



**DEFENSE LOGISTICS AGENCY**  
**Disposition Services**

**DRAFT INVITATION FOR BID (IFB)**  
**Number 16-6049**

**Scrap and Salvage Recycling**  
**Term Sale**

**STEP TWO OF TWO-STEP SOLICITATION**

**TABLE OF CONTENTS**

I. STEP TWO OF TWO-STEP BIDDING PROCESS \_\_\_\_\_ 5

II. GENERAL STATEMENTS OF CONTRACT \_\_\_\_\_ 6

III. ITEM DESCRIPTION \_\_\_\_\_ 11

IV. TERMS AND CONDITIONS OF SALE \_\_\_\_\_ 12

V. ADDITIONAL TERMS AND CONDITIONS OF SALE \_\_\_\_\_ 13

ARTICLE ONE: BID EVALUATION AND CONTRACT AWARD \_\_\_\_\_ 13

Section 1 – Bidding Process \_\_\_\_\_ 13

Section 2 – Bid Evaluation \_\_\_\_\_ 13

Section 3 – Contract Award \_\_\_\_\_ 13

Section 4 – Post-Award Conference \_\_\_\_\_ 14

Section 5 – Pre-Award Survey \_\_\_\_\_ 14

ARTICLE TWO: PARTIES TO THE CONTRACT \_\_\_\_\_ 14

Section 1 – Contractor Information \_\_\_\_\_ 14

Section 2 – Transfer and Hypothecation \_\_\_\_\_ 14

Section 3 – Contract of Sale \_\_\_\_\_ 15

Section 4 – Authority of Sales Contracting Officer (SCO) \_\_\_\_\_ 15

ARTICLE THREE: CONTRACT FINANCIAL RETENTION & INSURANCE AND BOND REQUIREMENTS \_\_\_\_\_ 15

Section 1 – Bid Deposit \_\_\_\_\_ 15

Section 2 – Payment Deposit \_\_\_\_\_ 15

Section 3 – Financial Guarantee Bond \_\_\_\_\_ 16

Section 4 – Insurance and Bond Contract Requirements \_\_\_\_\_ 16

ARTICLE FOUR: CONTRACT PERFORMANCE \_\_\_\_\_ 17

Section 1 – Performance Period \_\_\_\_\_ 17

Section 2 – Phase-In Period \_\_\_\_\_ 17

Section 3 – Termination for Convenience of the Government \_\_\_\_\_ 18

Section 4 – Wind-Down Commencement Date \_\_\_\_\_ 20

Section 5 – Conduct of Wind-Down \_\_\_\_\_ 20

Section 6 – Phase-Out Period \_\_\_\_\_ 20

ARTICLE FIVE: DISTRIBUTIONS/PAYMENTS \_\_\_\_\_ 20

Section 1 – Up-Front Property Purchase Price \_\_\_\_\_ 20

Section 2 – Back-End Property Purchase Price \_\_\_\_\_ 21

Section 3 – Monthly Payments \_\_\_\_\_ 21

Section 4 – Method of Payment \_\_\_\_\_ 21

Section 5 – Failure to Make Timely Payment \_\_\_\_\_ 21

Section 6 – Payment of Seller Indirect Costs \_\_\_\_\_ 22

Section 7– Supporting Documentation \_\_\_\_\_ 22

ARTICLE SIX: PRODUCT POOL, PROPERTY REFERRALS, TITLE TRANSFER AND RETURNS & MATERIAL BREACH \_\_\_\_\_ 22

Section 1 – Product Pool _____	22
Section 2 – Property Referrals _____	23
Section 3 – Title Transfer _____	24
Section 4 – Return of Property to the Government _____	24
Section 5 – Notice of Material Breach _____	25
Section 6 – Response to Notice _____	25
Section 7 – Termination _____	25
Section 8 – Intentional Breach _____	25
Section 9 – DLA DISPOSITION SERVICES Remedies for Material Breach by Contractor _____	26
<b>ARTICLE SEVEN: DEMILITARIZATION CODES AND TRADE SECURITY CONTROL (TSC) REQUIREMENTS _____</b>	<b>26</b>
Section 1 – Demilitarization Codes _____	26
Section 2 – Contractor’s Trade Security Control (TSC) Requirements _____	26
Section 3 – United States Munitions List Items and Commerce Control List Items _____	27
<b>ARTICLE EIGHT: PROPERTY RESALE AND CONTRACTOR RESPONSIBILITIES _____</b>	<b>28</b>
Section 1 – Scrap Yard Management _____	28
Section 2 – RIP Scrap Management _____	29
Section 3 – Unmanned DLA Locations _____	29
Section 4 – Restrictions on Contractor Removals _____	30
Section 5 – Demil as a Condition of Sale (DCOS) _____	30
Section 6 – Mutilation as a Condition of Sale (MCOS) _____	30
Section 7 – Centralized Mutilation as a Condition of Sale (MUT Site) _____	31
Section 8 – Additional Property Resale Requirements _____	31
<b>ARTICLE NINE: GOVERNMENT FURNISHED EQUIPMENT (GFE) _____</b>	<b>31</b>
Section 1 – Availability _____	31
Section 2 – Material Handling Equipment (MHE) _____	32
Section 3 – Containers _____	32
<b>ARTICLE TEN: CONTRACTOR OWNED EQUIPMENT _____</b>	<b>33</b>
Section 1 – Contractor Equipment Utilization and Storage _____	33
Section 2 – Contractor Equipment Support Requirements _____	33
<b>ARTICLE ELEVEN: CONTRACT OPERATION REQUIREMENTS _____</b>	<b>33</b>
Section 1 – Contractor Awareness of the DLA DISPOSITION SERVICES Environmental Management System (EMS) _____	33
Section 2 – Web Accessible Application _____	33
Section 3 – DLA DISPOSITION SERVICES Inspection of Property _____	34
Section 4 – Property Assurance _____	34
Section 5 – Government Facilities _____	34
Section 6 – Contractor Staffing of Scrap Yards _____	35

Section 7– Certificates of Destruction, Mutilation and Demilitarization	35
Section 8– Contractor’s Vendors and Resale Buyers	36
ARTICLE TWELVE: CONTRACT COMPLIANCE, AUDITS AND REVIEWS	36
Section 1 – Compliance with Applicable Laws and Regulations	36
Section 2 – Licenses and Permits	36
Section 3 – Duties of Care and Loyalty	36
Section 4 – Prohibited Activities	37
Section 5 – Contractor Cooperation in DOD Investigations/Audits	37
Section 6 – Contractor’s Responsibility for Independent Audit at Government’s Request	37
Section 7 – Contractor Record Retention	37
Section 8 – Records Maintenance	38
Section 9 – Inspection of Records and Workplace by Government	38
Section 10 – Purpose and Content of Compliance Audits, Reviews and Further Reviews	38
Section 11 – Methods and Procedures for Compliance Reviews	38
Section 12 – Further Reviews	38
Section 13 – Compliance Notification	39
Section 14 – Costs of Oversight	39
Section 15 – Notice of Audit Adjustment	39
Section 16 – Procedures for Adjudication of Audit Adjustments	39
Section 17 – Remedies for Audit Adjustments	39
Section 18– Contracts and Third Parties	39
ARTICLE THIRTEEN: DISPUTES	40
Section 1 – Disputes	40
Section 2 – Claims	40
Section 3 – Decisions	40
Section 4 – Alternative Dispute Resolution (ADR)	40
ARTICLE FOURTEEN: MISCELLANEOUS PROVISIONS	40
Section 1 – Binding Effect	40
Section 2 – Notices	41
Section 3 – Severability	41
Section 4 – Headings	41
Section 5 – Survival	41
Section 6 – Waiver	41
Section 7 – Force Majeure	41
Section 8 – Use of DLA DISPOSITION SERVICES Name; Public Communications	41
Section 9 – Tense and Gender	42
Section 10 – Entire Agreement; Modification	42
Section 11 – Computation of Time	42

Section 12 – Electronic Communication \_\_\_\_\_ 42  
Section 13– Questions and Answer Forums (Q&A) \_\_\_\_\_ 42  
ARTICLE FIFTEEN: GOVERNMENT REQUIRED REPORTS \_\_\_\_\_ 43  
Section 1 – Inventory Reports \_\_\_\_\_ 43  
Section 2 – Contractor’s Resale Report \_\_\_\_\_ 43  
Section 3 – Seller Indirect Cost (SIC) Report \_\_\_\_\_ 43  
Section 4 – Non Responsive Resale Buyer Report \_\_\_\_\_ 43  
Section 5 – Classified Inventory Report \_\_\_\_\_ 43  
Section 6 – Contractor Owned Equipment \_\_\_\_\_ 44  
Section 7 – Government Owned Contractor Dedicated Equipment \_\_\_\_\_ 44  
Section 8 – Contractor’s Demil Certifier Training Status \_\_\_\_\_ 44  
Section 9 – Contractor and Resale Buyer Operating Schedules \_\_\_\_\_ 44  
VI. ADDITIONAL CONTRACT ADVISEMENTS \_\_\_\_\_ 45  
VII. DEFINITIONS \_\_\_\_\_ 47  
VIII. ATTACHMENTS \_\_\_\_\_ 50  
ATTACHMENT A: SALE BY REFERENCE \_\_\_\_\_ 50  
ATTACHMENT B: DLA Checklist 2000 \_\_\_\_\_ 50  
IX. SCHEDULES \_\_\_\_\_ 50  
SCHEDULE A: GOVERNMENT FURNISHED EQUIPMENT LIST \_\_\_\_\_ 50  
SCHEDULE B: STANDARD WASTE AND SCRAP CLASSIFICATION (SCL)  
CODES \_\_\_\_\_ 50  
SCHEDULE C: PHASE-IN SCHEDULE \_\_\_\_\_ 50  
SCHEDULE D: PLANT CODES \_\_\_\_\_ 50  
SCHEDULE E: MINIMUM MHE REQUIREMENTS \_\_\_\_\_ 51  
SCHEDULE F: MINIMUM STAFFING, SCRAP YARD LISTING & UNMANNED  
LOCATIONS \_\_\_\_\_ 51  
SCHEDULE G: CONTAINER REQUIREMENTS \_\_\_\_\_ 51

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

Scrap and Salvage Recycling  
INVITATION FOR BID  
Number 16-6049

STEP TWO OF TWO-STEP BIDDING PROCESS

This Invitation For Bid (IFB) is issued by DLA DISPOSITION SERVICES to initiate Step Two of a two-step sealed bid sale that may be followed with a live auction. The only bids the Sales Contracting Officer (SCO) may consider for award of a contract are those received from bidders that have submitted an acceptable technical proposal during Step One of this solicitation under RFTP 16-6049.

The Key Personnel designations in the successful bidder's technical proposal shall be incorporated into any contract awarded in response to this IFB. ***In all other respects, the provisions of this IFB shall govern the contract contemplated hereby without regard to assumptions, plans, forecasts, conditions or any other matters set forth in any prospective bidder's technical proposal submitted in Step One.***

Forms for submitting a bid are provided on the DLA DISPOSITION SERVICES web site, <https://www.sales.dla.mil/dlab2b/init.do>, under "Links" select View Sales Documents. Your completed Bid Forms and \$100,000.00 bid deposit must be delivered to and received by DLA DISPOSITION SERVICE'S SCO before the bid opening at 1:00 p.m. EST on Wednesday, March 2, 2016. Address your Bid Forms and Bid Deposit to:

Mr. Leonard Clyde  
Sales Contracting Officer  
DLA DISPOSITION SERVICES J-422  
74 North Washington Avenue  
Battle Creek, Michigan 49037-3092  
Fax: (269) 961-7568

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

## GENERAL STATEMENTS OF CONTRACT

*Certain contents and provisions of this IFB, including Appendices, Attachments and Schedules, are described in general. The following General Statements of Contract are not intended to be complete and do not take precedence over the terms and conditions of this contract. The requirements for all matters discussed in the General Statements are fully defined in the Terms and Conditions Section of this IFB. Any historical data provided in support of this IFB was derived using existing sources and is presented for general reference only.*

This IFB relates to scrap and salvage property that the Government has determined to be surplus to the needs of the Department of Defense (DOD) and the Federal Government. The Government may include locations outside the Continental United States (CONUS) at mutual agreement of the Contractor. Scrap is defined as recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit and function have been destroyed. DLA Disposition Services does not accept rubbish, refuse or trash from its customers and this type of property will not be issued under the contract. Property issued under this contract will be comprised of recyclable waste, Serviceable and Unserviceable safe to sell property assigned a demilitarization code A or Q6; Serviceable and Unserviceable property **not safe-for-sale** demilitarization code B, Q3, C, D, E or F that must be Destructively Scrapped, Demilitarized or Mutilated. The government has sole discretion to determine what property will be sold to the contractor, and the contractor has a contractual obligation to purchase and accept all property referred by the government except for hazardous material. Under no circumstances is culling for the purpose of effecting partial or incremental removals authorized.

DLA DISPOSITION SERVICES may issue property received at DLA DISPOSITION SERVICES facilities in the Continental United States (CONUS), Alaska, Hawaii, Guam and Puerto Rico (and possibly the Virgin Islands). Other issuing locations outside CONUS may be added to this contract at mutual agreement of the Contractor. DLA DISPOSITION SERVICES may also issue property from Receipt-In-Place (RIP) locations or other locations that are not located at DLA DISPOSITION SERVICES facility, therefore, may refer for sale to the Contractor at Receipt-In-Place (RIP) locations.

The successful bidder commits to purchase, enhance, and re-sell property issued under this contract for a thirty-six (36) month performance period commencing from the date of submission of the initial property referral to the Contractor. DLA DISPOSITION SERVICES may exercise options to extend the performance period for up to an additional twenty-four (24) months via two twelve month options, based on Government requirements and mutual agreement of the contractor.

A bid will consist of a percent of the gross proceeds the buyer will return to the Government of all property sales conducted by the buyer to affect removal of property from all DLA DISPOSITION SERVICES locations.

Within ten (10) business days of contract award, the Contractor must pay DLA DISPOSITION SERVICES a payment deposit totaling one hundred thousand dollars (\$100,000). This amount is in addition to the \$100,000 bid deposit required at the time of bid submission. The payment deposit and bid deposit will be held by DLA DISPOSITION SERVICES until the conclusion of the contract wind-down period. The Contractor is also required to provide a financial guarantee bond in the amount of \$5,000,000 within thirty (30) business days of award.

Prior to award of this contract, the Contractor will be required to obtain a Trade Security Control (TSC) assessment by providing the Sales Contracting Officer a properly completed End-Use Certificate (EUC) in the form of a DLA Form 1822 (copy available on the DLA DISPOSITION SERVICES web site, <https://www.sales.dla.mil/dlab2b/init.do>, click on View Sales Documents. The TSC Assessment investigation verifies the entity as claimed, that the entity is doing business at the name and location claimed, and that there are no disqualifying factors present (i.e., convictions for illegal export of military technology, debarment by a Government activity, etc...).

Occasionally, the buyer may receive salvage property (Demil A or Q6) that has value above the scrap market value. Unless the property has been previously exempted from mutilation, if the buyer is intent to resell without mutilation then the buyer must obtain a waiver from the sales contracting officer and perform property assurance responsibilities. The Government may deny waiver request due to a not safe for sale determination or for other reasons determined by the sales contracting officer. The sales contracting officer has sole discretion in making determinations on all mutilation waivers.

There may also be occasions when the Government will request the return of property issued to the Contractor because it is required for DOD/DLA DISPOSITION SERVICES mission. DLA DISPOSITION SERVICES does not anticipate a large volume of property will be requested in this manner. DLA DISPOSITION SERVICES will advise Contractor of return process at DLA DISPOSITION SERVICES expense.

Contractor agrees to fully cooperate with the Government when informed by DLA DISPOSITION SERVICES of any reviews or investigations by any DOD or Federal Government investigative service or agency. Contractor agrees to provide DLA DISPOSITION SERVICES with all requested information regarding the property or information relating to the customer purchasing the property. Contractor must make all sales records, property, and customer's records pertaining to such investigations available to DLA DISPOSITION SERVICES upon request.

DLA DISPOSITION SERVICES will provide the Contractor on site space to allow for sorting, re-sale transactions, and administration for the purposes of this contract at certain pre-selected locations.

Inventory may be stored, indoors, and outdoors in all kinds of weather conditions. The contractor is expected to accomplish removal in a timely manner to maintain an orderly scrap area. The buyer must also accomplish removal from receipt in-place locations.

Existing Government owned Material Handling Equipment (MHE) currently being used for scrap operations will be made available to the Contractor. However, the Government will not provide maintenance and the Contractor is required to maintain equipment in safe operational condition throughout the term of the contract or return to the Government. Buyer will load contractor owned conveyances. Buyer will unload and sort all property in preparation for re-sale or load-out.

The contract requires that the Buyer fulfill certain requirements related to national security, DLA DISPOSITION SERVICES customer service, and compliance reviews. In addition, the Buyer is fully auditable, therefore, will remain cooperative with DLA DISPOSITION SERVICES audit requirements to include accounting statements, insurance coverage, inventory control/asset tracking, and returning/retrieving controlled property. Any and all of the Contractor's records relevant to this contract must be made available to DLA DISPOSITION SERVICES, to include providing DLA DISPOSITION SERVICES copies and/or allowing DLA DISPOSITION SERVICES to make copies of all records requested. Records will be made available in either electronic or hard copy form as required by DLA DISPOSITION SERVICES. The contract also contains certain provisions regarding the logistical interface with DLA DISPOSITION SERVICES and its generators.

The Contractor must work effectively with DLA DISPOSITION SERVICES personnel with regard to logistics, national security matters, customer service requests, financial reporting, compliance monitoring, Demil/Mutilation certification/verification and dispute resolution.

The Government reserves the right to conduct a post-award conference as early as two weeks after award. The purpose of the conference is to ensure the Contractor fully understands the terms and conditions of this contract. The location and date of the conference will be determined by DLA DISPOSITION SERVICES and the costs incurred by Contractor personnel attending shall be paid in full by the Contractor without reimbursement by DLA DISPOSITION SERVICES.

Prospective bidders should be aware of certain risk factors that could affect a bidder's assessment of this contract and the calculations supporting the resulting bid. Although DLA DISPOSITION SERVICES does not represent that it has identified all such risk factors, the following, in addition to those risks identified elsewhere in this IFB, should be considered by a prospective bidder:

**The future volume, quality, condition, market value, mix (i.e., brass, aluminum, copper, ferrous metal) of the property cannot be predicted. Applicable statutes, regulations, policies and inter-service agreements govern whether the disposition of particular items of surplus is through DLA DISPOSITION**

**SERVICES or through other disposition modes. The volume and nature of the property referred for sale under this contract could be affected by such changes.**

Described generally, applicable statutes and regulations grant DLA DISPOSITION SERVICES less flexibility to agree to amend a contract after award than prospective bidders may have experienced in other contractual settings. Prospective bidders should assume that the provisions of the contract cannot be significantly amended after award.

This IFB may be the subject of one or more protests to the U.S. General Accountability Office. Moreover, it is possible that, either pending or after award, one or more third parties that object to this contract could institute litigation involving both DLA DISPOSITION SERVICES and the Contractor. DLA DISPOSITION SERVICES cannot predict the likelihood or the possible grounds for such litigation. Nevertheless, this is a risk factor that should be assessed by a prospective bidder. The following categories of scrap or not-safe-for-sale usable property may be referred under this contract:

- (A) Unserviceable and Scrap Receipts: This product pool is a result of the Military Services turning in-to DLA Disposition Services inventory that is deemed unserviceable or unsalable by the generator or DLA and is downgraded to a scrap pile. This inventory, generally DEMIL A, Q6 or recyclable waste. Scrapping of this property must be accomplished in a manner that prevents recognition or reconstruction and a certificate of destruction is required unless a waiver is granted or items are specifically exempted. Unless this property is sold locally within timeframes allotted, it must be shipped at the Contractor's expense to one of the Contractor's re-sale facilities or otherwise disposed of at Contractor's expense.
- (B) Mutilation Required: This product pool is a result of the Military Services turning in-to DLA Disposition Services inventory that is deemed "not-Safe-for-Sale" by the generator or DLA and is downgraded to a scrap pile. This inventory may have Demil B, Demil Q3, Flight Safety Critical, Counterfeit and Other Items that must be destroyed. This inventory will be processed with Government oversight at a re-sale buyer's facilities or (for bulk materials) as a condition of sale within the vicinity of the responsible DLA DISPOSITION SERVICES location. This inventory, unless sold locally, will be shipped at the Government's expense to one of the Contractors re-sale facilities.
- (C) Demil Required: This product pool is DEMIL C, D, E or F and must be completely destroyed or mutilated with Government oversight. This inventory is not safe for sale and includes items that may have fluids (fuel, oil, hydraulics, etc..) which must be drained prior to cutting, crushing, shearing operations. This inventory is sold with Demilitarization as a Condition of Sale (DCOS) within the vicinity of the responsible DLA DISPOSITION SERVICES location. Title of this property is not transferred to the Contractor or

Contractor's Re-Sale Buyer until the Demil has been completed and documented with a Demil Certificate.

The government has sole discretion to determine what property will be sold to the contractor, and the contractor has a contractual obligation to purchase and accept all property referred by the government except for hazardous waste. Contractor has no right to any property that is not referred under the terms of this contract. DLA DISPOSITION SERVICES reserves the right to sell property or offer property through alternative sales or contract means for all property not considered part of this contract. The Government guarantees to issue the Contractor 100 million pounds per year under this contract.

The link provided, <http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>, provides historical information relating to past generations of property similar to what is being offered in this IFB. Bidders are advised that any sales history information provided is for informational purposes only. Prior year property generations and sales data are not predictors of future generations or sales.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

## ITEM DESCRIPTION

**ITEM 1:** The property is comprised of scrap and salvage inventory that DLA Disposition Services is accountable for in the Continental United States (CONUS), Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands. Scrap property issued under this contract will be assigned a demilitarization code of A, B or Q. Serviceable and unserviceable property with a demilitarization code C, D, E, or F that requires demilitarization as a condition of the sale may also be referred. The Government may elect to offer property consisting of hazardous material (**under mutual agreement**), such as batteries and some petroleum based products. The Government may elect to offer property consisting of range residue (**under mutual agreement**). The Government guarantees to issue the Contractor **100 million pounds** per year under this contract. Excluded from this sale is property with a Hazardous Materials Code of “W” (Hazardous Waste), precious metals coded property (SCL code beginning with a P or V), Rubbish, Refuse and Trash, and Electronic scrap in SCL codes; D4R, DMF and FPI.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

## **TERMS AND CONDITIONS OF SALE**

The General Information and Instructions and Special Conditions of Sale contained in the DLA Disposition Services pamphlet entitled, "Sale by Reference - Instructions, Terms and Conditions Applicable to Department of Defense Personal Property Offered for Sale by DLA Disposition Services, July 2012" (hereinafter, Sale by Reference; a copy of the Sale by Reference is available on the DLA DISPOSITION SERVICES web site, <https://www.sales.dla.mil/dlab2b/init.do>, under "Links" select View Sales Documents), is hereby incorporated by reference and becomes a part of this IFB and any resulting contract **except** for the following:

**Part 3 Article E**

**Part 4 All**

**Part 5 Articles: A, G,**

**Part 6 Articles: A, B**

**Part 7 Articles: A, B, C, D, F, G, H, I, J, P**

**Part 8 All**

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

## **ADDITIONAL TERMS AND CONDITIONS OF SALE**

The following Articles (not part of the Sale By Reference (SBR), July 2012) apply and constitute additional terms and conditions of this sale:

### **ARTICLE ONE**

#### **Bid Evaluation and Contract Award**

**Section 1 – Bidding Process** – The bidding process will commence on the bid opening day and time specified by the Government. Bidders are expected to arrive at the bid opening with a sealed bid consisting of one bid percentage specified by the bidder. The bid must be expressed as a percentage of the gross revenue that the Contractor will return to the Government when property issued under this contract is resold. The bid must exceed zero, and is limited to only two (2) digits to the right of the decimal without rounding. The Sales Contracting Officer (SCO) will open each sealed bid at the specified bid opening day and time. Bids will be read by the SCO. From the bids offered, a high bid will be determined which will be the starting point for the live auction. Bidders will then be offered an opportunity to increase their bid incrementally during the live auction. The auction will end when no further bid increases are received. The high bid offered at that time will be considered the apparent high bid. All bids must remain open and awardable for no less than one-hundred twenty (120) calendar days after bid opening.

**Section 2 – Bid Evaluation** - Award will be made to the responsive, responsible bidder that offers the highest bid price. The winning bid will be determined by the bidder offering the highest bid percentage. The Contractor's Back-End purchase price for property will consist of the percent of gross revenue (to include any bidder's premium or other administrative fees) that the Contractor will pay to the Government when property issued under this contract is resold. The Government reserves the right to not award a contract if such contract is deemed not to be in the Government's best interest. Further, the Government may also reject any bid if DLA DISPOSITION SERVICES determines that accepting such bid would not be in the Government's best interest.

**Section 3 – Contract Award** – The SCO will determine if each bid is responsive and responsible prior to award of the contract. The contract will be awarded to the highest responsive, responsible bidder. In the event of a termination of the original Contractor within one-hundred twenty (120) calendar days of the date of bid opening, the SCO may award the contract to the next highest responsive, responsible bidder if bids have not expired, and such award is otherwise determined to be in the Government's best interest, price and other factors considered.

**Section 4 – Post-Award Conference** - The Government reserves the right to conduct a post-award conference as early as two weeks after award. The purpose of the conference is to ensure the Contractor fully understands the terms and conditions of this contract. The location and date of the conference will be determined by DLA DISPOSITION SERVICES and the costs incurred by Contractor personnel attending shall be paid in full by the Contractor.

**Section 5 – Pre-Award Survey** - The Pre-Award survey is one of the factors used by the Government to ensure the Contractor's ability to satisfactorily perform the work in accordance with their technical proposal submitted in step-one of this solicitation. After bid opening and prior to award, the Government may conduct a Pre-Award survey of the apparent high bidder. The Pre-Award survey may be conducted at the Contractor's facility(ies) or other location(s) as deemed necessary by the Government and may include a review of Contractor's facilities and equipment, financial capability or disclosure of a Contractor's financial condition, quality assurance, safety, and transportation. Bidders must cooperate in the Pre-Award process by assisting in arrangements and/or by providing requested information in a timely manner. Bidders are advised that accomplishment of a Pre-Award survey or furnishing documents to the Government in support of the Pre-Award survey is part of the evaluation of the responsibility process and is not a guarantee the bidder will receive award of a contract.

## **ARTICLE TWO**

### **Parties to the Contract**

**Section 1 – Contractor Information** - Within thirty (30) calendar days of the date of contract award, the contractor shall provide DLA DISPOSITION SERVICES the following information:

- (A) Designation of key persons, if any, in addition to those identified in Contractors technical proposal.
- (B) Contractor shall provide the SCO notification of any changes to the above within ten (10) calendar days of the change.
- (C) Certain Contractor personnel must have a security clearance and obtain a Contractor's Access Card (CAC) in order to enter and conduct business at DLA Disposition Services Field Site locations. The SCO will assist the Contractor in completing this process.

**Section 2 – Transfer and Hypothecation**

- (A) **General Prohibition** - Except as specifically provided herein or specifically approved by DLA DISPOSITION SERVICES in writing, the Contractor may not directly or indirectly sell, transfer, assign, pledge, offer as collateral or otherwise hypothecate all or any part of its rights or obligations under the contract.
- (B) **Attempted Transfer** - Any attempted transfer in violation of the provisions of this Article shall be null and void, and shall constitute a material breach of this contract.

**Section 3 – Contract of Sale**

(A) **Relationship of Parties** - This contract is an agreement for the sale of the property by DLA DISPOSITION SERVICES as seller to Contractor as the buyer. Contractor and DLA DISPOSITION SERVICES expressly disavow the creation of any other relationship, including without limitation principal-agent, master-servant, employer-employee, general or limited partnership, or joint venture, between DLA DISPOSITION SERVICES and the Contractor.

(B) **Parties to Contract** - The parties to this contract are DLA DISPOSITION SERVICES and the Contractor. The exclusive representative of DLA DISPOSITION SERVICES for all purposes under this contract is the SCO, and all notices, demands, requests, consents, approvals, declarations, reports and other communications to DLA DISPOSITION SERVICES from Contractor shall be deemed ineffective unless addressed to the SCO. Communications from the Contractor to anyone other than the SCO shall not be deemed received by DLA DISPOSITION SERVICES.

**Section 4 – Authority of Sales Contracting Officer (SCO)** - On behalf of DLA DISPOSITION SERVICES, the Sales Contracting Officer has the authority to represent DLA DISPOSITION SERVICES and to commit DLA DISPOSITION SERVICES to take such actions as permitted or required and to extend or waive timing requirements or deadlines as may reasonably be required under the performance of this contract.

**ARTICLE THREE****Contract Financial Retention & Insurance and Bond Requirements**

**Section 1 – Bid Deposit** - Each bid must be accompanied by a refundable bid deposit in the form of a guaranteed instrument (cashier's or certified check) in the amount of one-hundred thousand dollars (\$100,000.00) payable to U.S. Treasury. It is within sole discretion of sales contracting officer to determine adequacy of guaranteed instrument provided as a bid-deposit. DLA DISPOSITION SERVICES will retain the Contractor's bid deposit until completion of the wind-down period. The bid deposit will be applied to any unpaid billings or to offset any other claim that DLA DISPOSITION SERVICES may have against the Contractor. DLA DISPOSITION SERVICES shall return any available balance of the bid deposit, without interest, to Contractor at the completion of the wind-down period.

**Section 2 – Payment Deposit** - Within ten (10) calendar days of contract award, Contractor shall provide DLA DISPOSITION SERVICES the amount of one-hundred thousand dollars (\$100,000.00), referred to as the payment deposit. The payment deposit must be made via guaranteed instrument,

cashier/certified check, wire transfer or Electronic Funds Transfer (EFT). DLA DISPOSITION SERVICES will retain the payment deposit until the completion of the wind-down period. The payment deposit will be applied to any unpaid billings or to offset any other claim that DLA DISPOSITION SERVICES may have against the Contractor. DLA DISPOSITION SERVICES shall return any available balance of the payment deposit, without interest, to Contractor at the completion of the wind-down period.

**Section 3 – Financial Guarantee Bond** – Within thirty (30) calendar days of award Contractor shall obtain a financial guarantee bond in favor of DLA DISPOSITION SERVICES in the amount of five million dollars (\$5,000,000.00). The purpose of the Financial Guarantee Bond shall be to provide a source of payment to DLA DISPOSITION SERVICES in an amount reasonably sufficient to satisfy the financial obligations of Contractor or for damages arising out of a material breach by Contractor. The Financial Guarantee Bond shall be issued by such surety and in such form that are acceptable to DLA DISPOSITION SERVICES. The Bond shall be carried for the duration of the contract, however, may be renewed on an annual basis, renewable at the sole option of the surety.

**Section 4 – Insurance and Bond Contract Requirements** – Contractor shall obtain and maintain the following insurance and bond requirements throughout the performance and wind-down period.

**(A) – Modification of Special Circumstance Conditions** – Sale by Reference (SBR) Part 5 - Additional Special Circumstance Conditions – Miscellaneous (DLA DISPOSITION SERVICES Form 86, Oct 93), Article D, Liability and Insurance, paragraphs (a)(2) and (a)(3,) is modified as follows:

1. Bodily Injury Insurance in an amount of not less than two hundred fifty thousand dollars (\$250,000.00) any one individual and one million dollars (\$1,000,000) any one accident or occurrence.
2. Property Damage Liability Insurance in the amount of two hundred fifty thousand dollars (\$250,000.00) (which shall include any and all property whether or not in the care, custody or control of Contractor). The annual coverage shall be not less than one million dollars (\$1,000,000).

**(B) – Further Modifications** – Sale by Reference Part 5, Article D, paragraph (a) is also amended as follows:

1. All risk coverage for fire and other property perils for all property owned by Contractor with aggregate coverage of five million dollars (\$5,000,000.00).
2. Umbrella liability coverage up to two million dollars (\$2,000,000.00).
3. Fidelity or blanket bond coverage in the amount of at least five million dollars (\$5,000,000.00). Contractor shall obtain and maintain such coverage with a responsible surety company with respect to all of Contractor's employees, officers and directors to protect Contractor against losses,

including, without limitation, those arising from theft, embezzlement, fraud, or misplacement of funds, money, or documents. The issuer, policy terms and forms and amounts of coverage, including applicable deductibles, shall be satisfactory to DLA DISPOSITION SERVICES, and the policy shall include a provision that the issuer shall notify DLA DISPOSITION SERVICES in writing within five (5) business days of the cancellation or termination of any such coverage or of any modification of such coverage. Contractor shall notify DLA DISPOSITION SERVICES in writing within five (5) business days after filing a claim under such coverage.

4. Comprehensive general liability, automobile liability, umbrella liability, Worker's compensation and other insurance coverage as may be required by law. At its option, Contractor may obtain and maintain such additional insurance, including directors and officers coverage and errors and omissions coverage, as Contractor deems appropriate.

**(C) – Evidence of Insurance** - Within thirty (30) business days from the date of award, and annually thereafter, Contractor shall provide DLA DISPOSITION SERVICES copies of policies, certificates of insurance or other proof evidencing the coverage required. Contractor must obtain the minimum coverage specified unless DLA DISPOSITION SERVICES approves a variance from such minimum coverage. In the event that a specified coverage or limit is or in the future becomes commercially impractical, such approval shall not be unreasonably withheld.

## **ARTICLE FOUR**

### **Contract Performance**

**Section 1 – Performance Period** - Subject to the early cancellation option provisions and the Termination for Convenience of the Government provisions, the Government shall provide property for a thirty-six (36) month period from the date of the initial property referral to Contractor. DLA DISPOSITION SERVICES may exercise two one-year options to extend the performance period for up to an additional Twenty Four (24) months based on Government requirements. The Government may extend the term of this contract by providing written notice to the Contractor within one-hundred twenty (120) calendar days of contract end.

**Section 2 – Phase-In Period** - Contractor must begin accepting property within thirty (30) calendar days following award and follow the Phase-In schedule to meet full acceptance at all locations within one-hundred twenty (120) calendar days of contract award or as approved by the SCO via negotiations.

Contractor may request acceleration of referrals at any delivery point, and DLA DISPOSITION SERVICES will respond to such request in the exercise of its sole discretion.

**Section 3 – Termination for Convenience of the Government** – The Government may terminate performance of work under this contract in whole or, from time to time, in part if the SCO determines that a termination is in the Government’s interest. The SCO shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

After receipt of a Notice of Termination, and except as directed by the SCO, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (A) Stop work as specified in the notice.
- (B) Unless otherwise directed by the SCO, place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities. Stop any pending sales and make no further sales to resale buyers to the extent they relate to the work terminated.
- (C) Terminate all subcontracts to the extent they relate to the work terminated.
- (D) Unless otherwise directed by the SCO, assign to the Government, as directed by the SCO, all right, title, and interest of the property referred whether in Contractor or subcontractor facilities. Whether property is in Contractor or subcontractor facilities, coordinate with the SCO the return of any property issued to the Contractor to the Government or move property to Contractor owned facilities for Government retrieval upon written direction from the SCO.
- (E) With approval or ratification to the extent required by the SCO, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.
- (F) Take any action that may be necessary, or that the SCO may direct, for the protection and preservation of the property related to this contract that is under title and/or in the possession of the Contractor or subcontractor and in which the Government has or may acquire an interest until surrendered to the Government or its agent. The Contractor and SCO shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be a dispute under the Disputes clause.

The Contractor shall submit a complete termination inventory schedule to include a list, certified as to SCL, description and quantity, of termination inventory no later than thirty (30) calendar days from the effective date of termination unless extended in writing by the SCO, upon written request of the Contractor, during this thirty (30) calendar day period. The Government will review the inventory list within fourteen (14) calendar days and contact the Contractor with any discrepancies and notify the Contractor of items that the Contractor can retain title of. The retention of title of these items will be by mutual agreement.

If the Contractor has any cost it wishes the Government to consider prior to the Government assessing settlement costs, they must be submitted within fourteen (14) calendar days of final removal of

returned surplus property to the Government. Any cost submitted by the Contractor must be determined to be allocable, allowable, and reasonable and supported with documentation to the degree required by the SCO. Unless extended in writing by the SCO, upon written request of the Contractor, the SCO shall determine the settlement proposal within fourteen (14) calendar days of receipt of any submission of final Contractor settlement costs. If the Contractor fails to submit their proposal for settlement cost within the time allowed, the SCO may determine, on the basis of information available, the amount, if any, due the Contractor or owed by the Contractor.

The Contractor has fourteen (14) calendar days to review the contract settlement proposal and request any additional information. Payment to be made by either party shall be made within thirty (30) calendar days of Contractor receipt of the settlement proposal, except the Government may choose to issue payment due the Contractor in the form of a credit applied to the next summary bill. Any amount due the Contractor may include a reasonable allowance for profit for work completed. If the Contractor fails to pay settlement cost within the specified time, the cost will be deducted from any deposit funds available from the performance of this contract. Any remaining funds from the deposit will be returned by the Government.

If the Contractor and the SCO fail to agree on the amount that may have been determined due to the Contractor by the Government due to the termination of the sales contract, the SCO shall pay the Contractor the amounts determined by the SCO within the specified time. Any amount due to be paid by the Contractor and not paid within the specified time period shall be charged interest based on the rate determined by the Secretary of Treasury.

The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the SCO, except that if the Contractor failed to submit the termination settlement proposal or a request for equitable adjustment within the time provided.

In arriving at the amount due the Contractor under this clause, there shall be deducted;

- (1) Any claim which the Government has against the Contractor under this contract; and
- (2) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

This clause has the same full effect, if this contract is terminated in partial.

Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This

includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the SCO, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

**Section 4 - Wind-Down Commencement Date** – Beginning with the date that is the earlier of either the end of the performance period or the effective date of termination by reason of DLA DISPOSITION SERVICES or the Contractor exercising the early cancellation option or by reason of a material breach, the contract shall wind-down for a period of one-hundred twenty (120) calendar days.

**Section 5 - Conduct of Wind-Down** - From the wind-down commencement date forward, the Contractor shall perform their remaining obligations hereunder in accordance with the provisions of this contract. Submission of Contractor required reports shall continue as before the wind-down commencement date until the wind-down is completed. There shall be no further referrals of property by DLA DISPOSITION SERVICES to Contractor from the wind-down commencement date forward.

**Section 6 - Phase-Out Period** - Beginning with a date not earlier than one-hundred twenty (120) calendar days prior to the Wind-Down Commencement Date; the Government may cease property referrals at individual DLA DISPOSITION SERVICES' field locations (includes all Receipt In Place (RIP) locations serviced by the field location) on a schedule to be determined by the Government and the Contractor shall concurrently cease removals as of the date and locations identified in the schedule. The Phase-Out Schedule will be provided to the contractor not less than sixty (60) calendar days prior to the first scheduled cessation of property referrals. Property not removed by the Contractor or a Resale Buyer at any location prior to the dates identified in the Phase-Out Schedule for that location shall be considered a property return to DLA DISPOSITION SERVICES. Two (2) weeks following the cessation of property referral at a field location the government shall no longer make its facilities available to the Contractor. During the thirteen (13) calendar days immediately following the cessation of property referral at a field location the Government may reduce the amount of administrative and storage space made available to the Contractor.

## **ARTICLE FIVE**

### **Distributions/Payments**

**Section 1 – Up-Front Property Purchase Price** – Contractor will pay DLA DISPOSITION SERVICES \$1,000.00 each month of the performance period. This payment is a pre-condition to the transfer of title as provided in Article 6, Section 3. This payment will be billed each month and reflected

in the Statements of Account (SOAs) referenced in Section 3 of this Article. The Government will not credit the Contractor any amount of the Up-Front Property Purchase Price for any reasons except when the Government fails to refer to the Contractor the minimum guaranteed annual quantity.

**Section 2 – Back-End Property Purchase Price** – Contractor will pay DLA DISPOSITION SERVICES the Contractor’s bid price when property is resold. Contractor’s bid of the resale gross revenue includes any resale revenue from the property sold to the Contractor by the Government. These proceeds include any direct proceeds received from the Contractor in the initial sales transaction and any subsequent proceeds or other revenue received by the Contractor in any subsequent arrangements/contracts with other parties. The Contractor shall not enter into any resale transaction other than on an arms-length basis, except as authorized by the SCO, or with pricing or other terms less favorable to the Contractor than otherwise reasonably obtainable. The Contractor shall auction all property purchased from the Government; regardless of type of resale transaction. Any revenue received from such transaction, at time of transaction or deferred, shall be considered revenue for purposes of the percentage bid by the Contractor under this contract. DLA DISPOSITION SERVICES will generate a bill for the bid price of all resale transactions occurring in each monthly billing period as reflected in the Statements of Account (SOAs) referenced in Section 3 of this Article.

**Section 3 – Monthly Payments** – Contractor will pay DLA DISPOSITION SERVICES the billed amount for property delivered in each monthly billing period which normally runs through the 25<sup>th</sup> day of each month. DLA DISPOSITION SERVICES may issue multiple SOAs to the Contractor no later than the Wednesday following the first Monday of the month following the billing period. The SOA(s) will reflect the up-front purchase price and back-end payment of the property resold by the Contractor during the prior billing period plus credits and debits as required. The balance reflected on the SOAs will be the amount owed to DLA DISPOSITION SERVICES by the Contractor for the particular month billed. Contractor is required to submit payment to DLA DISPOSITION SERVICES no later than the 15<sup>th</sup> of each month or within two weeks from receipt of the bill whichever is later. A letter accompanying the monthly bill may indicate a payment due date other than as described herein and is not to be construed as relinquishing the Contractor from compliance with the payment due date as described in this IFB.

**Section 4 – Method of Payment** – Payments made to DLA DISPOSITION SERVICES will be via an Electronic Funds Transfer (EFT). The account number for EFT and wire transfers will be provided by the SCO and updated whenever necessary.

**Section 5 – Failure to Make Timely Payment** - Should Contractor fail to pay to DLA DISPOSITION SERVICES the full amount owed as reflected on the SOAs each month on or before the date that such payment is due, DLA DISPOSITION SERVICES may, in its sole discretion, (i) apply that portion of the payment deposit that is necessary to pay the amount owed, and (ii) notify Contractor that such failure constitutes a material breach that the Contractor must cure within ten (10) calendar days of notice thereof by paying to DLA DISPOSITION SERVICES an amount equal to one-hundred twenty percent

(120%) of the subject amount owed, which payment shall be applied by DLA DISPOSITION SERVICES to replenish and increase the amount of the payment deposit. The Contractor shall also be assessed interest on the payment based on the current rate as determined by the Secretary of Treasury. The interest will be added to the next month's Statement of Account(s).

**Section 6 – Payment of Seller Indirect Costs** – Pursuant to a DLA DISPOSITION SERVICES mission change, certain Contractor costs directly related to the mission of DLA DISPOSITION SERVICES may be deemed Seller Indirect Costs (SIC), thus, the costs to perform such duty can be deducted entirely from distributions otherwise payable to DLA DISPOSITION SERVICES. This mechanism largely leaves the risks associated with these issues with DLA DISPOSITION SERVICES and accordingly should considerably lessen these concerns for the Contractor. All costs permitted as SIC, must be allocable, allowable, reasonable, and pre-approved by DLA DISPOSITION SERVICES on a case-by-case basis prior to being executed by the Contractor. DLA DISPOSITION SERVICES approval of SIC must be in writing and not assumed to be approved. SIC are never authorized for reimbursement of lost profits. Property surges that may result are not eligible for SIC. Unless otherwise stated, transportation costs and Contractor's Direct Costs are not considered for SIC.

**Section 7 – Supporting Documentation** – Each disbursement for a SIC shall be supported with bona fide documentation (including records in an electronic medium) that adequately demonstrate that each such disbursement is in the proper amount for goods or services actually provided in advance of such disbursement.

## **ARTICLE SIX**

### **PRODUCT POOL, PROPERTY REFERRALS, TITLE TRANSFER AND RETURNS & MATERIAL BREACH**

#### **Section 1 – Product Pool**

**(A) Property Flow** – Property will be issued as scrap in weight or as usable property that must be rendered as scrap through additional processing. All property will be transferred as pounds. Inventory will be located in the Continental United States (CONUS) to include Alaska, Hawaii, Guam, Puerto Rico, and possibly the U.S. Virgin Islands. The Government may include additional locations by mutual agreement with the Contractor. Under no circumstances is culling for the purpose of effecting partial or incremental removals authorized. DLA DISPOSITION SERVICES reserves the right to sell property or offer property through alternative sales or contract means for all property not considered part of this contract.

**(B) Property Referral** – The government has sole discretion to determine what property will be sold to the contractor, and the contractor has a contractual obligation to purchase and accept all property

referred by the government except for hazardous waste. Under no circumstances is culling for the purpose of effecting partial or incremental removals authorized. The contractor is not required to take hazardous material or material that could pose a safety or health issue (mold, asbestos, paints). DLA DISPOSITION SERVICES reserves the right to sell property or offer property through alternative sales or contract means for all property not referred under this contract.

**(C) Mutilation Required** – Items delivered under this category require complete Destruction with Government oversight. This inventory is controlled and must be completely mutilated to prevent reconstitution of any functional device.

**(D) Demil Required** – Items delivered under this category require complete Destruction with Government oversight. This inventory is Demil required and must be completely mutilated to remove the offensive and defensive capabilities and prevent reconstitution of any functional device. Title will not transfer until proper Demil have occurred.

**(E) Destructive Scrapping Required** – Unless a waiver is granted, items delivered under this category require Destructive Scrapping and the return of a Certificate of Destruction (COD) with occasional Government oversight. Except for the property specifically listed in Article 11 Section 4 all other property not included in the two preceding paragraphs must be processed by cutting, tearing, crushing, mangling, shredding or melting. Scrapping of this property must be accomplished in a manner that prevents recognition or reconstruction.

## **Section 2 – Property Referrals**

**(A) Locations** – Property that is referred for sale to the Contractor is located within the Continental United States (CONUS), Alaska, Hawaii, Guam, Puerto Rico and possibly the U.S. Virgin Islands. DLA DISPOSITION SERVICES may opt to deliver property to the contractor located at additional locations with contractor's agreement.

**(B) DLA DISPOSITION SERVICES' Locations** – Property is referred for sale at or in the vicinity of a DLA DISPOSITION SERVICES' scrap yard. Property is normally issued as a generator receipt of scrap delivered to the scrap yard or downgraded property placed in or near the scrap yard or other agreed upon delivery point which may vary by location.

**(C) Receipt In Place (RIP)** – Certain items may be issued to the Contractor from a RIP location. DLA DISPOSITION SERVICES shall identify this property to the Contractor at the time it is referred for sale.

**(D) Property for Direct Shipment to the Contractor** – DLA DISPOSITION SERVICES may also ship property directly to the contractor's resale buyer location. Such shipments are either demilitarization required property or mutilation required property. All such shipments require 100% Government oversight of the property destruction.

**(E) Initial Property Referral** - DLA DISPOSITION SERVICES shall issue the initial property referral to the Contractor on the dates that are (i) within the time specified for the phase-in period (Attachment C of this IFB), and (ii) the date DLA DISPOSITION SERVICES has received and approved all the information required under the provisions of this contract.

**(F) Property Surges** - Contractor acknowledges that during the performance of this contract, changes in Government processes or procedures could result in large generations of property being

turned into DLA DISPOSITION SERVICES which could ultimately be referred under this contract. DLA DISPOSITION SERVICES and the Contractor agree to cooperate and institute special procedures as necessary in connection with property surges. The direct costs of the increased workload upon the Contractor would not be at any additional costs to the Government.

### **Section 3 – Title Transfer**

**(A) Title Transfer of Property** – Unless otherwise provided in this IFB, DLA DISPOSITION SERVICES shall transfer title of property to the Contractor upon physical receipt at a scrap yard, verbal or written notification for RIP property or when Demilitarization or Mutilation required property has been destroyed and the destruction has been properly certified, verified and documented.

**(B) Physical Receipt** – Title will transfer upon the Contractor’s physical receipt of property at or in the vicinity of a DLA DISPOSITION SERVICES’ scrap yard.

**(C) RIP** – Title will transfer upon written or verbal notification to the Contractor of sufficient quantities of property at a RIP location. The quantities may require a spot sale for a one time generation or a term sale to accommodate a steady stream of property referrals.

**(D) Demilitarization and Mutilation as a Condition of Sale (DCOS/MCOS)** – Title will transfer after property has been both destroyed to the Governments satisfaction and the destruction has been properly certified, verified and documented.

### **Section 4 – Return of Property to the Government**

**(A) Property Located at Point of Resale** – Property issued to the Contractor may later become required by the Government. The property will be returned at no cost to the Government as directed by the SCO.

**(B) Property Resold - Not Removed from Point of Resale** – Contractor may have resold items as scrap or with mutilation or Demil as a condition of sale and later become required by the Government. The property will be returned to Government control as directed by the SCO. The Contractor will not be reimbursed for lost proceeds but may pass on cost incurred by their resale buyer based upon evidence of the expense. Returns from a DLA DISPOSITION SERVICES’ scrap yard to the scrap yard’s owning site will be considered to have no associated costs.

**(C) Property Resold - Removed from Point of Resale** – Contractor may have resold items that the resale buyer has physically removed from the point of resale and not yet rendered scrap via mutilation or demilitarization and later becomes required by the Government. Within three (3) business days of the DLA DISPOSITION SERVICES notification, Contractor is required to notify their customer and facilitate the item’s return if the resale buyer has not destroyed the item. The Contractor must initially contact their customer by either e-mail or registered letter. If the resale buyer is non-responsive to the initial request or fails to return the property, Contractor is responsible for contacting the resale buyer again within twenty-one (21) business days of the initial contact via a registered letter.

DLA DISPOSITION SERVICES will advise the method for return based on the applicable item and will reimburse the Contractor costs associated with the return of the property.

- (D) **Sales Participation of Non-Responsive Resale Buyers** - Based on the national security threat of the property being requested to be returned, DLA DISPOSITION SERVICES reserves the right to request that the Contractor no longer conduct a resale to non-responsive customers. DLA DISPOSITION SERVICES will notify the Contractor of individuals/companies falling into this category on a case by case basis.
- (E) **No Contractor Returns** - Contractor does not have right to return unsaleable property or property with low to no sales profit margin. The Government recognizes that some commodities will be delivered that represent recycling challenges (Tires, wood, scrap furniture, textiles, and other non-metallic) that will require unique and challenging solutions. The Government will not reimburse for disposal or land fill costs for any property referred in this contract.
- (F) **Waivers for Back-end Property Purchase.** On a case by case basis and after the contractor has exercised due diligence in attempting to sell the challenging commodities referred to in section E above, the Contractor may request that the provisions in Article 5, Section 2 regarding payment of back-end property purchase price be waived.

**Section 5 – Notice of Material Breach** - In the event of a material breach or default of the respective duties in the performance of this contract, the Contractor or DLA DISPOSITION SERVICES, the party asserting such material breach, shall serve notice upon the party that committed or is alleged in the notice to have committed such material breach.

**Section 6 – Response to Notice** - Except as otherwise provided, the breaching party may cure the material breach within thirty (30) calendar days of such notice referred to as the cure period or within such longer cure period as the notice may provide unless, within the cure period, the non-breaching party withdraws the notice in writing or extends the cure period in writing.

**Section 7 – Termination** - Termination shall be effective upon notice by the non-breaching party to the breaching party served upon or after the date of such decision. Unless otherwise provided, Contractor and DLA DISPOSITION SERVICES shall continue to perform their respective duties under the contract during the cure period.

**Section 8 – Intentional Breach** - An asserted material breach comprised of an intentional breach of the duty of loyalty or the duty of care may not be cured unless DLA DISPOSITION SERVICES, in its sole discretion, specifies a cure period in the notice. Termination shall be effective upon the later of the date of service of such notice or the expiration of the cure period.

**Section 9 – DLA DISPOSITION SERVICES Remedies for Material Breach by Contractor** - If the breaching party is the Contractor, DLA DISPOSITION SERVICES may take any one, any combination or all of the following actions to satisfy its claims for any non-payments or other damages:

- (A) Apply the payment deposit
- (B) Present a claim against Contractor
- (C) Present a claim upon the Fidelity Bond or any other applicable insurance or surety policy
- (D) Seek appointment of a receiver or trustee for Contractor
- (E) Seek monetary damages, restitution or any other legal or equitable remedy to which it is entitled
- (F) Assert any other right, claim, or remedy available pursuant to the contract disputes act

## ARTICLE SEVEN

### **Demilitarization Codes and Trade Security Control (TSC) Requirements**

**Section 1 – Demilitarization Codes** - Many of the items in the product pool are subject to Trade Security Controls (TSC) assessment/clearance based on their demilitarization code assignment. All property with a Demil code of “B” “Q3” or “Q6” issued under this contract requires a TSC assessment of the resale buyer prior to completion of the sale. The Contractor is required to comply with all current or future TSC procedures as mandated during the performance period of this contract. Such new requirements may impose higher costs upon the Contractor in order to comply.

**Section 2 – Contractor’s Trade Security Control (TSC) Requirements** - Prior to award of this contract, the Contractor will be required to obtain a TSC assessment/clearance by providing the Sales Contracting Officer a properly completed END-USE CERTIFICATE (EUC) in the form of a DLA Form 1822 (copy available on the DLA DISPOSITION SERVICES web site, <https://www.sales.dla.mil/dlab2b/init.do>, under “Links” select View Sales Documents). The clearance may need to be renewed during the performance period of this contract and at the request of the Government. The clearance investigation determines that the entity is who it claims to be, doing business at the name and location claimed and that there are no disqualifying factors present (i.e., convictions for illegal export of military technology, debarment by a Government activity, etc...).

(A) **Resale Buyer’s Trade Security Control (TSC) Requirements** - All secondary purchasers of other than Demil code A property must also receive a TSC assessment/clearance. The Contractor will be required to notify prospective buyers in catalogs and re-sale documents of the necessity to comply with TSC requirements and export controls. The Contractor will be required to obtain and keep information on file for review by DLA DISPOSITION SERVICES or other Government entities to include a properly completed EUC from the resale buyer of each lot (or group of lots at a single re-sale event) of non-demilitarization code A property before releasing such items to the prospective resale buyer. The Contractor’s export control compliance responsibilities will generally be limited accordingly

to obtaining a properly completed EUC, releasing property to a buyer only after confirming that the buyer is cleared and has acknowledged their responsibilities for follow-up sales (i.e., advising buyers not to sell beyond the United States without proper Department of State/Department of Commerce documents/notice), and maintaining the associated compliance records.

**(B) Contractor's Responsibilities Prior to Award to Resale Buyer** - Upon receipt of a properly completed EUC, the Contractor must also obtain Government approval before re-selling any TSC required item and releasing property to the buyer. The TSC Assessment Office is the assessment/clearance authority and the determining authority relative to the proper completeness of End Use Certificates (EUCs). Contractor agrees to comply with any change to current TSC procedures should they occur.

**(C) Contractor's Liaison Responsibilities** – The Contractor must assume liaison responsibilities when processing a Trade Security Control clearance for their resale customers by forming a Liaison office in the DLA DISPOSITION SERVICES Building 2 at 74 North Washington Avenue, Battle Creek, MI 49037. Responsibilities will include collecting, reviewing, delivering, End-Use Certificates to the Government. Interactions will be required between the TSC Assessment/Clearance Office and/or DLA DISPOSITION SERVICES. SCO assistance in obtaining the necessary office will be provided, however, the Government assumes no costs for establishing the Contractor's Liaison Office outside of providing an administrative work station and telephone lines. A Government furnished computer with internet access will be provided once the Contractor's employee has been issued a security clearance (Contractor Access Card and background investigation). The Government will not provide office supplies or other equipment that the Contractor may require to complete this requirement.

**(D) System for Awards Management (SAM)** - Contractor is prohibited from awarding a contract to a customer identified as being suspended or debarred from receiving Government contracts. Prior to awarding any contract, Contractor agrees to search the System for Awards Management (SAM) at the following link: <https://www.sam.gov/portal/public/SAM>

### **Section 3 – United States Munitions List Items and Commerce Control List Items -**

**(A) Acknowledgment of Export Restrictions** - Contractor acknowledges that some items in the product pool may be subject to export restrictions and Trade Security Controls (TSC) Assessments/Clearances.

**(B) Seagoing Containers** – Contractor acknowledges that whenever a seagoing container is used by a resale buyer to remove property, Contractor shall report the container number and, if known, the destination port to DLA DISPOSITION SERVICES before the container is loaded.

**ARTICLE EIGHT**  
**Property Resale and Contractor Responsibilities**

**Section 1 – Scrap Yard Management –**

- (A) **Receipt of Scrap in a Scrap Yard** – Contractor is required to unload scrap from generator conveyance and to remove downgraded property from the delivery point (as agreed upon by location).
- (B) **Sorting Scrap** – Contractor removes dunnage from referred property and sorts the property into the appropriate storage locations for resale.
- (C) **Storage of Property** – Scrap storage bins and piles must be clearly labeled with the location, Description (SCL), and Demil Code of the property. Contractor maintains sorted property that is suitable for containerization, in containers off the ground when sufficient yard space is available and the local scrap industry supports removals through the use of a roll-off container inventory. Property staged for resale, not by weight, must be organized and segregated by Demil code; the storage areas must be labeled with the description, location and either Demil code “A” or “Q6.” Some Host Installations or Environmental Agencies with control over these facilities may require storage of scrap off the ground as a part of their Storm Water Pollution Prevention; on these installations the Contractor is required to maintain all scrap in containers. Some property referred to the Contractor as scrap may contain more value as an item than its basic material content and may be exempt from this requirement. Additionally, exemptions may be granted for certain types of property that are too large, bulky or could contain residual fluids that could leak if the item were dropped into a container. Schedule G lists the current locations requiring containerization and covering of scrap or other mitigating actions ensuring compliant handling of property and DLA DISPOSITION SERVICES does not warrant or guarantee the accuracy of Schedule G at time of contract award; DLA DISPOSITION SERVICES further reserves the right to add or remove locations from Schedule G as required by the Host Installation or other Environmental Governing Body. Contractor must take appropriate action to protect both the value of the property and the environment. Scrap Yards may not have adequate covered storage for property that requires protection from the elements (such as tires and ESACC in cardboard containers) and the Contractor may need to employ the use of tarps or canvas to protect this property.
- (D) **Removal** – The Contractor or Contractor’s Resale Buyer shall remove the property. All removals will be weighed on Government owned scales when available or a State or other Local Government Agency certified scale. DLA DISPOSITION SERVICES reserves the right to operate scales or oversee the weighing of all removals. DLA DISPOSITION SERVICES will provide a copy of the weight ticket to the Contractor. Contractor shall fully describe the property being removed and provide a copy of the bill of sale to DLA DISPOSITION SERVICES personnel monitoring/weighing the removal.
- (E) **Removal Timelines** – All Scrap Property stored in a Scrap Yard may be subject to maximum storage limits from the Host Installation or other Governing Agency. Tires are an example of

this; they are normally subject to a maximum storage limit by count or weight and must be removed prior to exceeding the storage limit. DLA DISPOSITION SERVICES further imposes the following timelines.

1. Property exempt from mutilation in accordance with article 11 section 4 and sold as an item must be removed within ninety (90) calendar days.
2. Property requiring a mutilation waiver and sold as an item must be removed within one-hundred twenty (120) calendar days.
3. Property sold by weight through a term contract must be removed prior to exceeding storage limits or within five (5) working days of accumulating a full truck load if there has not been a removal within the past ninety (90) calendar days.
4. Property sold by weight in One Time Sales must be removed prior to exceeding storage limits or within fifteen (15) working days of accumulating a full truck load if there has not been a removal within the past ninety (90) calendar days.

### **Section 2 – RIP Scrap Management –**

- (A) **Receipt** – RIP referrals will be written or verbally communicated to the Contractor by the local DLA DISPOSITION SERVICES POC or the SCO. Specific requirements may need to be included in the Resale (such as hours of operation, requirements for access to the property, etc...) and will be provided by the SCO or the local DLA DISPOSITION SERVICES POC.
- (B) **Removals** – The Contractor or Contractor’s Resale Buyer shall remove the property. All removals will be weighed on Government owned scales when available or a State or other Local Government Agency certified scale. DLA DISPOSITION SERVICES or its appointed agent reserves the right to operate or oversee the weighing of all removals. DLA DISPOSITION SERVICES or its appointed agent will provide a copy of the weight ticket to the Contractor. Contractor shall fully describe the property being removed and provide a copy of the bill of sale to DLA DISPOSITION SERVICES personnel or its appointed agent monitoring/weighing the removal.
- (C) **Removal Timeline** – Within sixty (60) calendar days of referral, the property must be removed for all one-time and initial referrals. Most RIP property removals are expected to be accomplished through a term sale and following the initial removal, subsequent removals would be accomplished within five (5) business days of verbal notification or seven (7) business days of written notification. More stringent removal timelines may be included in the requirements at time of referral and must be included in the advertisement and any resulting resale contract (example; some property streams referred at Puget Sound Naval Station require removal within 36 or 48 hours).

**Section 3 – Unmanned DLA Locations** – All references to DLA DISPOSITION SERVICES in this Section are deemed to include DLA DISTRIBUTION locations that perform these functions on behalf of DLA DISPOSITION SERVICES.

- (A) **Receipt** – DLA DISPOSITION SERVICES may downgrade property at locations with no scrap yard or not within the vicinity of the scrap yard on the same installation. Some limited

Government sorting may or may not be available at some of these locations. These locations are identified in Schedule F and DLA DISPOSITION SERVICES does not warrant the completeness or accuracy of Schedule F at time of contract award and further reserves the right to effect changes to Schedule F due to oversight, establishment or closure of any DLA DISPOSITION SERVICES Site.

- (B) **Removals** – DLA DISPOSITION SERVICES may provide limited sorting at some of these locations. The Contractor will offer this material for resale to effect direct removals and reduce transportation costs. All Resale Buyer removals will be weighed on Government owned scales when available or a State or other Local Government Agency certified scale. DLA DISPOSITION SERVICES or its appointed agent reserves the right to operate scales or oversee the weighing of Resale Buyer removals. DLA DISPOSITION SERVICES will provide a copy of the weight ticket to the Contractor. Contractor shall provide a copy of the bill of sale to DLA DISPOSITION SERVICES personnel or its appointed agent monitoring/weighing the removal. Additional requirements may be required by location and the Contractor is obligated to advertise and include them in any resulting contract.
- (C) **Restriction on Contractor Removals** –The property must be removed within five (5) business days of verbal notification or seven (7) business days of written notification. The contractor may request exceptions to this removal timeline from the sale contracting officer.

**Section 4 – Restrictions on Contractor Removals** – When property not removed by a resale buyer, is removed by the contractor from a scrap yard, RIP or unmanned DLA location to another location for resale, the contractor must do so in accordance with this section. The contractor may relocate the property to another DISPOSITION SERVICES’ scrap yard or a contractor facility; the contractor facility must be located within fifty (50) miles of the DLA site from which the property is removed. The contractor must seek and receive agreement from the sales contracting officer prior to removing property by other than a resale buyer removal. The buyer agrees to permit DLA personnel access to their facility for the purpose of property assurance, property inventory management and monitoring resale buyer removals.

**Section 5 – Demil as a Condition of Sale (DCOS)** – DCOS may be conducted on or off Government premises. Contractor is required to advertise these sales with additional requirements as conveyed by the SCO or his designee and as may be stated in the Government’s approved Demil Surveillance Plan for each sale. The Contractor or his Resale Buyer shall provide personnel to certify the destruction in accordance with Article 11, Section 7 of this IFB. The weight tickets and sale price for each resale may include or exclude the dunnage and other unrecyclable material, but the Contractor must ensure an appropriate process to capture the weight if the dunnage is excluded in the sale price and receive approval from the SCO for the process.

**Section 6 – Mutilation as a Condition of Sale (MCOS)** – MCOS may be conducted on or off Government premises. Contractor is required to advertise these sales with additional requirements as conveyed by the SCO or his designee and as may be stated in the Government’s approved Demil

Surveillance Plan for each sale. The Contractor or his Resale Buyer shall provide personnel to certify the destruction in accordance with Article 11, Section 7 of this IFB. The weight tickets and sale price for each resale may include or exclude the dunnage and other unrecyclable material, but the Contractor must ensure an appropriate process to capture the weight if the dunnage is excluded in the sale price and receive approval from the SCO for the process.

**Section 7 – Centralized Mutilation as a Condition of Sale (MUT Site)** – MCOS shall be conducted off Government premises. The SCO shall provide the requirements, some of which may be included in a Mutilation Surveillance Plan. The property includes controlled property in SCL codes MUT, MFS, CSI and M14 from DLA DISPOSITION SERVICES sites and also includes some additional Demil code “B” and “Q” property from DLA DISTRIBUTION. Due to the extra security requirements of this property, the Government shall at most times and locations retain custody and ship directly to the MUT Site. Government personnel shall be stationed at these Resale Buyer locations to verify the Mutilation of this property. This alleviates the field sites from this oversight requirement except when they have bulk, uneconomical to ship or other property in this category that could otherwise be sold locally on an MCOS.

**Section 8 – Additional Property Resale Requirements** – The Contractor is expected to resale all property referred under this IFB and the resulting contract. Contractor is expected to enhance the value of the property and employ marketing techniques that result in improved revenue. Due to National Security concerns and other operational requirements the Government deems relevant; the Government reserves the right to impose specific restrictions, requirements, terms and conditions upon the Contractor for specific sales that may result in less than favorable and lower revenues. Contractor also agrees to allow Government personnel to inspect Resale Buyer facilities prior to award of DCOS or MCOS at the buyer’s facility; such inspection may include but are not limited to Environmental Compliance, Security Measures (when Demil or Mutilation required property may be stored overnight). Contractor is responsible for the disposal of dunnage.

## **ARTICLE NINE**

### **Government Furnished Equipment (GFE)**

**Section 1 – Availability** – Schedule A identifies government-owned equipment that may be available to the Contractor. DLA DISPOSITION SERVICES does not represent or warrant that such GFE is completely or accurately identified on such Schedule or is in fact available at the locations specified or any of them, that such equipment is useable or could be made useable for any particular purpose with any particular amount of parts, repairs or maintenance, that such equipment has received an appropriate amount of repairs or maintenance or any amount of repairs or maintenance whatsoever, or that such

equipment is safe to operate. Subject to applicable law and Host Installation instructions, including without limitation any required inspections, DLA DISPOSITION SERVICES hereby grants a license to Contractor to use, maintain and repair such GFE as is identified in such attachment to the extent and in the manner that Contractor elects in the exercise of its sole discretion, and the costs thereof shall be borne by Contractor, provided, however, that such GFE shall be used solely to perform Contractor's obligations under this contract, and provided further that DLA DISPOSITION SERVICES may at any time relocate such GFE to another location for government use as determined by DLA DISPOSITION SERVICES in the exercise of its sole discretion. Should any GFE require repair or replacement due to misuse and negligence by Contractor, Contractor shall be responsible for such repair or replacement at no cost to the Government. When Contractor determines a particular item of GFE is not economically repairable (defined as estimated repair costs in excess of 75 percent of the replacement cost), Contractor may return the GFE to DLA DISPOSITION SERVICES as a condemned item and must submit a written report to the SCO. Contractor agrees to comply with all regulations and requirements pertaining to the use of any GFE including without limitation the completion of Government required inspections, training, licensing and dispatching.

**Section 2 – Material Handling Equipment (MHE)** – MHE that may be made available to Contractor shall be designated as Shared or Dedicated.

- (A) Dedicated MHE is used primarily by Contractor to perform Contractor's obligations under this contract; Contractor agrees to provide scheduled maintenance and repairs for this MHE. DLA DISPOSITION SERVICES reserves the right to both operate this MHE in the absence of the Contractor's licensed personnel to support the scrap mission and to reallocate or use occasionally for other mission support requirements. When use by DLA DISPOSITION SERVICES for missions other than scrap exceeds 25 percent of the MHE operating hours the MHE shall be designated as Shared and Contractor is no longer required to maintain or repair (except when due to negligence or misuse).
- (B) Shared MHE is available for occasional use by Contractor or DLA DISPOSITION SERVICES to perform Contractor's obligations under this contract.

**Section 3 – Containers** – Containers that may or may not be made available to Contractor shall be designated as Dedicated or Restricted.

- (A) Dedicated containers are used primarily by Contractor in support of the scrap mission (sorting and storage of scrap property); Contractor agrees to provide repairs for these containers. DLA DISPOSITION SERVICES reserves the right to reallocate or use occasionally for other mission support requirements.
- (B) Restricted containers are utilized primarily by DLA DISPOSITION SERVICES and Generators for delivery of referred property to the scrap yard. Contractor should immediately return such containers or exchange for an empty container.

## **ARTICLE TEN**

### **Contractor Owned Equipment**

**Section 1 – Contractor Equipment Utilization and Storage** - The Contractor may use and store its materials handling equipment in the Scrap Yards. The Contractor will not offer the use of Contractor owned equipment to DLA DISPOSITION SERVICES employees and neither shall the DLA DISPOSITION SERVICES employees utilize the Contractor's equipment. Equipment for the performance of industrial operations is subject to the approval of DLA DISPOSITION SERVICES and Host Installation constraints.

**Section 2 – Contractor Equipment Support Requirements** - The Contractor is required to provide MHE in the scrap yard when sufficient GFE is not available. The minimum equipment requirements are listed in Schedule E. The Schedule is not warranted to be whole and accurate at time of contract award. The Government reserves the right to adjust and update the requirements in Schedule E as may be reasonably required in response to changes in property flow, base or scrap yard closures and the establishment of new scrap yards. The Contractor MHE requirements are based upon the typical scrap mission, by location, and do not include excessive requirements beyond or above those stated in Schedule E.

## **ARTICLE ELEVEN**

### **Contract Operational Requirements**

**Section 1 – Contractor Awareness of the DLA DISPOSITION SERVICES Environmental Management System (EMS)** - DLA DISPOSITION SERVICES implemented Environmental Management System (EMS) in accordance with ISO 14001:2004(E). An EMS is an overall management system that includes organizational structure, planning activities, responsibilities, practices, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining the environmental policy of an organization. The DLA DISPOSITION SERVICES EMS is designed to ensure all personnel, including Contractors whose work activities are being conducted on Government premises and could cause real or potential environmental impacts, are aware of how their work supports the EMS.

**Section 2 – Web Accessible Application** – Contractor must develop an application or process for use on this contract with regard to requesting a mutilation waiver for Demil code “A” and “Q6” items that may have a value exceeding their basic material content value. The Government will review the property to determine if it is safe to sell and if there are any RTD customers requiring the property. The SCO will provide the requirements during the post award conference.

**Section 3 - DLA DISPOSITION SERVICES Inspection of Property** – Contractor is required to allow DLA DISPOSITION SERVICES or a DLA DISPOSITION SERVICES sponsored agency to perform physical inspections of property when requested.

**Section 4 – Property Assurance** – All Property offered under this contract must be processed by cutting, tearing, crushing, mangling, shredding or melting. Destructive scrapping of this property must be accomplished in a manner that prevents recognition or reconstruction and a Certificate of Destruction must be provided, the destructive scrapping requirement includes metallic DEMIL Code “A” property. However, DEMIL Code “A” property specifically excluded from the destructive scrapping requirement includes: tires, lockers, ammunition cans, production stock/residue (bars, plate, sheet, rod, wire, borings and turnings), wire and cable, pipe and tube construction material/residue (lumber, block, brick, windows, I-beams), vehicles, wood products, furniture, FSG 78 fitness equipment and white goods (appliances, e.g., refrigerators). The Contractor may request from the SCO that other DEMIL “A” and “Q6” property be excluded from the destructive scrapping or mutilation requirement through the Web Accessible Application. Demil code “Q6” property that is generally excluded from the Mutilation requirement are Expended Small Arms Cartridge Cases (ESACC) also known as Fired Brass; includes ESACC that are 50 caliber (12.7 mm) or smaller. The property referenced above in this section is subject to change to include deletions and additions at the Governments sole discretion.

**Section 5 – Government Facilities** – Contractor is responsible to maintain all Government facilities (including inventory referred to the Contractor) and equipment, made available for its use, in a professional and presentable manner. DLA DISPOSITION SERVICES will conduct inspections (example inspection form is provided in Attachment B to this IFB) of its facilities and equipment; these inspections include checks for safety and housekeeping amongst other checks. Contractor is responsible to correct deficiencies identified by DLA DISPOSITION SERVICES as soon as reasonably possible, but in not less than five (5) business days from notification. Contractor shall be responsible to DLA DISPOSITION SERVICES for any physical damage that is caused to any government equipment or facility that arises out of the negligence of Contractor, its vendors or its re-sale buyers. Contractor shall be responsible for cleaning up spills of hazardous material on a government installation that are caused by Contractor, its vendors or its re-sale buyers, including spills from hydraulic lines on GFE, without regard to degree of culpability, and, for any spill that occurs on a government installation that has provided to the Contractor its Spill Prevention Control and Countermeasures Plan and Spill Contingency Plan, such clean-up shall be in accordance with such plans. Contractor shall notify the SCO and DLA DISPOSITION SERVICES site lead reasonably promptly of any such spill on a government installation that is caused by Contractor, its vendors or a re-sale buyer and shall cooperate with the SCO to support the installation’s requirements for a report thereof. DLA DISPOSITION SERVICES shall indemnify, defend, and hold harmless Contractor, Affiliated Parties, and their owners, officers, employees, agents, vendors and subcontractors with respect to any claim brought by any third party, including without limitation any local, state, or federal governmental entity, that arises or is alleged to arise, directly or indirectly, from environmental contamination at any federally owned or controlled property or facility, provided, however, that DLA DISPOSITION SERVICES shall be entitled to recover from Contractor

any amounts found by a court of competent jurisdiction and identified as such in its final judgment as having been caused solely by Contractor's failure to comply with applicable local, state or federal environmental law. Disposition Services shall make, subject to Host Installation and Dispositions Services approval, its scrap yards available for the contractor's use, in as much that use is restricted to the performance of this contract, free of charge and allocate the space and facilities (including administrative space) available for use. Disposition Services may at its own discretion and at any time during the performance of this contract reallocate the space and facilities made available to the contractor.

**Section 6 – Contractor Staffing of Scrap Yards –**

- (A) Normally Scheduled Hours - Contractor is required to be present during the scheduled customer services hours of each DLA DISPOSITION SERVICES Site. Contractor must staff at a level sufficient to accomplish all requirements in this IFB. The Contractor Manned Scrap Yards are identified in Schedule F of this IFB. DLA DISPOSITION SERVICES does not warrant the completeness or accuracy of Schedule F at time of contract award and further reserves the right to effect changes to Schedule F due to oversight, establishment or closure of any Scrap Yard.
- (B) Curtailed Staffing Locations – At a few low volume sites, the Contractor will be required to staff on only certain days of the week; the Contractor must continue to accomplish all requirements in this IFB. The curtailed staffing days are the days DLA DISPOSITION SERVICES will schedule generator scrap turn-in appointments, the Contractor may need to be present on additional days to effect Resale Buyer removals, sorting and other requirements of this IFB. The Contractor Manned, Curtailed Staffing Location, Scrap Yards are identified in Schedule F of this IFB. DLA DISPOSITION SERVICES does not warrant the completeness or accuracy of Schedule F at time of contract award and further reserves the right to effect changes to Schedule F due to oversight, establishment or closure of any Scrap Yard.

**Section 7 – Certificates of Destruction, Mutilation and Demilitarization –**

- (A) Certificates of Destruction (COD) – All scrap requiring mutilation under the terms and conditions of this IFB shall require a COD be returned to the SCO in an electronic format and a printed copy to the responsible DLA DISPOSITION SERVICES site. The Contractor shall witness the destruction and attest to it or require the Resale Buyer to attest to the destruction and return the completed COD. If the Contractor chooses to have the Resale Buyer return the COD, the Contractor shall randomly select ten percent of the removals from each location to witness the destruction and complete the COD. The Contractor shall promulgate in all advertisements and resulting contract that both the Contractor and the Government have the right to enter the Resale buyer's premises to verify or witness the destruction of this property.
- (B) Mutilation and Demilitarization Certificates – For all property requiring the completion of a mutilation certificate or a demilitarization certificate the Contractor shall provide personnel

to witness and attest to the mutilation or demilitarization of this property. The Contractor may require the Resale Buyer provide the personnel to witness and attest to the mutilation or demilitarization of this property. All personnel selected to perform as a Certifier must complete a Demil course provided by the SCO. The Contractor shall submit the course completion certificates to the SCO or his designated representative; the Certifiers shall be appointed in writing by the SCO for a period of two years. The Government shall provide Verifiers for this property.

**Section 8 – Contractor’s Vendors and Resale Buyers** – Contractor is responsible to escort its vendors and resale buyers at all times while on the DLA DISPOSITION SERVICES premises. Additionally, the Contractors requirement to escort its vendors and resale buyers at some installations is extended from the installation entry point and back due to security requirements. The Contractor is hereby informed that due to unforeseen security exercises or increases in security measures some installations or portions thereof may become inaccessible to its employees and/or its vendors and resale buyers for undetermined periods of time; the occasional inconvenience should be expected and will not be considered as the basis for any claim against the Government or consideration for reimbursement.

## **ARTICLE TWELVE**

### **Contract Compliance, Audits and Reviews**

**Section 1 – Compliance with Applicable Laws and Regulations** – Contractor and its resale buyers shall comply with the requirements of all applicable federal, state, installation, and local laws, regulations, ordinances, directives and instructions connected with the performance of this contract, including without limitation such requirements pertaining to income and payroll taxes, environmental matters and occupational safety.

**Section 2 – Licenses and Permits** – Contractor shall obtain any necessary licenses and permits, and comply with all federal, state, and local laws and regulations in connection with the prosecution of the work. This responsibility requirement will be a matter of inquiry during the SCO’s pre-award evaluation of the bidder’s capability to perform the contract satisfactorily. It will also be a continuing matter of inquiry by the SCO during the performance of the contract.

**Section 3 – Duties of Care and Loyalty** – The Contractor shall not cause or permit any action or omission in the course of performing the contract that constitutes gross negligence, recklessness or intentional harm. Contractor shall carry out their responsibilities under the contract with honesty, good faith and fairness toward DLA DISPOSITION SERVICES.

**Section 4 – Prohibited Activities** – Contractor shall not undertake the following activities without written permission from the SCO, which permission may be granted or withheld by DLA DISPOSITION SERVICES in the exercise of its sole discretion:

(A) Enter into a partnership, joint venture or other arrangement where the purpose or effect is to engage indirectly in a transaction that would be prohibited by the provisions of this contract if undertaken by the Contractor directly; or

(B) Enter into contracts or other arrangements that would assign all or substantially all responsibility for and control of performance of the contract to another party or parties, without the prior written approval of DLA DISPOSITION SERVICES which will consider such request in accordance with the Assignment of Claims Act of 1940, as amended, 41 U.S.C. sec. 15, and the Government's best interest. In the event of any improper assignment without the written approval of DLA DISPOSITION SERVICES, this contract shall be terminated at the option of the Government in the exercise of its sole discretion; or

(C) File a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under Title 11 of the United States Code (or corresponding provisions of future law) or any other federal or state insolvency law; file an answer consenting to or acquiescing in any such petition; make any assignment for the benefit of Contractor's creditors; or admit in writing Contractor's inability to pay its debts as they mature, without the prior written consent of DLA DISPOSITION SERVICES.

**Section 5 – Contractor Cooperation in DOD Investigations/Audits** – Contractor agrees to fully cooperate with the Government when informed by DLA DISPOSITION SERVICES of an ongoing investigation by any DOD or Federal Government investigation service or agency or during DLA DISPOSITION SERVICES Compliance Reviews or Audits. Contractor agrees to provide DLA DISPOSITION SERVICES with all requested information regarding property or information relating to the Contractor's resale buyer. Contractor must make all sales records pertaining to such investigations available to DLA DISPOSITION SERVICES at the earliest available opportunity but no later than three (3) business days of the request. Requests for information should be provided in electronic format when possible. Contractor personnel with knowledge of the particular subject matter must be available to cooperate with any Government investigation.

**Section 6 – Contractor's Responsibility for Independent Audit at Government's Request** - DLA DISPOSITION SERVICES may request the Contractor seek a review and analysis to be conducted by an independent audit firm agreed upon by the Government. The audit may be requested in regard to every aspect of contract performance or could be limited to a specific concern. The cost of such audit will be handled as a Seller Indirect Cost and must be approved by DLA Disposition Services prior to the onset of the audit.

**Section 7 – Contractor Record Retention** - Contractor shall make all books, records, documents and other supporting evidence available to satisfy contract administration and audit requirements by any Government agency identified by the SCO. Records must be made available for six (6) years after the

wind-down period is concluded, or for such period of time as Contractor, for its own purposes, retains its books, records, documents, and other supporting evidence, whichever is longer.

**Section 8 – Records Maintenance** – Contractor shall maintain all records accurately and in a manner that will allow clear and accurate auditing.

**Section 9 – Inspection of Records and Workplace by Government** - The Government has the right to audit the records and inventory in order to review Contractor's operations. The audit may consist of a complete or random sample examination. Contractor must ensure that, prior to any resale, the property is readily identifiable as formerly Government property.

**Section 10 – Purpose and Content of Compliance Audits, Reviews and Further Reviews** - DLA DISPOSITION SERVICES shall have the right to conduct Compliance Reviews of Contractor. DLA DISPOSITION SERVICES may actually conduct the compliance reviews, or use other Government agencies or private firms, as the SCO deems appropriate. DLA DISPOSITION SERVICES shall also have the right to conduct Further Reviews as provided herein. The purpose of such Compliance Reviews or Further Reviews is to determine, after the fact, the extent of Contractor's compliance with the terms and provisions of the contract and applicable laws and regulations.

**Section 11 – Methods and Procedures for Compliance Reviews**

(A) **Method** - Compliance Reviews and Further Reviews may include, without limitation, examination of records, and, if necessary, personal interviews of persons who may have knowledge of facts regarding Contractor's compliance with the provisions of this contract, including employees or of any supplier or resale buyer.

(B) **Procedures** - A Compliance Review shall be conducted at any time during normal business hours and on any business day. Contractor shall permit inspection of any physical location used by the Contractor, including, without limitation, the inventory (including the records relating thereto), examination of the records, making copies and abstracts, and discussions of the affairs, finances and accounts of Contractor with any employee, subcontracting attorney or certified public accountant of Contractor. Contractor will produce any records identified by DLA DISPOSITION SERVICES as necessary to support the review process and DLA DISPOSITION SERVICES may maintain copies of all documentation/electronic files that support the review being conducted. DLA DISPOSITION SERVICES shall use its best efforts to assure that Compliance Reviews are conducted in a manner that does not unduly burden or unreasonably impinge upon the efficient operation of the affairs of Contractor.

(C) **Scope** - The scope of Compliance Reviews shall be as necessary to confirm Contractor's compliance with the provisions of the contract.

**Section 12 – Further Reviews** - If a Compliance Review determines there is a reasonable basis to believe that a default or breach of this contract has occurred, DLA DISPOSITION SERVICES, upon

written notice to Contractor, may conduct any such further investigation that it deems appropriate under the circumstances, using such outside consultants, including attorneys, as it deems necessary or advisable. Contractor shall permit such persons, as are designated by DLA DISPOSITION SERVICES, to visit and inspect any physical location used by the Contractor, including, without limitation, the inventory (including the records), and to examine the records, make copies and abstracts, and discussion of the affairs, finances and accounts of Contractor with any employee, subcontracting attorney or certified public accountant of the Contractor. Notwithstanding the foregoing, if Contractor gives notice to DLA DISPOSITION SERVICES stating that a Further Review is not justified, DLA DISPOSITION SERVICES shall delay the commencement of any such Further Review for a period of fourteen (14) calendar days after the delivery of its notice thereof to permit Contractor to seek a determination of the appropriateness of the Further Review.

**Section 13 – Compliance Notification** - After completing the Compliance Review and/or Further Review, DLA DISPOSITION SERVICES shall notify Contractor in writing of any breach or default identified during the Compliance Review and/or Further Review.

**Section 14 – Costs of Oversight** - DLA DISPOSITION SERVICES shall pay all fees, costs and expenses DLA DISPOSITION SERVICES incurred in connection with its Compliance Reviews and Further Reviews.

**Section 15 – Notice of Audit Adjustment** - If any party determines that the records reflect any inaccuracies requiring entry of an adjustment, including, without limitation, the disbursement of any amount from the operating account or a transfer account that is inconsistent with any provision of the contract or the disposition of an item of property that is inconsistent with any provision of the contract, such party shall give written notice thereof to the other party or parties.

**Section 16 – Procedures for Adjudication of Audit Adjustments** - If either Contractor or DLA DISPOSITION SERVICES disputes an asserted audit adjustment, it may submit such dispute for resolution. Upon resolution of such dispute or, if no party submits a dispute for resolution within sixty (60) calendar days of the notice of audit adjustment, the audit adjustment shall be deemed confirmed as asserted.

**Section 17 – Remedies for Audit Adjustments** - Upon confirmation of an audit adjustment, Contractor will pay to the party in question, or the party will pay to Contractor, as the case may be, the amount required to restore the parties to their respective positions status quo ante, and Contractor will correct the records in accordance with the audit adjustment as confirmed. If, as a result of the audit adjustment, Contractor is to pay DLA DISPOSITION SERVICES, each such payment shall include interest calculated by the US Treasury or at the rate provided by applicable law.

**Section 18 – Contracts with Third Parties** - Contractor shall ensure that all contracts entered into shall expire or shall be terminable by Contractor within the Performance Period.

## **ARTICLE THIRTEEN**

### **Disputes**

**Section 1 – Disputes** – Any contract awarded as a result of this sale is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

**Section 2 – Claims** – The term, “Claim” as used in this Article is defined as a written demand or a written assertion by one of the contracting parties seeking the payment of money, adjustment, or interpretation of the contract terms, or other relief arising under or relating to this contract. A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the SCO for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the SCO. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Contract Disputes Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, may be converted to a claim pursuant to the Contract Disputes Act.

**Section 3 – Decisions** - For Contractor claims, the SCO must render a decision within sixty (60) calendar days of the request or must notify the Contractor of the date by which the decision will be made. The SCO’s decision shall be final unless the Contractor appeals or files a suit as provided in the Act. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the SCO.

**Section 4 – Alternative Dispute Resolution (ADR)** – The parties agree to use their best efforts to resolve any disputes that may arise without litigation. If unassisted negotiations are unsuccessful, the parties will use Alternative Dispute Resolution (ADR) techniques in an attempt to resolve the dispute. If the ADR is not successful, the parties retain their existing rights. If the Contractor refuses an offer for ADR, the Contractor shall inform the SCO in writing, of the Contractor’s specific reasons for rejecting the offer. 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.

## **ARTICLE FOURTEEN**

### **Miscellaneous Provisions**

**Section 1 – Binding Effect** - Subject to the restrictions on transfers and encumbrances set forth, this contract shall insure to the benefit of and be binding upon DLA DISPOSITION SERVICES and the Contractor and their respective legal representatives, successors and assigns. Whenever this contract

refers to any party, such reference shall be deemed to include a reference to the legal representatives, successors and assigns of such party.

**Section 2 – Notices** - All notices, demands, requests, consents, approvals, declarations, reports and other communications required with regard to this contract shall be in writing except as otherwise provided and addressed to the Sales Contracting Officer (SCO).

**Section 3 – Severability** - If any provision of this contract or the application to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this contract and the application of such provisions to other persons or circumstances shall not be affected and the intent of this contract shall be enforced to the greatest extent permitted by law, DLA DISPOSITION SERVICES may in the exercise of its sole discretion cause termination by notice served within thirty (30) calendar days of the date upon which such judgment becomes final, such termination to be effective five (5) calendar days after the date of service of such notice.

**Section 4 – Headings** - The headings appearing in this contract are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any article or section of this contract.

**Section 5 – Survival** - The rights and obligations of the parties under this contract shall survive for a period of six (6) years after the completion of the wind-down period.

**Section 6 – Waiver** - No consent or waiver, expressed or implied, by any party to or of any breach or default by any other party in the performance by such other party of its obligations under this contract shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such other party under this contract. Failure on the part of any party to complain of any act or failure to act by any of the other parties or to declare any of the other parties in default, regardless of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

**Section 7 – Force Majeure** - The parties shall be excused for the period of any delay in the performance of any obligations under this contract when prevented from performing such obligations by cause or causes beyond their reasonable control, including, without limitation, civil commotion, war, invasion, rebellion, hostilities, military or usurped power, sabotage, pestilence, riots, fire or other casualty or acts of God.

**Section 8 – Use of DLA DISPOSITION SERVICES Name; Public Communications** - Contractor shall not use the name of DLA DISPOSITION SERVICES, DLA or DOD or its logos for any marketing or other purposes without the express prior written consent of DLA DISPOSITION SERVICES, which consent may be withheld for any reason whatsoever and is subject to the sole discretion of DLA

DISPOSITION SERVICES. Contractor shall not publicly denigrate the surplus property disposition program of the Department of Defense or the conduct thereof by DLA DISPOSITION SERVICES.

**Section 9 – Tense and Gender** - Unless the context clearly indicates otherwise, the singular shall include the plural and vice versa. Whenever the masculine, feminine or neuter gender is used inappropriately in this contract, this contract shall be read as if the appropriate gender had been used.

**Section 10 – Entire Agreement; Modification** - This contract, and the materials incorporated herein by reference, constitute the entire agreement between the parties regarding the matters contained in this contract. If there is any inconsistency between the terms of this contract and those of any Appendix, Schedule or Exhibit, the terms of this contract shall govern. There are no promises or other agreements, oral or written, express or implied, between the parties other than as set forth in this contract. No change or modification of, or waiver or compromise under, this contract shall be valid unless it is in writing and signed by a duly authorized representative of the party against which it is to be enforced. Contractor understands and agrees to submit a written request for contract modification to the SCO prior to effecting any change from that stated in its technical proposal (including any subcontractors identified therein), and/or sale of Government property-item bid page, whether occurring before or after the release of the property. Contractor further agrees not to effect such changes without first receiving the written approval of the SCO.

**Section 11 – Computation of Time** - In computing any period of time prescribed or allowed by this contract, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is not a business day, in which event the period runs until the end of the next business day.

**Section 12 – Electronic Communication** - DLA DISPOSITION SERVICES and Contractor shall cooperate to facilitate delivery of Delivery Order Reports, Statement of Accounts, and other required reports to the extent reasonably practical by electronic transmission, such as by electronic mail or file transfer, rather than by delivery of a physical removable magnetic or optical storage medium.

**Section 13 – Question and Answer Forums (Q&A)** - DLA DISPOSITION SERVICES does not warrant the information provided in any Q&A in response to the publication of this IFB and its accompanying RFTP. All information provided in such Q&A is not included in the terms and conditions of this IFB or the resulting contract. This includes verbal, electronic, and published Q&A information.

## **ARTICLE FIFTEEN**

### **Government Required Reports**

**Section 1 – Inventory Reports** – Contractor is required to provide DLA DISPOSITION SERVICES monthly reports reflecting a complete list of inventory received and processed. Contractor will provide a breakdown of all scrap received, removed and remaining on inventory by Standard Waste and Scrap Classification (SCL) Code by weight and location in pounds. The report is due the 15<sup>th</sup> of the month following the month reported. The specific reporting requirements will be further coordinated between the Sales Contracting Officer (SCO) and the Contractor during the post award conference.

**Section 2 – Contractor’s Resale Report** – Contractor is required to provide a weekly (Sunday through Saturday) report to DLA DISPOSITION SERVICES, by Wednesday of the following week. The report will include the fields listed below for each type of sale by removal. The specific reporting requirements will be further coordinated between the Sales Contracting Officer (SCO) and the Contractor during the contract phase-in period.

- (A) Term Contracts – buyer, contract/sale number, field site plant code, gross revenue expressed as price per lbs., SCL, date of removal, weight of removal; each removal during the week would be a separate line entry.
- (B) One Time Sales – buyer, contract/sale number, field site plant code, gross revenue expressed as price per lbs., SCL or description of item, date of removal, weight of removal; each removal during the week would be a separate line entry.

**Section 3 – Seller Indirect Cost (SIC) Report** - In the event SIC is approved by the SCO, Contractor must provide a monthly report detailing the costs actually incurred. The report must be in a spreadsheet format and must include supporting documentation of the SIC to include the date and initials of the Sales Contracting Officer approval of SIC. At no time does SIC include lost profits. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

**Section 4 – Non Responsive Resale Buyer Report** – The Contractor is required to report to DLA DISPOSITION SERVICES, by the 15<sup>th</sup> of each month in a spreadsheet a listing of resale buyers who failed to either respond or return property when requested by the Contractor. The spreadsheet must identify the resale Event and Lot number applicable and includes all fields provided on the Delivery Order Report. In addition, the spreadsheet must provide the dates of Contractor’s attempts to retrieve the property and the customer’s responses/non-responses. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

**Section 5 – Classified Inventory Report** – Contractor is required to report, within 24 hours, to the SCO the discovery of all items inadvertently delivered with classified markings intact. The report will

document the: Date, Item Description, Make, Model, Serial Number and copies or photographs of all government markings and documentation (no photographs of the item).

**Section 6 – Contractor Owned Equipment** – Contractor will report monthly the contractor and resale buyer owned equipment located at DLA DISPOSITION SERVICES locations. The report will indicate the type, quantity and ownership of all equipment. The report is due the 15<sup>th</sup> of each month. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

**Section 7 – Government Owned Contractor Dedicated Equipment** – Contractor will report monthly the Government owned contractor dedicated equipment located at DLA DISPOSITION SERVICES locations. The report will indicate the type, quantity and condition of all equipment by location. The report is due the 15<sup>th</sup> of each month. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

**Section 8 – Contractor’s Demil Certifier Training Status** – Contractor shall report monthly the current status of all contractor and resale buyer employees trained and certified to perform, witness, certify and attest to the demilitarization or mutilation of Government property. The report is due the 15<sup>th</sup> of each month. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

**Section 9 – Contractor and Resale Buyer Operating Schedules** – Contractor will report all planned or unplanned changes to operating schedules of both the Contractor and Resale Buyers when such schedules would have an impact upon DLA DISPOSITION SERVICES mission, Government employees or Government shipping and deliveries. Planned changes must be reported not less than sixty (60) calendar days prior to the first affected date if Government shipping and deliveries are potentially disrupted. All other planned changes must be reported not less than two weeks prior to the first affected date and unplanned changes are to be reported within 24 hours of the contractor receiving notice or from the date of an event causing an unplanned change. The specific reporting requirements will be further coordinated between the SCO and the Contractor during the post award conference.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

## ADDITIONAL CONTRACT ADVISEMENTS

Prospective bidders should note that work performed on Government premises, such as at field locations and other delivery points, may be subject to the provisions of Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973 (convict labor), and/or the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) and regulations of the Secretary of Labor there under (overtime compensation).

Prospective bidders should note that provisions of the Food, Drug and Cosmetic Act, 21 U.S.C. 311 et seq. and regulations promulgated there under forbid the sale of adulterated or misbranded medical devices.

Prospective bidders should also note that there are certain Public Laws that may impact the flow of items:

**Hazardous Property:** Should hazardous property be issued under this contract, the Government cautions that the item, material, or substance, or one or more components, parts, constituents or ingredients thereof may be corrosive, reactive, ignitable or exhibit other hazardous or toxic properties. The Government assumes no liability for any damage to the property of the Contractor, to the property of any other person, or the public property, or for any personal injury, illness, disability or death to the Contractor, Contractor's employees, or any other person subject to Contractor's control, or to any other person including members of the general public, or for any other consequential damages arising from or incident to the purchase, use, processing, disposition, or any subsequent operations performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, material or substance. The Contractor agrees to hold harmless and indemnify the Government for any and all costs and expenses incurred incident to any claim, suit, demand, judgment, action, debt, liability costs and attorney's fees or any other request for monies or any other type of relief arising from or incident to the purchase, use, processing, disposition, subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, material or substance, whether intentional or accidental.

**Resource Conservation and Recovery Act Notice:** EPA Hazardous Waste Regulations, 40 CFR Part 260 et seq. published at 45 Federal Register 33063-33285, May 19, 1980, became effective on November 19, 1980. These cradle-to-grave regulations detail the responsibilities of generators, transporters, treaters, storers, and disposers of hazardous waste. Civil and criminal penalties are available for noncompliance. DLA DISPOSITION SERVICES does not intend to transfer any RCRA regulated hazardous waste under this contract as regulated waste is disposed of under DLA DISPOSITION SERVICES' hazardous waste contracts. However, DLA DISPOSITION SERVICES can make no representations as to when and under what circumstances state, federal or local environmental regulations may be applicable to Property transferred to and held by the Contractor.

**Chemical Agent Resistant Coating (CARC) Paint:** Prospective offerors are cautioned that that some items are, or likely to contain or be coated with a chemical agent resistant to coatings containing trivalent chrome, lead, cobalt-zinc hexamethylene disocyanate and other chemicals which are a hazard to human health if not processed properly. The Government brings the following precautions/warnings to the attention of prospective offerors who plan to apply the CARC paint or disturb the coating on the property in any way:

*Airline respirators should be used during application processing (applying/sanding/torch cutting, etc.) unless air sampling shows exposure to be below OSHA/host Government standards, then a chemical cartridge air-purifying respirator must be used.*

*CARC paint should be isolated from heat, electrical equipment, sparks and open flame during storage or application. Local exhaust ventilation should be used for inside processing.*

*Exposure to vapor/mist/dust or fumes can cause irritation to respiratory tract (lung, nose, throat), edema, dermatitis, dizziness, rash, itching, swelling of extremities, eye irritation or damage to nervous system, kidney or liver. Coating may be fatal if swallowed.*

**Refrigerant:** Refrigeration equipment and appliances are subject to the Clean Air Act (CAA) Amendments of 1990 which prohibit the venting or release to the environment of Class I or Class II ozone depleting substances, and are also subject to the Refrigerant Recycling Rule in 40 Code of Federal Regulations (CFR) Subpart F 82, 150-166, requiring the recovery and verification of refrigerant removal by a certified technician, using certified recovery equipment prior to final disposal as scrap or in a landfill.

**Radioactive Material:** The Government shall defend the Contractor and all of their representative employees, officers, agents and subcontractors with respect to any claims presented by third parties that allege damage arising out of radioactive Property. Contractor shall exercise reasonable care in the circumstances to avoid accepting from DLA DISPOSITION SERVICES or generators any material that available radioactivity test equipment indicates is radioactive above applicable legal limits. The Government reserves the right to inspect and test any reported suspect radioactive materials located at the Contractor's or Resale buyer's location. Any such substantiated materials shall be removed by the Government or returned to DLA DISPOSITION SERVICES or the generator as directed by the SCO at government expense.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

## **DEFINITIONS**

**Actual Cost:** An amount determined on the basis of the cost incurred.

**Allocable Cost:** A cost is allocable to a Government contract if it is incurred specifically for the contract, if it benefits both the contract and other work and can be distributed to them in a reasonable proportion to the benefits received, or is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown. A cost is allowable only when the cost is reasonable and allocable. The Contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that any cost claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in FAR Part 31 and DOD or DLA supplements. The SCO may disallow all or part of a claimed cost that is inadequately supported.

**Alternative Dispute Resolution (ADR):** Any procedure (for example, mediation, conciliation, facilitation, fact-finding, etc.), or any other method to which the parties agree for resolving issues in controversy, except the term does not include unassisted negotiations.

**Bid Percentage:** The amount, expressed as a percentage of Gross Revenue, offered by the Contractor.

**Business Day:** Any day that is not a Saturday, Sunday or a Federal Government observed holiday. Federal holidays presently include New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

**Centralized Demil Division (CDD):** Field location for the centralized processing of Demil required property.

**Contractor's Purchase Price:** The monthly up-front purchase price of \$1,000.00 plus the Gross Revenue multiplied by the applicable Bid Percentage offered.

**CONUS:** Continental United States not including Alaska.

**Day:** A business calendar day (except when identified as calendar days which include the weekend and holidays).

**DLA Disposition Services:** The organization vested with operational command and administration of the disposal solutions for Department of Defense (DOD) surplus property.

**Demilitarization as a Condition of Sale (DCOS):** A sale of Demil code "B" or "Q" scrap resulting from the contractor or buyer completing the demilitarization of Demil required property as a condition of the sale.

**Demilitarization Code (DEMIL Code):** A single character alpha code assigned by the Item Manager identifying the degree of demilitarization necessary prior to accomplishing final disposition of an item.

**DEMIL Code A:** Non-United States Munitions List (USML)/Non-Commerce Control List Items (CCLI) – No Demilitarization required. No Trade Security Control Assessment/Clearance required. Department of Commerce (DOC) may impose licensing requirements to certain destinations.

**DEMIL Code B:** United States Munitions List Items - Mutilation to the point of scrap required worldwide.

**DEMIL Code C:** United States Munitions List Items - DEMIL required. Remove and demilitarize installed key point(s) if known and/or Mutilate to the point of Scrap.

**DEMIL Code D:** United States Munitions List Items: Destroy item and components to prevent restoration or repair to a usable condition and mutilate to the point of scrap.

**DEMIL Code E:** United States Munitions List Items - Demilitarization instructions to be furnished by the DOD Demilitarization Program Office.

**DEMIL Code F:** MLI (SME)—Demilitarization instructions to be furnished by the Item/Technical Manager. Customers must obtain Demil F instructions prior to turning their property in to the DRMO.

**DEMIL Code Q:** Commerce Control List Items (CCLI). There are two types of DEMIL Code “Q” property (Q3 and Q6). Demilitarization not required for either, however mutilation is required for Q3 property and waivers will not be granted. Q6 property may be sold if a Certificate of Destruction waiver is obtained. Trade Security Controls (as set forth by the Department of Commerce) are required for both Q3 and Q6 at time of disposition. Trade Security Control Assessment/Clearance required. Mutilation to the point of scrap required outside the United States and its territories for both.

**Direct Cost:** A cost identified specifically within a contract.

**DOD:** Department of Defense.

**Disposal Turn in Document Number (DTID):** A 14-position alpha/numeric combination used to identify a line item of property consisting of Department Of Defense (DOD) address code, julian date and serial number. The DD Form 1348-1A/2 is the standard document for turn-in of property.

**Expended Small Arms Cartridge Cases (ESACC):** Expended cartridge cases .50 caliber or 12.7mm and below in size..

**Federal Supply Class (FSC):** A commodity classification code primarily used in the National Stock Number (NSN). The first 2 digits of the code identify the group and the last 2 digits identify the classes within the group.

**Generator:** The activity that produces the excess, surplus, foreign excess or other property; usually the entity formerly in physical possession and/or control of the property.

**Hazardous Material (HM):** Any material that is capable of posing an unreasonable risk to health, safety, and property during transportation in the United States. Overseas, HM is defined in the applicable Final Governing Standards or Overseas Environmental Baseline Guidance Document, and/or host nation laws and regulations.

**Hazardous Waste (HW):** Any property regulated under the Resource Conservation and Recovery Act (RCRA) or state regulation as a hazardous waste.

**Invitation For Bid (IFB):** An offer for bid submission.

**Line Item:** A single line entry on a reporting form that indicates an item of property located at any one activity having the same description, condition code and unit cost. A line item may be comprised of one or multiple units.

**Local Stock Number (LSN):** A locally purchased item with no NSN assignment.

**Mutilation as a Condition of Sale (MCOS):** A sale of Demil code “B” or “Q” scrap resulting from the contractor or buyer completing the mutilation of Mutilation required property as a condition of the sale.

**National Item Identification Number (NIIN):** A 9-digit number (immediately following the FSC) assigned to an item of supply that differentiates it from other items of supply.

**National Stock Number (NSN):** A 13-digit number consisting of the 4-digit FSC and the 9-digit NIIN that is assigned to identify an item of supply within the materiel management function.

**Performance Period:** Timeframe of the contract, to include any options offered.

**Reasonable Cost:** A cost is reasonable if, in its nature and amount, does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by the Contractor. If an initial review of the facts results in a challenge of a specific cost by the Sales Contracting Officer, the burden of proof shall be upon the Contractor to establish that such costs is reasonable.

**Receipt In Place (RIP):** Property being held at a location outside the DLA DISPOSITION SERVICES network although on the DLA DISPOSITION SERVICES accountable record during the disposal process and safeguarded by the Generator.

**R/T/D:** Reutilization/Transfer/Donation.

**Rubbish or Refuse:** Trash, garbage, other unwanted things, things that are worthless or of very poor quality.

**Sales Contract:** An agreement between two parties that binds both parties and transfers title of specified property.

**Sales Contracting Officer (SCO):** A duly appointed individual granted the authority to sell surplus and foreign excess personal property by various prescribed methods of sale.

**Salvage:** Property that has value greater than its basic material content but for which repair or rehabilitation is clearly impractical and/or uneconomical.

**Scrap:** Recyclable waste and discarded materials derived from items that have been rendered useless beyond repair, rehabilitation, or restoration such that the item's original identity, utility, form, fit and function have been destroyed. Items can be classified as scrap if processed by cutting, tearing, crushing, mangling, shredding, or melting. Intact or recognizable USML or CCL items, components, and parts are not scrap. Section 102-36.40 of Reference (e) and Section 770.2 of Reference (w) provide additional information on scrap.

**Standard Waste and Scrap Classification (SCL) Codes:** SCL codes are used to classify scrap into its proper scrap commodity group to obtain maximum sales potential and to provide a uniform method for maintaining accounting records.

**Trash:** Discarded, unwanted or worthless material or objects.

**Unallowable Cost:** Any cost that, under the provisions of any pertinent law, regulation, or contract, cannot be included in prices, cost-reimbursements, or settlements under a Government contract to which it is allocable.

**Usable Property:** A designation assigned by or with the approval of DLA DISPOSITION SERVICES personnel meaning that the item has value in excess of that of the item's material content.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

## ATTACHMENTS

ATTACHMENT A: SALE BY REFERENCE; this attachment will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

ATTACHMENT B: DLA Checklist 2000; this attachment will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

## SCHEDULES

SCHEDULE A: GOVERNMENT FURNISHED EQUIPMENT LIST; this schedule will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE B: STANDARD WASTE AND SCRAP CLASSIFICATION (SCL) CODES; this schedule will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE C: PHASE-IN SCHEDULE; this schedule will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE D: PLANT CODES; this schedule will become available on the following Website,  
<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE E: MINIMUM MHE REQUIREMENTS; this schedule will become available on the following Website,

<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE F: MINIMUM STAFFING, SCRAP YARD LISTING & UNMANNED LOCATIONS; this schedule will become available on the following Website,

<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.

SCHEDULE G: CONTAINER REQUIREMENTS; this schedule will become available on the following Website,

<http://www.dla.mil/DispositionServices/Offers/PublicSalesOfferings/nationalrecyclingsales.aspx>. This document will also be provided with the final IFB to bidders that submitted an acceptable Technical Proposal.