Agencies for the Blind	\$	%	\$	%
2. To Other Agencies for Severely Disabled	\$	%	\$	%

c. Offerors shall describe any future plans their companies have for developing additional subcontracting possibilities for AbilityOne entities, or ways in which these entities could be partnered with other businesses and agencies in opportunities to diversify revenue production during the contract period.

52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (JUNE 2008)

BUSINESS PROPOSAL SUBMISSION REQUIREMENTS – VOLUME II

Offerors shall submit the completed solicitation, to include all information required at 52.212-1(b), except such information as required in the Technical Proposal Submission Requirements-Volume I, above.

Prices shall be submitted for the base year and option year. **It is requested that all pricing information must be on a CD in an Excel compatible Spreadsheet format and provided on a paper copy too.**

Any quantity qualifications shall be provided as follows:

DLAD 52.216-9008 Offerors Quantity Limitations.

Insert below qualifications as to minimum or maximum quantities acceptable, if any:

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. Technical merit will be determined by assessment of the evaluation factors, listed in descending order of importance. The following technical factors will be used. Factor 1 is more important than Factors 2 and 3, which are of equal importance and are more important than Factors 4, 5 and 6. Factor 4 is more important than Factors 5 and 6, which are of equal importance. Subfactors 2.1 and 2.2 are of equal importance and more important than Subfactors 2.3 and 2.4, which are of equal importance. Subfactors 3.1 and 3.2 are of equal importance. The technical proposal is significantly more important than price:

- 1.0 Surge and Sustainment Capability**
- 2.0 Past Performance**
 - 2.1 Delivery**
 - 2.2 Quality History**
 - 2.3 Socio Economic**
 - 2.4 AbilityOne**
- 3.0 Manufacturability/Production Plan**
 - 3.1 Production Capability**
 - 3.2 Quality System Plan**
- 4.0 Food Defense (Force Protection)**
- 5.0 Socioeconomic Plan**
- 6.0 Ability One**

Technical and past performance, when combined are:

- Significantly more important than cost or price
- Approximately equal to cost or price
- Significantly less important than cost or price

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for the option 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

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of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

Evaluation Process:

(1) Subsequent to the date specified in the solicitation for receipt of proposals, all timely proposals will undergo an evaluation for the factors above. Each evaluation factor will be evaluated separately and then an integrated assessment of the offeror will be made by the contracting officer. The contracting officer will make a competitive range determination (CRD) based on these evaluations and submit it to the Source Selection Authority (SSA) for approval. Offers so technically deficient as to make them technically unacceptable will be rejected as unacceptable and will not be included in the competitive range. If award is not made on the basis of initial proposals, written and/or oral discussions will be conducted with all offerors in the competitive range. Revised and "best and final" offers resulting from discussions will undergo further similar evaluations. Finally, a proposal will be selected for award by the Source Selection Authority (SSA), as described in paragraph (2) below. While the SSA's assessment will strive to determine the overall value of each offeror, subjective judgment on the part of the Government evaluators is implicit in the entire process. The Government reserves the right to select a successful offeror at other than the lowest price submitted and in accordance with the evaluation factors set forth.

(2) Selection. Final evaluation reports will be furnished to the contracting officer. The contracting officer will analyze the reports and prepare a written source evaluation report and present it to the SSA. Based on the reports and analysis, the SSA will make the decision as to which offeror(s) is (are) selected for award. The responsible offeror(s) whose proposal(s) is (are) most advantageous to the Government, as determined by the evaluation of proposal(s) according to the evaluation factors established above, will be selected for award.

TECHNICAL PROPOSAL EVALUATION CRITERIA

1.0 Surge and Sustainment Capability

The Government will evaluate each offeror's proposal defining its committed capability to meet increases in demand in support of crisis requirements. The evaluation will determine how well the offeror supports its ability to increase capacity and deliver product within the proposed timeframes. Those offerors that support and commit to deliver greater quantities in the shortest timeframes, and to sustain such deliveries for a longer period to support crisis requirements, will be rated more favorably. The amount of available surge capability will also be considered by the Government in deciding the number of contracts to be awarded, to whom they should be awarded, and in what quantities, so as to achieve the optimal industrial base, i.e. an industrial base capable of and contractually committed to meeting the Services' peacetime and mobilization requirements at the lowest overall cost and highest quality. Refer to 52.217-9008..

The Government will evaluate readiness and take into consideration how well it details its current and committed capabilities in areas such as manpower, equipment, facilities and material management. Offerors who support greater committed quantities without the use of (GFE) Government Furnished Equipment will be rated more highly than offerors dependent on GFE.

The Government will evaluate the offered capabilities assessment plan to confirm the reasonably expected time-phase surge production capacity of the offeror.

NOTE: The Surge delivery schedule proposed shall be part of any contract awarded and incorporated into contract clause 252.217-7001 Surge Option.

2.0 Past Performance

The Government will evaluate each offeror's experience and past performance (including their own corporate entity and any partners, joint ventures, subcontractors, etc. who will be performing on the proposed contract regarding timely delivery, product quality history, Socioeconomic and AbilityOne within the past two years from date of issuance of the solicitation. The Government will evaluate each offeror's record of past

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performance as reflected in its performance of previous Government and commercial contracts, its prior socioeconomic achievements in using Small Business, Small Disadvantaged Business, Woman-Owned Small Business, HubZone Small Business, Veteran-Owned Small Business, Service Disabled Veteran Small Business and AbilityOne workshops and the contractor's reliability in providing product that conforms to the solicitation requirements. The Government will evaluate information submitted and will measure against actual performance against goals and not the stated goal itself.

The Government will consider all relevant facts and circumstances, and therefore encourages offerors to divulge and explain in their technical proposal any unfavorable quality or delivery instances that has occurred in the past two years

The evaluation will be a subjective assessment of the offeror's experience with work of similar nature, scope, complexity, and difficulty to that which must be performed under the prospective contract under this solicitation based on information provided by the offeror in its proposal, Government in house records, if available, and information obtained from other sources. The objective of the evaluation is to determine the degree to which the offeror has previously encountered the kinds of work, uncertainties, challenges, and risks that it is likely to encounter under the prospective contract, and to develop insight into the offeror's relative capability and the relative risk associated with contracting with the offeror.

3.0 Manufacturability/Production Plan

3.1 Production Capability

The Production Plan will be evaluated to determine the contractor's capability to successfully produce the awarded items. Those plans that demonstrate that the offeror has the ability to produce the product without the use of Government Furnished Equipment (GFE) and possesses its own high speed equipment that is necessary to produce higher quality seals and package integrity will be rated higher, e.g. the offeror that already has high speed equipment that should produce higher quality seals and package integrity will be more favorably rated. Offerors whose proposed delivery milestones demonstrate that it is committed to delivery of greater quantities and shorter lead-times will be rated more favorably. Production milestones, inclusive of first article submission/approval timeline, will be evaluated to determine their realism and how well they support the probability of successfully completing contract deliveries, as stated by offeror in clause 52.216-19, Order Limitations.

NOTE: Production milestones shall be part of any contract awarded and failure to meet these milestones will be considered a failure to make contract progress towards meeting contract delivery schedules.

3.2 Quality Systems Plan

The Government will evaluate the offeror's Quality System Plan (QSP) to determine its acceptability in accordance with the DSCP Documented Quality Systems Plans (QSP) Evaluation Guideline as described in solicitation under "Part 1, Inspection and Acceptance." This evaluation will determine the offeror's ability to assure long-term quality products and serviceability in the Unitized Group Field Feeding Ration Program.

4.0 Food Defense (Force Protection)

The Government will evaluate the offeror's answers to the Food Defense Plan Checklist to determine its acceptability. The Government will examine what steps, relating to overall plant security and food safety, the offeror have taken or will be taking to secure product delivered to all military customers. The Offeror's Food Defense submittal will be evaluated, and assigned a rating of Acceptable, Marginally Acceptable, or Unacceptable. In no event will an award be made without a Food Defense Plan that is considered at least marginally acceptable to prevent product tampering and other security issues. The offeror's Food Defense proposal shall be part of any contract awarded.

5.0 Socioeconomic Plan

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The Socioeconomic Proposal provided by the offeror will be evaluated on a comparative basis among all offerors. An offeror that proposes a higher percentage, complexity level, and variety of participation by small business, small disadvantaged business, woman-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business combined, generally will be ranked higher than its competitors for this factor. An offeror's efforts to develop additional opportunities for small business, small disadvantaged business, woman-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business will also be comparatively evaluated with the proposals of other offerors. Offeror's proposal for socioeconomic support will be made a part of any resulting contract for use in determining how well the contractor has adhered to its socioeconomic plan. This plan will be monitored by the cognizant Defense Contract Management Command's small business office as a means of assisting the contracting officer in determining how well the contractor has in fact performed. This determination will then be used as a consideration prior to option exercise and future source selection decisions. Performance on prior contracts in subcontracting with and assisting small business, small disadvantaged business, woman-owned small business, HUBZone small business, veteran-owned small business and service disabled veteran small business will be part of past performance evaluation.

6.0 AbilityOne

The AbilityOne Proposal provided by the offeror will be evaluated on a comparative basis among all offerors. An offeror that proposes established AbilityOne qualified nonprofit agencies for the blind or other severely disabled participation goals and taken efforts to increase AbilityOne qualified nonprofit agency opportunities greater than other offerors will be ranked higher than its competitors for this factor. Offeror's proposal for AbilityOne support will be made a part of any resulting contract for use in determining how well the contractor has adhered to its AbilityOne plan. This plan will be monitored by the cognizant Defense Contract Management Command's small business office as a means of assisting the contracting officer in determining how well the contractor has in fact performed. This determination will then be used as a consideration prior to option exercise and future source selection decisions. Performance on prior contracts in subcontracting with and assisting agencies for the blind or other severely disabled will be part of past performance evaluation

BUSINESS PROPOPOSAL EVALUATION CRITERIA

The Government will evaluate each offeror's unit prices. Pricing will be evaluated for the base and option year. The estimated quantities for both the base and option year will be multiplied by the offered unit prices for both the base and option year to estimate the lowest overall aggregate cost to the Government. Offerors are reminded that the quantities stated in the Schedule of Supplies represent only the estimated quantities.

52.212-3 Offeror Representations and Certifications—Commercial Items (Aug 2009) Alternate I (Apr 2002)

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (m) of this provision.

(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.

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“Inverted domestic corporation” means a foreign incorporated entity which is treated as an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), i.e., a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#).

“Manufactured end product” means any end product in Federal Supply Classes (FSC) 1000-9999, except—

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

“Service-disabled veteran-owned small business concern”—

- (1) Means a small business concern—
 - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
 - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#).

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“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)

(1) Annual Representations and Certifications. Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)), except for paragraphs _____.

[Offeror to identify the applicable paragraphs at (c) through (n) of this provision that the offeror has completed for the purposes of this solicitation only, if any.

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.]

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that it is, is not a small business concern.

(2) Veteran-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(3) Service-disabled veteran-owned small business concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(4) Small disadvantaged business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it is, is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

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(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 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 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

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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.

(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 or 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.

(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.

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(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. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) Buy American 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 and that for other than COTS items, 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, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(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—Free Trade Agreements—Israeli Trade Act Certificate. (Applies only if the clause at FAR [52.225-3](#), Buy American Act—Free Trade Agreements—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 and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____

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[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—Free Trade Agreements—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, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

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—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I. 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—Free Trade Agreements—Israeli Trade Act":

Canadian End Products:

Line Item No.

[List as necessary]

(3) Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II. 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—Free Trade Agreements—Israeli Trade Act":

Canadian or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

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(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 or designated 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 or designated 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 covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated 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 or designated 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 Responsibility Matters (Executive Order 12689). (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) _ Are, _ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) _ Have, _ have not, within 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, violating Federal criminal tax laws, or receiving stolen property;

(3) _ Are, _ are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) _ Have, _ have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) Examples.

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a

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final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at [22.1503\(b\)](#).]

(1) Listed end products.

Listed End Product

Listed Countries of Origin

(2) Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) Place of manufacture. (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) Outside the United States.

(k) Certificates regarding exemptions from the application of the Service Contract Act. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

(1) Maintenance, calibration, or repair of certain equipment as described in FAR [22.1003-4\(c\)\(1\)](#). The offeror does does not certify that—

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(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR [22.1003-4\(c\)\(2\)\(ii\)](#)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) Certain services as described in FAR [22.1003-4\(d\)\(1\)](#). The offeror does or does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR [22.1003-4\(d\)\(2\)\(iii\)](#));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) Taxpayer Identification Number (TIN) ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of [31 U.S.C. 7701\(c\) and 3325\(d\)](#), reporting requirements of [26 U.S.C. 6041, 6041A, and 6050M](#), and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government ([31 U.S.C. 7701\(c\)\(3\)](#)). If the resulting contract is subject to the payment reporting requirements described in FAR [4.904](#), the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) Taxpayer Identification Number (TIN).

TIN: _____.

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the 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.

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- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____.

(5) Common parent.

- Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name _____.

TIN _____.

(m) Restricted business operations in Sudan. By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) Relation to Internal Revenue Code. A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at [26 U.S.C. 7874](#) (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR [9.108](#)).

(2) Representation. By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

DFARS 252.212-7000 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (JUN 2005)

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

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) "United States" means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.* By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it—

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

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(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 the 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.

Addendum Containing Supplementary Provisions in Full Text:

FAR 52.211-14 Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use (Apr 2008)

Any contract awarded as a result of this solicitation will be DX rated order; DO rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

FAR 52.216-1 Type of Contract (Apr 1984)

The Government contemplates award of an Indefinite Quantity contract resulting from this solicitation.

FAR 52.225-18 PLACE OF MANUFACTURE (SEPT 2006)

(A) *DEFINITIONS*. AS USED IN THIS CLAUSE—

“Manufactured end product” means any end product in Federal Supply Classes (FSC) 1000-9999, except—

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

(b) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

- (1) In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or
- (2) Outside the United States.

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FAR 52.233-2 Service of Protest (SEPT 2006)

(a) Protests, as defined in section 31.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from DSCP Office of Counsel.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

DFARS 252.209-7001 Disclosure of Ownership or Control by the Government of a Terrorist Country (JAN 2009)

(a) Definitions. As used in this provision—

(1) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries subject to this provision include: Cuba, Iran, Sudan, and Syria.

(3) "Significant interest" means—

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) Prohibition on award. In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) Disclosure. If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include—

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

DFARS 252.225-7000 Buy American Act--Balance of Payments Program Certificate. (Jan 2009)

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(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” and “United States” have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American Act and Balance of Payments Program clause of this solicitation, 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) For end products other than COTS items, 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:

Line Item Number

Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:

Line Item Number

Country of Origin (If known)

52.233-9000 AGENCY PROTESTS (SEP 1999) - DLAD

Companies protesting this procurement may file a protest 1) with the contracting officer, 2) with the Government Accountability 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.

52.233-9001 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.

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(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.