

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

1. REQUISITION NUMBER IQC10327009047	PAGE 1 OF 16
5. SOLICITATION NUMBER SPM8EC-11-R-0004	6. SOLICITATION ISSUE DATE 08/05/2011
8. OFFER DUE DATE/ LOCAL TIME	

2. CONTRACT NO. SPE8EC-13-D-0018	3. AWARD/EFFECTIVE DATE 6/24/13	4. ORDER NUMBER
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7. FOR SOLICITATION INFORMATION CALL:

9. ISSUED BY
DLA Troop Support, Construction & Equipment
700 Robbins Avenue
Philadelphia, PA 19111
POC: Calhy Ford, Catehrine.Ford@dla.mil
PHONE: 215-737-7258

10. THIS ACQUISITION IS UNRESTRICTED OR SET ASIDE: _____ % FOR:

SMALL BUSINESS WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 333120

HUBZONE SMALL BUSINESS EDWOSB SIZE STANDARD: 750

SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS 8 (A)

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
 SEE SCHEDULE

13b. RATING
to be shown on each order

14. METHOD OF SOLICITATION
 RFQ IFB RFP

15. DELIVER TO
TO BE SHOWN ON EACH ORDER

16. ADMINISTERED BY
DCMA Huntsville, 1040 Research Ave.,
Suite 100, Madison, AL 35758-2040

17a. CONTRACTOR/ OFFEROR
Altec Industries, Inc.
210 Iverness Center Drive
Birmingham, AL 35242

18a. PAYMENT WILL BE MADE BY
DFAS BVD
P.O. Box 369031
Columbus, OH 43236-9031

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE PAGES 14-16				
(Use Reverse and/or Attach Additional Sheets as Necessary)					

25. ACCOUNTING AND APPROPRIATION DATA
TO BE SHOWN ON EACH ORDER

26. TOTAL AWARD AMOUNT (For Govt. Use Only)
327,500,000

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ARE ARE NOT ATTACHED

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

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND

DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

28. AWARD OF CONTRACT: REF. Altec Industries OFFER

DATED: 09/16/2011. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: Cranes

29a. SIGNATURE OF OFFEROR/CONTRACTOR

30b. NAME AND TITLE OF SIGNER (Type or print)
Elana Martinez
Senior Acct Mgr - Govt Sales

30c. DATE SIGNED
6/21/13

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)

31b. NAME OF CONTRACTING OFFICER (Type or print)
Mark Scott

31c. DATE SIGNED
24 JUNE 2013

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

1. Contract Award

- a. This contract constitutes the Government's acceptance of the Contractor's offer, including all revisions that were approved and accepted by the Government, under Request for Proposal (RFP) SPM8EC-11-R-0004, as amended by Amendments 0001, 0002, 0003 and 0004. It is an Indefinite Delivery/Requirements Contract under which the Contractor shall function as a supplier for commercial type cranes.
- b. Performance under this contract shall be governed by the Statement of Work (SOW) and terms and conditions of RFP SPM8EC-11-R-0004, as amended, and, the following terms and conditions negotiated prior to award that were acceptable to both the Contractor and the Government.
- c. The overseas preservation/packaging and additional commercial manual set pricing elements included in the solicitation are both hereby deleted from the basic contract. In the event that these requirements are applicable to a particular Request for Quotations (RFQs), they will be considered and competed upon the issuance of RFQs. This information was communicated to the contractor via letter dated January 30, 2013.
- d. FAR 52.204-99, System for Award Management Registration (AUG 2012) no longer applies and will therefore not be incorporated into the contract. The following clauses that were included in the solicitation apply: FAR 52.204-7 Central Contractor Registration (DEC 2012) and DFARS 252.204-7004, Alternate A, Central Contractor Registration (FEB 2013), however, please note that the dates have changed. FAR 52.204-13, Central Contractor Registration Maintenance (DEC 2012) is hereby incorporated into the contract and is incorporated by reference on page 4.
- e. The product base list unit prices set forth in Altec Industries [REDACTED] Commercial Price Lists and the final proposal discounts dated 19 April 2013 and are shown on pages 14-16 of this contract.
- f. The proposed product base list unit prices are from [REDACTED]
- g. The Altec Industries Commercial Subcontracting Plan which has been approved by the General Services Administration is valid through 31 December 2013 and is acceptable to DLA Troop Support.

CAUTION - CONTRACTOR CODE OF BUSINESS ETHICS (FEB 2012)

FAR Part 3.1002(a) requires all government contractors to conduct themselves with the highest degree of integrity and honesty. Contractors should have a written code of business ethics and conduct within thirty days of award. To promote compliance with such code of business ethics and conduct, contractors should have an employee business ethics and compliance training program that facilitates timely discovery and disclosure of improper conduct in connection with government contracts and ensures corrective measures are promptly instituted and carried out. A contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose to the government, in connection with the award, performance, or closeout of a government contract performed by the contractor or a subcontract awarded there under, credible evidence of a violation of federal criminal law involving fraud, conflict of

interest, bribery, or gratuity violations found in title 18 of the United States Code or a violation of the False Claims Act. (31 U.S.C. 3729-3733)

If this solicitation or contract includes FAR clause 52.203-13 - CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT; the contractor shall comply with the terms of the clause and have a written code of business ethics and conduct; exercise due diligence to prevent and detect criminal conduct; promote ethical conduct and a commitment to compliance with the law within their organization; and timely report any violations of federal criminal law involving fraud, conflict of interest, bribery or gratuity violations found in title 18 of the United States Code or any violations of the False Claims Act. (31 U.S.C. 3729-3733). When FAR 52.203-13 is included in the contract, contractors must provide a copy of its written code of business ethics and conduct to the contracting officer upon request by the contracting officer.

Note: 52.212-4, Contract Terms and Conditions—Commercial Items (FEB 2012) is incorporated in this solicitation by reference. Its full text may be accessed electronically at <https://www.acquisition.gov/far/index.html>. Text is available for viewing in Subpart 52.2 Text of Provisions and Clauses, through either the HTML or PDF Format links.

2. Contract Period

Any supplies to be furnished under this contract shall be ordered by issuance of delivery orders by DLA Troop Support. The ordering period shall commence on the date of award/contract and shall continue for five (5) calendar years after the effective date of the award/contract.

The "Total Award Amount" listed in block twenty-six (26) on page one (1) of this contract (\$327,500,000.00) is the estimated value of the five (5) year contract and represents the combined estimated 5 year value of all the crane contracts to be awarded under SPM8EC-11-R-0004, not this contract alone. The maximum dollar value that may be obligated against the contract throughout the five (5) year contract period is \$627,500,000.00.

3. DELIVERY ORDER LIMITATIONS

- a. **Minimum Order:** When the Government requires supplies or services covered by this contract in an amount of less than one each, the Government is not obligated to purchase, nor is the Contractor obligated to furnish those supplies or services under the contract.
- b. **Maximum Order:** The Contractor is not obligated to honor -
 1. Any order for a single item in excess of \$100,000,000.00
 2. Any order for a combination of items in excess of \$100,000,000.00; or
 3. A series of orders from the same ordering office within five (5) days that together call for quantities exceeding the limitations in subparagraph (b)(1) or (b)(2) of this section.
- c. The Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum order limitations in paragraph (b) of this section.
- d. Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within thirty(30) days after issuance, with

Contract SPE8EC-13-D-0018

written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

4. Contract Unit Prices

- a. The product base list unit prices set forth in Altec Industries [REDACTED] Commercial Price Lists and the final proposal discounts dated 19 April 2013 and are shown on pages 14-16 of this contract. The discount structure for the attachments/optional features for all items are also listed on pages 14-16 of this contract.
- b. Additions to the above items: The unit prices and initial delivery schedules for any item(s) added to the initial list of contract items shall be established based on negotiations between the Government and the Contractor. The unit prices must be determined fair and reasonable by the Contracting Officer prior to addition to the contract.

5. Payment

- a. Terms: Payment terms are [REDACTED]
- b. Prompt Payment Procedures apply.
- c. Remittance Address: The Contractor's remittance address is as follows:
Altec Industries, Inc.
210 Iverness Center Drive
Birmingham, AL 35242

- 6. Contract Administration:** Administration of the contract is the responsibility of the following:
DCMA Huntsville (S0107A)
1040 Research Blvd.
Suite 100
Madison, AL 35758-2040

ADDENDUM TO FAR 52.212-4

FAR 52.204-13 - Central Contractor Registration Maintenance (DEC 2012)

TIME OF DELIVERY – F.O.B. POINT

(a) Time of Delivery

With respect to each delivery order issued under this contract, the contractor shall make delivery within the number of days specified on page 16 of this contract for the applicable line item after the date of order, unless the contractor agrees to a different delivery requirement for a particular delivery order.

(b) F.O.B. Point

- With respect to all contract line items this contract is awarded on the basis of delivery F.O.B. Origin.
- With respect to all contract line items this contract is awarded on the basis of delivery F.O.B. Destination.

Contract SPE8EC-13-D-0018

PLACE OF PERFORMANCE GOVERNMENT INSPECTION ACCEPTANCE AND SHIPPING POINT

(a) Place of Performance:

 (1) Items will be manufactured at the following locations:ITEM NO.PLANT NAME AND ADDRESS

*See Section c(1) below for Plant Name and Address

 (2) Items will be furnished from stock. Manufacturer (not dealer) is as follows:

(b) Place of Packaging, Packing and Marking:

 (1) Same as shown in a(1) above. (2) As shown below:

(c) Place of Government Inspection:

 (1) Material inspection, except as may be indicated in c(2), will be made at the following locations:

ITEM NO.	Plant Name and Address	Government Inspection Office
Cranes, Derricks and Aerials	[REDACTED]	DCMA-Manassas (S2404A) 10500 Battleview Parkway Suite 200 Manassas, VA 20109-2312
Aerials and Derricks		DCMA Dayton (S36058) Area C, Building 30 1724 Van Patton Drive Wright-Patterson AFB, OH 45433-5302
Aerials and Derricks		DCMA Lathrop (S0507A) PO Box 232 700 East Roth Road BLDG. 330 (Lathrop, CA) French Camp, CA 95231-0232
Derricks and Aerials		DCMA Chicago (S1403A) 1523 West Central Road BLDG. 203 Arlington Heights, IL 60005-2451
Aerials		DCMA Dayton (S36058) Area C, Building 30 1724 Van Patton Drive Wright-Patterson AFB, OH 45433-5302

Contract SPE8EC-13-D-0018

(2) Packaging, Packing and Marking inspection (if other than c(1) above) will be made at the following location:

<u>ITEM NO.</u>	<u>PLANT NAME AND ADDRESS</u>	<u>GOVERNMENT INSPECTION OFFICE</u>
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(3) At destination

(d) Place of Acceptance:

(1) At the plant shown and by the Government Inspection Office shown in c(1) above.

(2) At the plant shown and by the Government Inspection Office shown in c(2) above.

(3) At destination by the receiving authority.

(e) APPLICABLE TO F.O.B. ORIGIN SHIPMENTS ON GOVERNMENT BILL OF LADING AWARDS ONLY. Shipment will be made from the contractor's or subcontractor plant(s) identified below. These shipping points were used in the evaluation of contractor's F.O.B. Origin offer. If the contractor ships from a place other than as identified herein, any increase in transportation costs shall be borne by the contractor and any savings shall revert to the Government.

___ (1) Same as shown in a(1) above.

___ (2) As shown below:

NOTE: Any change to the above Place of Performance must be approved in writing by the Contracting Officer.

Warranty

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JAN 2013)

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

(1) **52.222-50**, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

___ **Alternate I** (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) **52.233-3**, Protest after Award (AUG 1996) (31 U.S.C. 3553).

(3) **52.233-4**, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEP

2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

Contract SPE8EC-13-D-0018

- (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).
- (3) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
- (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (JUL 2010) (Pub. L. 111-5).
- (6) 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010) (31 U.S.C. 6101 note).
- (7) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).
- (8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Public Law 111-117, section 743 of Division D of Public Law 111-8, and section 745 of Division D of Public Law 110-161).
- (9) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).
- (10) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (11) [Reserved]
- (12) **52.219-6**, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).
 - (ii) **Alternate I** (NOV 2011) of 52.219-6.
 - (iii) **Alternate II** (NOV 2011) of 52.219-6
- (13)(i) **52.219-7**, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
 - (ii) **Alternate I** (OCT 1995) of 52.219-7
 - (iii) **Alternate II** (MAR 2004) of 52.219-7
- (14) **52.219-8**, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637 (d)(2) and (3)).
- (15)(i) **52.219-9**, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637 (d)(4)).
 - (ii) **Alternate I** (OCT 2001) of 52.219-9
 - (iii) **Alternate II** (OCT 2001) of 52.219-9
 - (iv) **Alternate III** (JUL 2010) of 52.219-9
- (16) **52.219-13**, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- (17) **52.219-14**, Limitations on Subcontracting (NOV 2011) (15 U.S.C.

Contract SPE8EC-13-D-0018

- 637(a)(14)).
- (18) **52.219-16**, Liquidated Damages—Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (19)(i) **52.219-23**, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (ii) **Alternate I** (JUN 2003) of 52.219-23.
- (20) **52.219-25**, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (21) **52.219-26**, Small Disadvantaged Business Participation Program—Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (22) **52.219-27**, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- (23) **52.219-28**, Post Award Small Business Program Representation (APR 2012) (15 U.S.C. 632(a)(2)).
- (24) **52.219-29**, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012)(15 U.S.C. 637(m)).
- (25) **52.219-30**, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012) (15 U.S.C. 637(m)).
- (26) **52.222-3**, Convict Labor (JUN 2003) (E.O. 11755).
- (27) **52.222-19**, Child Labor—Cooperation with Authorities and Remedies (JUL 2010) (E.O. 13126).
- (28) **52.222-21**, Prohibition of Segregated Facilities (FEB 1999).
- (29) **52.222-26**, Equal Opportunity (MAR 2007) (E.O. 11246).
- (30) **52.222-35**, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- (31) **52.222-36**, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).
- (32) **52.222-37**, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- (33) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- (34) **52.222-54**, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- (35)(i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (ii) **Alternate I** (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- (36) **52.223-15**, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).
- (37)(i) **52.223-16**, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).
- (ii) **Alternate I** (DEC 2007) of 52.223-16.

Contract SPE8EC-13-D-0018

- (38) **52.223-18**, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).
- (39) **52.225-1**, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).
- (40)(i) **52.225-3**, Buy American Act --Free Trade Agreements -- Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42 and 112-43).
- (ii) **Alternate I** (MAR 2012) of 52.225-3.
- (iii) **Alternate II** (MAR 2012) of 52.225-3.
- (iv) **Alternate III** (NOV 2012) of 52.225-3.
- (41) **52.225-5**, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- (42) **52.225-13**, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- (43) **52.226-4**, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).
- (44) **52.226-5**, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).
- (45) **52.232-29**, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (46) **52.232-30**, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 225(f), 10 U.S.C. 2307(f)).
- (47) **52.232-33**, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- (48) **52.232-34**, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- (49) **52.232-36**, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).
- (50) **52.239-1**, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a)
- (51)(i) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).
- (ii) **Alternate I** (Apr 2003) of 52.247-64.

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

- (1) **52.222-41**, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
- (2) **52.222-42**, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (3) **52.222-43**, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (SEP 2009) 29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (4) **52.222-44**, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (5) **52.222-51**, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or repair of Certain Equipment—

Contract SPE8EC-13-D-0018

- Requirements (NOV 2007) (41 U.S.C. 351, *et seq.*).
- ___ (6) **52.222-53**, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (FEB 2009) (41 U.S.C. 351, *et seq.*).
- ___ (7) **52.222-17**, Nondisplacement of Qualified Workers (JAN 2013) (E.O. 13495).
- ___ (8) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247).
- ___ (9) **52.237-11**, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record.

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

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

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

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

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) **52.219-8**, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) **52.222-17**, Nondisplacement of Qualified Workers (JAN 2013)(E.O. 13495). Flow down required in accordance with paragraph (1) of FAR clause 52.222-17.

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

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

(vi) **52.222-36**, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C.

Contract SPE8EC-13-D-0018

(vii) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O.13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) **52.222-41**, Service Contract Act of 1965 (NOV 2007), (41 U.S.C. 351, et seq.).

(ix) **52.222-50**, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

— **Alternate I** (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) **52.222-51**, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (NOV 2007) (41 U.S.C. 351, et seq.)

(xi) **52.222-53**, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (FEB 2009) (41 U.S.C. 351, et seq.)

(xii) **52.222-54**, Employment Eligibility Verification (JUL 2012)

(xiii) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

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

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

252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT
STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE
ACQUISITIONS OF COMMERCIAL ITEMS (MARCH 2013)

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

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

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

(1) **252.203-7000**, Requirements Relating to Compensation of Former DoD Officials (SEP 2011) (Section 847 of Pub. L. 110-181).

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

(3) **252.205-7000**, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

(4) **252.219-7003**, Small Business Subcontracting Plan (DoD Contracts) (JUN 2012) (15 U.S.C. 637).

(5) **252.219-7004**, Small Business Subcontracting Plan (Test Program) (JAN 2011) (15 U.S.C. 637 note).

(6)(i) **252.225-7001**, Buy American and Balance of Payments Program (DEC 2012) (41 U.S.C. chapter 83, E.O. 10582).

- (ii) ___ Alternate I (OCT 2011) of 252.225-7001
- (7) ___ **252.225-7008**, Restriction on Acquisition of Specialty Metals (MARCH 2013) (10 U.S.C. 2533b).
- (8) ___ **252.225-7009**, Restriction on Acquisition of Certain Articles Containing Specialty Metals (MARCH 2013)(10 U.S.C. 2533b).
- (9) ___ **252.225-7012**, Preference for Certain Domestic Commodities (FEB 2013) (10 U.S.C. 2533a).
- (10) ___ **252.225-7015**, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
- (11) ___ **252.225-7016**, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).
- (12) ___ **252.225-7017**, Photovoltaic Devices (DEC 2012) (Section 846 of Pub. L. 111-383).
- (13)(i) **252.225-7021**, Trade Agreements (DEC 2012) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- (ii) ___ **Alternate I** (OCT 2011) of 252.225-7021
- (iii) ___ **Alternate II** (OCT 2011) of 252.225-7021
- (14) ___ **252.225-7027**, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C.2779).
- (15) **252.225-7028**, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- (16)(i) ___ **252.225-7036**, Buy American --Free Trade Agreements--Balance of Payment Program (DEC 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).
- (ii) ___ **Alternate I** (JUN 2012) of 252.225-7036
- (iii) ___ **Alternate II** (NOV 2012) of 252.225-7036
- (iv) ___ **Alternate III** (JUN 2012) of 252.225-7036
- (v) ___ **Alternate IV** (NOV 2012) of 252.225-7036
- (vi) ___ **Alternate V** (NOV 2012) of 252.225-7036
- (17) ___ **252.225-7038**, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (18) ___ **252.225-7039**, Contractors Performing Private Security Functions (JUN 2012) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).
- (19) **252.226-7001**, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- (20) ___ **252.227-7013**, Right in Technical Data – Noncommercial Items (FEB 2012) if applicable, (see 227.7103-6(a)).
- (21) **252.227-7015**, Technical Data -- Commercial Items (DEC 2011) (10 U.S.C. 2320).
- (22) ___ **252.227-7037**, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.7102-4(c)).
- (23) **252.232-7003**, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012) (10 U.S.C. 2227).
- (24) ___ **252.237-7010**, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Public Law 111-84).
- (25) ___ **252.237-7019**, Training for Contractor Personnel Interacting with Detainees (SEP

- 2006) (Section 1092 of Public Law 108-375).
- (26) **252.243-7002**, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- (27) **252.246-7004**, Safety of Facilities, Infrastructure, and Equipment for Military Operations (OCT 2010) (Section 807 of Public Law 111-84).
- (28) **252.247-7003**, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417).
- (29)(i) **252.247-7023** Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (ii) **Alternate I** (MAR 2000) of 252.247-7023.
- (iii) **Alternate II** (MAR 2000) of 252.247-7023
- (iv) **Alternate III** (MAY 2002) of 252.247-7023
- (30) **252.247-7024**, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- (31) **252.247-7027**, Riding Gang Member Requirements (OCT 2011) (Section 3504 of Pub. L. 110-417).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- (1) **252.225-7039**, Contractors Performing Private Security Functions (JUN 2012) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).
- (2) **252.227-7013**, Rights in Technical Data – Noncommercial Items (FEB 2012), if applicable (see 227-7103-6(a)).
- (3) **252.227-7015**, Technical Data – Commercial Items (DEC 2011), if applicable (see 227.7102-4(a)).
- (4) **252.227-7037**, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.7102-4(c)).
- (5) **252.237-7010**, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Public Law 111-84).
- (6) **252.237-7019**, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
- (7) **252.247-7003**, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417)..
- (8) **252.247-7023**, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (9) **252.247-7024**, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

