

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

2. CONTRACT NO. SPM30012-DS142/DR142		3. AWARD/EFFECTIVE DATE 10/3/12	4. ORDER NUMBER	5. REQUISITION NUMBER	PAGE 1 OF 21
7. FOR SOLICITATION INFORMATION CALL:		a. NAME HERMILA DURAN		b. TELEPHONE NUMBER (No collect calls) 215.737.4780	6. SOLICITATION NUMBER SPM30011R0020
9. ISSUED BY DLA TROOP SUPPORT DIRECTORATE OF SUBSISTENCE, FTPD 700 ROBBINS AVENUE, BLDG 6B PHILADELPHIA, PA 19111-5092		CODE	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: 111998 SIZE STANDARD: 500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DFAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input type="checkbox"/> RFP <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP
16. DELIVER TO		CODE	18. ADMINISTERED BY SAME AS BLOCK 9		CODE
17a. CONTRACTOR OFFEROR BUDDY'S PRODUCE, INC. 8716 E. 15TH ST. MIDWEST CITY, OK 73110		CODE OZEK2	FACILITY CODE	18a. PAYMENT WILL BE MADE BY DFAS COLUMBUS CENTER DFAS BVDP P.O. BOX 369031 COLUMBUS, OH 4323-9031	
TELEPHONE NO.		17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM	

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	FULL LINE OF FRUIT AND VEGETABLES TO SUPPORT NON-DoD CUSTOMERS IN OKLAHOMA AND THE TEXAS PANHANDLE  ONE (2 YEAR) BASE PERIOD ONE (2 YEAR) OPTION PERIOD  <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>				

25. ACCOUNTING AND APPROPRIATION DATA

28. TOTAL AWARD AMOUNT (For Govt. Use Only)  
**NOT TO EXCEED \$31,566,504.21**

<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA	<input checked="" type="checkbox"/> ARE	<input type="checkbox"/> ARE NOT ATTACHED
<input checked="" type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA	<input checked="" type="checkbox"/> ARE	<input type="checkbox"/> ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

29. AWARD OF CONTRACT: REF. BUDDY'S OFFER DATED 01/07/2011, YOUR OFFER ON SOLICITATION (BLOCK 6), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR 	31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) 
30b. NAME AND TITLE OF SIGNER (Type or print) LIZ PATTERSON OFFICE MANAGER	31b. NAME OF CONTRACTING OFFICER (Type or print) WARREN BROWN

30c. DATE SIGNED 10-3-12	31c. DATE SIGNED 10/04/2012
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**SOLICITATION/CONTRACT FORM**

The terms, conditions and amendments set forth and issued in solicitation SPM300-11-R-0020 are incorporated into subject contract.

- Amendment 0001
- Amendment 0002
- Amendment 0003
- Amendment 0004
- Amendment 0005
- Amendment 0006
- Amendment 0007
- Amendment 0008
- Amendment 0009

**PERFORMANCE PERIOD:**

**A. Effective Period of the Contract:**

Base Period – September 30, 2012 – September 30, 2014.  
Option Period – October 1, 2014 – October 1, 2016.

**B. Deliveries to commence as follows:**

Schools & Reservations: October 15, 2012

**ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM**

A. The following chart includes the 2 year estimated dollar value and the 4 year estimated dollar value, along with the guaranteed 10% minimum and 200% maximum. The guaranteed minimum and maximum, although based on estimates, are a firm dollar amount calculated as a percentage of the estimated dollar value; the minimum contract dollar value below constitutes the Government’s legal ordering obligation under the contract. The maximum contract dollar value is the legal limit of dollars that can be obligated against this contract.

Oklahoma and Texas Panhandle Area	2- Year Estimate (Base Year)	4 Year Estimate (Total incl. Option)	10% MIN (Base Year)	200% MAX (4 Years)
<i>Group II Non-DOD - Schools</i>	\$ 4,445,491.48	\$ 8,890,982.96	\$ 444,549.15	\$ 17,781,965.92
<i>Group II Non-DOD-Reservations</i>	\$ 3,446,134.58	\$ 6,892,269.16	\$ 344,613.46	\$ 13,784,538.32
<b>Totals</b>	<b>\$ 7,891,626.06</b>	<b>\$ 15,783,252.12</b>	<b>\$ 789,162.61</b>	<b>\$ 31,566,504.24</b>

The term “2 Year Estimate” refers to the Government’s good faith estimate of the requirement for the base period.

**I. START-UP PERIOD**

The Contractor’s start-up period will take place prior to the first order. The Contractor shall submit a proposed implementation schedule to the Contracting Officer within fifteen (15) days

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after award highlighting the steps that will be taken to implement a fully functional distribution account, including all EDI transactions for all customers covered by this solicitation. An additional thirty (30) days will be granted for actual implementation. No more than forty-five (45) days after award will be permitted for each contractor to have fully functional distribution accounts in place for all customers.

### II. ORDERING CATALOGS

The following represents Buddy's Produce's offer:

- Offered delivered price to be utilized for first week of ordering:

Government	Government	Unit of	Delivered Pricing	Base Term Distribution	Unit
Stock Number	Item Description	Issue	Including Freight	(DIP) Price	Price
891501E050043	ALFALFA SPROUTS 1#BG	CS	\$ 2.67	\$ 0.75	\$ 3.42
891501E050499	APPLE FUJI	CS	\$ 10.90	\$ 0.75	\$ 11.65
891501E050215	APPLE G/D 125 SZ XFY	CS	\$ 10.90	\$ 0.75	\$ 11.65
891501E050099	APPLE GALA125-138 XFCY	CS	\$ 14.90	\$ 0.75	\$ 15.65
891501E050068	APPLE GRANNY 100-113	CS	\$ 8.90	\$ 0.75	\$ 9.65
891501E050097	APPLE GRNY138 XF	CS	\$ 16.75	\$ 0.75	\$ 17.50
891501E050095	APPLE R/D 125-138 XFY	CS	\$ 13.75	\$ 0.75	\$ 14.50
891501E050132	APPLE RED 88 FXY	CS	\$ 15.90	\$ 0.75	\$ 16.65
891501E050541	APPLE SLICES, 2 OZ BAGS	CS	\$ 19.20	\$ 0.75	\$ 19.95
891501E050037	AVOCADOS, 48 CT	CS	\$ 25.50	\$ 0.75	\$ 26.25
891501E050460	BANANA YELLOW 10# BX	CS	\$ 4.06	\$ 0.75	\$ 4.81
891501E050136	BANANAS YELLOW	CS	\$ 16.25	\$ 0.75	\$ 17.00
891501E050137	BANANAS, PETITE	CS	\$ 16.25	\$ 0.75	\$ 17.00
891501E050232	BEANS, GREEN CUT UP	CS	\$ 20.95	\$ 0.75	\$ 21.70
891501E050147	BLUEBERRIES	CS	\$ 7.00	\$ 0.75	\$ 7.75
891501E050325	BROCCOLI FLORETS 3#	CS	\$ 3.46	\$ 0.75	\$ 4.21
891501E050276	BROCCOLI, BUNCH 5#	CS	\$ 3.00	\$ 0.75	\$ 3.75
891501E050017	BROCCOLI, CRN 40-46	CS	\$ 7.50	\$ 0.75	\$ 8.25
891501E050203	BROCCOLI FLORETTES 6/3 LB	CS	\$ 20.76	\$ 0.75	\$ 21.51
891501E050091	CABBAGE RED SHRED	CS	\$ 14.95	\$ 0.75	\$ 15.70
891501E050262	CABBAGE, GREEN 5#	CS	\$ 1.50	\$ 0.75	\$ 2.25
891501E050002	CANTALoupES 12 CT	CS	\$ 5.00	\$ 0.75	\$ 5.75
891501E050572	CARROT 200/1.6 OZ BAGS	CS	\$ 6.40	\$ 0.75	\$ 7.15
891501E050020	CARROT STICKS 150 CT	CS	\$ 7.78	\$ 0.75	\$ 8.53
891501E050166	CARROTS 24/1# BABY	CS	\$ 14.40	\$ 0.75	\$ 15.15
891501E050278	CARROTS 5#	CS	\$ 1.30	\$ 0.75	\$ 2.05
891501E050090	CARROTS SHRED 5#	CS	\$ 3.13	\$ 0.75	\$ 3.88
891501E050376	CARROTS, BABY 4/5LB	CS	\$ 12.00	\$ 0.75	\$ 12.75
891501E050019	CARROTS, TABLE 40-50	CS	\$ 6.50	\$ 0.75	\$ 7.25
891501E050303	CAULIFLOWER FLOR 3#	CS	\$ 5.75	\$ 0.75	\$ 6.50
891501E050047	CAULIFLOWER,12 CT WR	CS	\$ 6.50	\$ 0.75	\$ 7.25

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891501E050023	CELERY STKS 100-150	CS	\$ 24.36	\$ 0.75	\$ 25.11
891501E050022	CELERY, 24 CT #1	CS	\$ 7.50	\$ 0.75	\$ 8.25
891501E050177	CELERY, DICED 5#	CS	\$ 6.09	\$ 0.75	\$ 6.84
891501E050315	CILANTRO, 6 BUNCHES	CS	\$ 0.84	\$ 0.75	\$ 1.59
891501E050140	COLE SLAW MIX, 4/5#	CS	\$ 8.85	\$ 0.75	\$ 9.60
891501E050220	CORN, YEL OR WHITE	CS	\$ 12.95	\$ 0.75	\$ 13.70
891501E050685	CREOLE VEGETABLE MIX 4/5#	CS	\$ 17.90	\$ 0.75	\$ 18.65
891501E050246	CUCUMBERS 5# SUPERSL	CS	\$ 0.91	\$ 0.75	\$ 1.66
891501E050076	EGGPLANT	CS	\$ 7.93	\$ 0.75	\$ 8.68
891501E050244	FRUIT MIXED 8/5#	CS	\$ 22.90	\$ 0.75	\$ 23.65
891501E050168	GARLIC WHOLE PEELED	CS	\$ 9.25	\$ 0.75	\$ 10.00
891501E050782	GRAPEFRUIT 8/5#	CS	\$ 14.00	\$ 0.75	\$ 14.75
891501E050317	GRAPES WHITE 5# SDLS	CS	\$ 5.70	\$ 0.75	\$ 6.45
891501E050123	GRAPES, RED SEEDLESS	CS	\$ 14.50	\$ 0.75	\$ 15.25
891501E050051	GREEN, COLLARD 12BCH	CS	\$ 5.48	\$ 0.75	\$ 6.23
891501E050004	HONEYDEWS 6-8 #1	CS	\$ 6.50	\$ 0.75	\$ 7.25
891501E050077	ICEBER/ROMIN MIX 5#	CS	\$ 2.73	\$ 0.75	\$ 3.48
891501E050005	KIWI 90-126 CT	CS	\$ 14.50	\$ 0.75	\$ 15.25
891501E050318	LEMONS 5# FANCY	CS	\$ 2.25	\$ 0.75	\$ 3.00
891501E050224	LETTUCE CHOP 4/5#	CS	\$ 9.30	\$ 0.75	\$ 10.05
891501E050053	LETTUCE CLEANED & CORED	CS	\$ 14.00	\$ 0.75	\$ 14.75
891501E050026	LETTUCE ICEBERG 24CT	CS	\$ 14.00	\$ 0.75	\$ 14.75
891501E050239	LETTUCE MIX 3-PART	CS	\$ 2.25	\$ 0.75	\$ 3.00
891501E050144	LETTUCE, GREEN LEAF	CS	\$ 2.70	\$ 0.75	\$ 3.45
891501E050320	LIMES 5# 200 SIZE	CS	\$ 0.97	\$ 0.75	\$ 1.72
891501E050421	MUSHROOMS SLICED 1#	CS	\$ 1.35	\$ 0.75	\$ 2.10
891501E050008	NECTARINES 50 SERIES	CS	\$ 12.00	\$ 0.75	\$ 12.75
891501E050106	ONION RED 5# JUMBO	CS	\$ 2.32	\$ 0.75	\$ 3.07
891501E050029	ONIONS DICED 5#	CS	\$ 5.77	\$ 0.75	\$ 6.52
891501E050784	ONION YEL 16/3#	CS	\$ 13.63	\$ 0.75	\$ 14.38
891501E050309	ONIONS YELLOW 10#	CS	\$ 1.75	\$ 0.75	\$ 2.50
891501E050184	ORANGES 113 CT FANCY	CS	\$ 11.65	\$ 0.75	\$ 12.40
891501E050086	PAPAYAS HAWAIIAN	CS	\$ 28.00	\$ 0.75	\$ 28.75
891501E050212	PEACHES FRESH 50-60 SERIES	CS	\$ 12.00	\$ 0.75	\$ 12.75
891501E050012	PEARS GREEN 110-135	CS	\$ 13.90	\$ 0.75	\$ 14.65
891501E050326	PEAS SNOW PODS	CS	\$ 6.00	\$ 0.75	\$ 6.75
892501E050160	PECANS MED PIECES	CS	\$ 87.00	\$ 0.75	\$ 87.75
891501E050199	PEPPER RED 5#	CS	\$ 7.15	\$ 0.75	\$ 7.90
891501E050102	PEPPERS JALAPENO 5#	CS	\$ 2.25	\$ 0.75	\$ 3.00
891501E050732	PEPPERS, DICED 4/5LB	CS	\$ 26.60	\$ 0.75	\$ 27.35
891501E050059	PEPPER GREEN SWEET 2 1/2 INCH MIN	CS	\$ 8.95	\$ 0.75	\$ 9.70

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891501E050030	PEPPERS, GREEN 5#	CS	\$ 2.05	\$ 0.75	\$ 2.80
891501E050185	PINEAPPLE 8-10 CT HW	CS	\$ 10.75	\$ 0.75	\$ 11.50
891501E050128	PINEAPPLE CUT UP	CS	\$ 15.00	\$ 0.75	\$ 15.75
891501E051788	PLUMS 50 SERIES	CS	\$ 14.50	\$ 0.75	\$ 15.25
891501E050323	POTATO 5#RUSSET MESH	CS	\$ 9.25	\$ 0.75	\$ 10.00
891501E050033	POTATO 100 SZ US#1	CS	\$ 12.00	\$ 0.75	\$ 12.75
891501E050321	POTATO 80 CT	CS	\$ 13.00	\$ 0.75	\$ 13.75
891501E050060	POTATO DICED 5#	CS	\$ 4.67	\$ 0.75	\$ 5.42
891501E050072	POTATO RED B US#1	CS	\$ 2.70	\$ 0.75	\$ 3.45
891501E050433	POTATO SWEET 5# STICKS	CS	\$ 4.74	\$ 0.75	\$ 5.49
891501E050032	POTATO SWEET US#1	CS	\$ 18.00	\$ 0.75	\$ 18.75
891501E050469	RADISH FRESH 5#	CS	\$ 2.91	\$ 0.75	\$ 3.66
891501E050145	RASPBERRIES	CS	\$ 2.40	\$ 0.75	\$ 3.15
891501E050054	ROMAINE 24CT	CS	\$ 12.50	\$ 0.75	\$ 13.25
891501E050736	ROMAINE MIX, 4/5#	CS	\$ 10.90	\$ 0.75	\$ 11.65
891501E050445	ROMAINE, CHOP 6/2#	CS	\$ 11.85	\$ 0.75	\$ 12.60
891501E050409	SALAD CEASAR 10#	CS	\$ 9.90	\$ 0.75	\$ 10.65
891501E050139	SALAD MIX, 4/5#	CS	\$ 9.30	\$ 0.75	\$ 10.05
893501E050551	SOUP MIX 18/24 OZ OKLA	CS	\$ 30.95	\$ 0.75	\$ 31.70
891501E050063	SPINACH 2.5# BG	CS	\$ 2.86	\$ 0.75	\$ 3.61
891501E050675	SPRING MIX	CS	\$ 4.75	\$ 0.75	\$ 5.50
891501E050065	SQUASH YELLOW FANCY	CS	\$ 2.98	\$ 0.75	\$ 3.73
891501E050174	SQUASH, ZUCCHINI FCY	CS	\$ 3.18	\$ 0.75	\$ 3.93
891501E050074	STARFRUIT	CS	\$ 28.00	\$ 0.75	\$ 28.75
891501E050014	STRAWBERRIES	CS	\$ 10.00	\$ 0.75	\$ 10.75
891501E050016	TANGERINES FANCY	CS	\$ 15.85	\$ 0.75	\$ 16.60
891501E050688	TOMATO 15/4COUNT 1#/PKG	CS	\$ 8.15	\$ 0.75	\$ 8.90
891501E050479	TOMATO LARGE BULK	CS	\$ 10.25	\$ 0.75	\$ 11.00
891501E050034	TOMATO PLACE PACKED	CS	\$ 9.95	\$ 0.75	\$ 10.70
891501E050138	TOMATO ROMA	CS	\$ 11.95	\$ 0.75	\$ 12.70
891501E050067	TOMATO,CHRY 200-250	CS	\$ 10.50	\$ 0.75	\$ 11.25
891501E050646	TURNIP 12/2# BAGGED	CS	\$ 13.35	\$ 0.75	\$ 14.10
892501E050163	WALNUTS MED PIECES	CS	\$ 43.20	\$ 0.75	\$ 43.95
891501E050035	WATERMELON EACH	CS	\$ 4.90	\$ 0.75	\$ 5.65

- Distribution prices are fixed for each Base Period and for each Option Period as follows:

Distribution Price	Group 2(Non DoD-Schools and Reservations)
Base Period	
Option 1	

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### **SUPPLIES OF SERVICES AND PRICES**

**ITEMS:** Full-Line Fresh Fruit and Vegetables

**CUSTOMERS:** Non-DoD (USDA School and Tribal Reservation) customers in Oklahoma and the Texas Panhandle as listed in the customer list attached to solicitation SPM30011R0020.

**FOB TERMS:** FOB Destination for all items.

#### **CATALOG #:**

Non-DoD USDA School customers will order under SPM300-12-D-S142;  
Non-DoD Tribal Reservation customers will order under SPM300-12-D-R142.  
Buddy's Produce will invoice in accordance with the customer's orders.

*To accommodate for the new fiscal year, the 7<sup>th</sup> and 8<sup>th</sup> position of the School and Reservation catalog numbers will change as noted below. The Troop catalog number will not change.*

#### **As of 10/01/2012:**

SPM300-12-D-S142 will change to SPM300-13-D-S142;  
SPM300-12-D-R142 will change to SPM300-13-D-R142.  
All orders placed on or before September 30, 2012 are to be invoiced under SPM300-12-D-S142 and SPM300-12-D-R142 regardless of delivery date.

#### **As of 10/01/2013:**

SPM300-13-D-S142 will change to SPM300-14-D-S142;  
SPM300-13-D-R142 will change to SPM300-14-D-R142.  
All orders placed on or before September 30, 2013 are to be invoiced under SPM300-13-D-S142 and SPM300-13-D-R142 regardless of delivery date.

#### **As of 10/01/2014:**

SPM300-14-D-S142 will change to SPM300-15-D-S142;  
SPM300-14-D-R142 will change to SPM300-15-D-R142.

All orders placed on or before September 30, 2014 are to be invoiced under SPM300-14-D-S142 and SPM300-14-D-R142 regardless of delivery date.

#### **As of 10/01/2015:**

SPM300-15-D-S142 will change to SPM300-16-D-S142;  
SPM300-15-D-R142 will change to SPM300-16-D-R142.  
All orders placed on or before September 30, 2015 are to be invoiced under SPM300-15-D-S142 and SPM300-15-D-R142 regardless of delivery date.

#### **CATALOG PRICING:**

All catalog pricing is valid from Sunday through Saturday. Catalog updates must be received no later than 12:00 P.M. EST the preceding Wednesday.

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The USDA School Customers are required to place orders no later than 72 hours before delivery date.

All pricing will be firm at time of order.

Buddy's Produce will not invoke any additional charges for emergency orders (defined as an order that is placed for same day delivery).

### **DELIVERIES AND PERFORMANCE**

The following is the designated plant location for the performance of this contract for all contract line items:

Buddy's Produce  
8716 E. 15<sup>th</sup> Street  
Midwest City, Oklahoma 73110

### **PACKAGING AND MARKING**

All packaging and packing shall be in accordance with good commercial practice. Labeling shall be in accordance with commercial labeling complying with Federal Food, Drug and Cosmetic Act and regulations promulgated there under. Shipping containers shall be in compliance with the national Motor Freight Classification and Uniform Freight classification.

### **INSPECTION AND ACCEPTANCE**

Inspection and acceptance of products will be performed at destination. Each ordering facility will be responsible for accepting and rejecting products as required. All food items must be inspected for count, condition and identity and approved by the ordering activities' authorized personnel receiving the delivery before final acceptance is made.

### **INVOICING**

All invoicing for USDA School customers is to be submitted electronically via the Fresh Fruit and Vegetable Order Receipt System (FFAVORS.)

**Invoice transactions may be submitted to DLA Troop Support daily; however it cannot be stressed enough that all internal debit/credit transactions must be completed prior to the submission of the invoice.** Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.

The same invoice cannot be submitted with different dollar amounts.

The following address must appear in the "bill to" or "payment will be made by" block of the contractor's invoice:

DFAS-BVDP  
P.O. Box 369031  
Columbus, OH 43236-9031  
Code: SL4701

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Each invoice shall contain sufficient data for billing purposes. This includes, but is not limited to:

1. Contract number, call or delivery order number, and purchase order number;
2. Customer DoDAAC;
3. Contract line listed in numeric sequence (also referred to as clin order);
4. Item nomenclature;
5. LSN or NSN;
6. Quantity purchased per item in DLA's unit of issue;
7. Clearly identified and annotated changes on all copies (clean invoices must be submitted);  
and
8. Total dollar value on each invoice [reflecting changes to the shipment, if applicable].

### The following Clauses and Provisions are included in this contract:

**Remove Far Clause 52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items. (Feb 2012)**

**Replace with Far Clause 52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (April 2012)**

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

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

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

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

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

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

[Contracting Officer check as appropriate.]

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

\_X\_ (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).

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(4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Feb 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' 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 (Jan 2012) (41 U.S.C. 2313).

(8) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (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) (i) 52.219-6, Notice of Total Small Business Aside (Nov 2011) (15 U.S.C. 644).

(ii) Alternate I (Nov 2011).

(iii) Alternate II (Nov 2011).

(13) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

(ii) Alternate I (Oct 1995) of 52.219-7.

(iii) Alternate II (Mar 2004) of 52.219-7.

(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 (July 2010) of 52.219-9.

(16) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).

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\_\_\_ (17) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 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 (June 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).

\_X\_ (23) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (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)).

\_X\_ (26) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

\_X\_ (27) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Mar 2012) (E.O. 13126).

\_X\_ (28) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

\_X\_ (29) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

\_X\_ (30) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

\_X\_ (31) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

\_X\_ (32) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

\_X\_ (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 (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

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\_\_\_ (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)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_ (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.

\_\_\_ (38) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011).

\_\_\_ (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 (Mar 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138 and Pub. L. 112-41).

\_\_\_ (ii) Alternate I (Mar 2012) of 52.225-3.

\_\_\_ (iii) Alternate II (Mar 2012) of 52.225-3.

\_\_\_ (iv) Alternate III (Mar 2012) of 52.225-3.

\_\_\_ (41) 52.225-5, Trade Agreements (Mar 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. 255(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).

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\_\_\_ (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:

[Contracting Officer check as appropriate.]

\_\_\_ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

\_\_\_ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C.206 and 41 U.S.C. 351, et seq.).

\_\_\_ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

\_\_\_ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

\_\_\_ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, et seq.).

\_\_\_ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247).

\_\_\_ (8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

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

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

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

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

(e)

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

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

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

(iii) [Reserved]

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

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

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

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

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

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

\_\_\_ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

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

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

(xii) 52.222-54, Employment Eligibility Verification (Jan 2009).

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

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

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

(End of Clause)

Alternate I (Feb 2000). As prescribed in 12.301(b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

Alternate II (Dec 2010). As prescribed in 12.301(b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)

(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than—

(i) Paragraph (d) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

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(ii) Those clauses listed in this paragraph (e)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(A) 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)).

(B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).

(C) 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.

(D) 52.222–26, Equal Opportunity (Mar 2007) (E.O. 11246).

(E) 52.222–35, Equal Opportunity for Veterans (Sept 2010) (38 U.S.C. 4212).

(F) 52.222–36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(G) 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.

(H) 52.222–41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(I) 52.222–50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

(J) 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.).

(K) 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.).

(L) 52.222–54, Employment Eligibility Verification (Jan 2009).

(M) 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.

(N) 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.

[Class Deviation- 2009-O0005, Commercial Item Omnibus Clauses for Acquisitions Using the Standard Procurement System. This clause deviation is effective on May 1, 2009, and remains in effect until April 30, 2014, or until otherwise rescinded.

### **FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (Mar 2012) (DEVIATION)**

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(a) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (a) 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.

(b)

(1) Notwithstanding the requirements of any other clause in this contract, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (b)(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)).

(iii) 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

(iv) [Reserved]

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

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

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

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

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

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

\_\_\_ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

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

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

(xii) 52.222-54, Employment Eligibility Verification (Jan 2009).

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

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

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

(End of Clause)

Alternate I (Feb 2000) (Deviation). As prescribed in 12.301(b)(4), delete paragraph (a) from the basic clause, redesignate paragraph (b)(1) as paragraph (a), and redesignate paragraphs (b)(1)(i) through (b)(1)(xiv) as paragraphs (a)(1) through (a)(14) and redesignate paragraph (b)(2) as paragraph (b).

Alternate II (Dec 2010) (Deviation). As prescribed in 12.301(b)(4)(ii), substitute the following paragraphs (a)(1) and (b)(1) for paragraphs (a)(1) and (b)(1) of the basic clause as follows:

(a)

(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

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(ii) Interview any officer or employee regarding such transactions.

(b)

(1) Notwithstanding the requirement of any other clause in this contract, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than—

(i) Paragraph (a) of this clause. This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (a)(1)(ii) does not flow down; and

(ii) Those clauses listed in this paragraph (b)(1). Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(A) 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)).

(B) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).

(C) 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.

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

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

(F) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(G) 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.

(H) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(I) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

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

(K) 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.).

(L) 52.222-54, Employment Eligibility Verification (Jan 2009).

(M) 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.

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(N) 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.

**Remove DFARS Clause 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items. (Oct 2011) from page 37 of the solicitation and replace with the following:**

**Replace with DFARS Clause 252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items. (Mar 2012)**

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES  
OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (MAR 2012)

(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 (SEP 2010)(section 6101 of Pub. L. 110-252, 41 U.S.C. 3509).

(3)  252.205-7000, Provision of Information to Cooperative Agreement

Holder (DEC 1991) (10 U.S.C. 2416).

(4)  252.219-7003, Small Business Subcontracting Plan (DoD Contracts)

(SEP 2011) (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 Act and Balance of Payments Program

(OCT 2011) (41 U.S.C. chapter 83, E.O. 10582).

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- (ii) \_\_\_ Alternate I (OCT 2011) of 252.225-7001.
- (7) \_\_\_ 252.225-7008,  
Restriction on Acquisition of Specialty Metals (JUL 2009)(10 U.S.C. 2533b).
- (8) \_\_\_ 252.225-7009,  
Restriction on Acquisition of Certain Articles Containing Specialty Metals (JAN 2011) (10 U.S.C. 2533b).
- (9)  252.225-7012,  
Preference for Certain Domestic Commodities (JUN 2010) (10 U.S.C. 2533a).
- (10) \_\_\_ 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools  
(JUN 2005) (10 U.S.C. 2533a).
- (11) \_\_\_ 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011) (Section 8065  
of Pub. L. 107-117 and the same restriction in subsequent DoD appropriations acts).
- (12) \_\_\_ 252.225-7017, Photovoltaic Devices (MAR 2012) (Section 846 of Pub.  
L. 111-383).
- (13)(i) \_\_\_ 252.225-7021, Trade Agreements (JAN 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 Act—Free Trade Agreements—  
Balance of Payments Program (OCT 2011) (41 U.S.C. chapter 83 and 19 U.S.C. 3301  
note).
- (ii) \_\_\_ Alternate I (OCT 2011) of 252.225-7036.
- (iii) \_\_\_ Alternate II (OCT 2011) of 252.225-7036.

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(iv) \_\_\_ Alternate III (OCT 2011) 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

(AUG 2011) (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 Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).

(20) \_\_\_ 252.227-7013, Rights 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

(SEP 2011), if applicable (see 227.7102-4(c)).

(23) \_\_\_ 252.232-7003, Electronic Submission of Payment Requests and

Receiving Reports (MAR 2008) (10 U.S.C. 2227).

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

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

(25) \_\_\_ 252.237-7019, Training for Contractor Personnel Interacting with

Detainees (SEP 2006) (Section 1092 of Pub. L. 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

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For Military Operations (OCT 2010) (Section 807 of Pub. L. 111-84).

(28) \_\_\_\_ 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge

Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 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 (AUG 2011) (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 (SEP 2011), if applicable (see 227.7102-4(c)).

(5) 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Pub. L. 111-84).

(6) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Pub. L. 108-375).

(7) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment

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to the Cost Bearer (SEP 2010) (Section 884 of Pub. L. 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).