AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE	PAGE	OF	PAGES
	1		60

2. AMENDMENT/MODIFICATION NO.	3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. *(If applicable)*
0012			

6. ISSUED BY CODE SPM300

DLA TROOP SUPPORT
DIRECTORATE OF SUBSISTENCE
700 ROBBINS AVE
PHILADELPHIA PA 19111-5092
BUYER/PHONE: CYNTHIA CAHILL/215-737-2449

7. ADMINISTERED BY *(If other than Item 6)* CODE

SAME AS BLOCK 6

8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

CODE FACILITY CODE

(X) 9A. AMENDMENT OF SOLICITATION NO.
SPM300-13-R-0080

☒ 9B. DATED *(SEE ITEM 11)*
04/17/2013

☐ 10A. MODIFICATION OF CONTRACT/ORDER NO.

10B. DATED *(SEE ITEM 13)*

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☒ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☒ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning 1 copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment your desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA *(If required)*

13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	
☐	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
☐	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office, appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
☐	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
☐	D. OTHER *(Specify type of modification and authority)*

E. IMPORTANT: Contractor ☐ is not, ☐ is required to sign this document and return _____ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION *(Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*

SUBSISTENCE PRIME VENDOR SUPPORT FOR COLORADO AND WYOMING AREA:

The subject Solicitation SPM300-13-R-0080 is hereby Amended as follows : SEE PAGES 2 through 60.

Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER *(Type or print)*		16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)*	
		Warren Brown Contracting Officer	
15B. CONTRACTOR/OFFEROR *(Signature of person authorized to sign)*	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA *(Signature of Contracting Officer)*	16C. DATE SIGNED

I. Solicitation Page 104, Solicitation Provisions, Addendum to FAR 52.212-1 the following paragraph is added:

Add: Paragraph (m), *Reverse Auction Instructions*:

For solicitation SPM300-13-R-0080, offerors will submit Final Price Proposal Revisions through a reverse auction. The reverse auction establishes the final offered prices from each offeror.

DLAD Provision 52.215-9023(a) states "the reverse on-line auction will be used as a pricing technique during discussions to establish the final offered prices from each Offeror." For purposes of this acquisition, "final offered prices," as used in this provision, means the Total Evaluated Price and is the Weighted Aggregate Unit Price for the basic requirement and each option period. The award decision will be made in accordance with the evaluation factors as set forth in the solicitation:

Weighted Aggregate Distribution Price

The Aggregate Distribution Price is obtained by multiplying each distribution price of each of the items listed in the Market Basket by its estimated quantity, and totaling the results for all distribution prices of the items listed in the Market Basket for the base period and the option period. The Aggregate Distribution Price is then multiplied by a weighting factor of 11.5 to arrive at the Weighted Aggregate Distribution Price. Note: the weighting factor is applied only to the overall aggregate of the Distribution Price (not on a line item basis), and is to be used for evaluation purposes only.

Aggregate Delivered Price

The Aggregate Delivered Price is obtained by multiplying the Delivered Price of each of the items listed in the Market Basket by its estimated quantity, and totaling the results for all Delivered Prices of the items listed in the Market Basket for the base period and option period.

Weighted Aggregate Unit Price

Weighted Aggregate Unit Price is obtained by adding the Weighted Aggregate Distribution Price and the Aggregate Delivered Price for the base period and option period. This Weighted Aggregate Unit Price will be used to determine the lowest evaluated price to the Government.

For this acquisition, DLA Troop Support will use reverse auction to negotiate certain Distribution Price Categories. Prior to the auction, offerors shall submit Final Proposal Revisions for Non-Price, Delivered Prices and non-auctioned Distribution Price Categories. The Contracting Officer will notify offerors of the dates for these submissions

DLA Troop Support will negotiate non-auctioned Distribution Price Categories prior to the auction and ensure offerors submit fair and reasonable prices for these categories. These non-auctioned Distribution Price Categories do not have corresponding market basket items and, therefore, will not impact the Total Evaluated Price.

DLA Troop Support will conduct the reverse auction with two pieces of technology: 1) the on- line Procurex Reverse Auction tool; and 2) a DLA Troop Support-created Microsoft Excel workbook ("the Workbook").

The online tool will broadcast the Total Evaluated Price of the low offeror. The Workbook contains the formula which is the exclusive means of calculating each offeror's Total Evaluated Price. Specifically, offerors must only use the provided Workbook to calculate the Total Evaluated Price.

Prior to the reverse auction, each offeror will receive its unique Workbook. This Workbook will show the offeror's previously negotiated aggregate Delivered Price and any Distribution Prices which will not be auctioned. DLA Troop Support will lock those fields; offerors shall not change those fields. Also, the Workbook includes unlocked fields for the Distribution Prices which comprise the auction. Offerors shall not make any modifications to this Workbook other than lowering the Distribution Prices pursuant to the rules contained in this amendment or otherwise provided by DLA Troop Support.

For each of the auctioned Distribution Price Categories, offerors may lower the price for each contract period.

Offerors enter distribution prices on the tab called "Auction Sheet." This tab includes:

- Distribution Price Categories
- Market Basket Quantities for each Distribution Price Category
- Distribution Price Auction Fields (base and option)
- Aggregate Distribution Price per category (base and option)
- Aggregate Delivered Price
- Aggregate Distribution Price
- Weighted Aggregate Distribution Price
- Aggregate Offer (Aggregate Delivered Price plus Aggregate Distribution Price)
- Total Evaluated Price (Aggregate Delivered Price plus Weighted Aggregate Distribution Price)

In accordance with the solicitation provisions and to ensure an objective price evaluation, the pricing of all offerors will be based on the exact item in the market basket. Thus for an acceptable alternate offer, DLA Troop Support will adjust that offeror's respective item quantity. E.g. if the acceptable alternate offer would cause DLA Troop Support to purchase two cases instead of one, DLA Troop Support will add an additional case to the auctioned Distribution Price Category quantity. The Contracting Officer will notify offerors of any quantity adjustments during a negotiation round prior to reverse auction.

Quantity adjustment example: original Market Basket item, frozen vegetables, is a ten-pound case. DLA Troop Support accepts a five-pound case as an alternate offer. DLA Troop Support will, therefore, adjust that offeror's quantity by doubling the number of estimated cases. This ensures that each offeror's aggregate Distribution Price accurately reflects the respective offered item. In this example, doubling the quantity accounts for the additional distribution expense DLA Troop Support would incur by purchasing the alternate item

in the government purchasing fewer cases.

During the reverse auction, offerors shall use the Workbook to reflect proposal revisions to the Distribution Prices being auctioned. Once the reverse auction begins, each offeror will only be allowed to decrease Distribution Prices in bid decrements of at least $0.01 for each Distribution Price Category within each contract period. Increases are not permitted during the reverse auction. Fractional distribution prices are not allowed—thus each Distribution Price offer must extend no further than two places to the right of the decimal.

Once an offeror has lowered its Distribution Prices within its Workbook, the Total Evaluated Price calculated by the Workbook is the **ONLY** price that the offeror will input into the Procurex Reverse Auction tool. Any time the low Total Evaluated Price changes, DLA Troop Support will pause the auction and the "lead" offeror must immediately call DLA Troop Support at 215-737-5504, or another number to be determined prior to the auction, to confirm acceptance of the bid submission and in addition must submit its Workbook via email to Warren.Brown@dla.mil and Cynthia.Cahill@dla.mil for verification within approximately five minutes of the price change. The Total Evaluated Price which an offeror enters in the Procurex tool must match the price in that offeror's official Workbook.

An offeror must always work from the most recently baselined Workbook, which DLA Troop Support will provide at the start of the auction and after each verified auction submission from that offeror.

Once verified, all Distribution Price changes will be re-baselined and the offeror will only be allowed to decrease revised Distribution Prices in bid decrements of at least $0.01 for each Distribution Price Category and each contract period. DLA Troop Support will provide the offeror with a new Workbook which begins at these new distribution prices. If DLA Troop Support cannot verify the offeror's most recently submitted Total Evaluated Price, DLA Troop Support will revert the auction back to the previous "lead" offeror. DLA Troop Support will only allow the auction to proceed with a verified Total Evaluated Price.

For purposes of the reverse auction, *baseline* means the starting prices contained in an offeror's reverse auction Workbook. DLA Troop Support performs a re-baseline whenever an offeror submits an auction Workbook. After an offeror submits the Workbook, DLA Troop Support shall provide that offeror with an updated Workbook which shows the re-baselined prices to be used for its next submission.

Subsequent to an offeror submission and DLA Troop Support verification, the reverse auction will resume and the lowest offeror's Total Evaluated Price will be disclosed to the other offerors.

This disclosure will be anonymous: each offeror's identity will be concealed from other offerors. By submitting a proposal, offerors consent to this disclosure. Note: The online tool will show any offeror submission. Therefore, should DLA Troop Support find that a submission is incorrect (e.g. the spreadsheet does not match the online tool) DLA Troop Support will reset the tool to the last verified price.

The reverse auction is scheduled for fifteen minutes. This fifteen-minute period, however, may be extended. When the auction has less than five minutes remaining, any price change that results in a new low Total Evaluated Price will cause DLA Troop Support to extend the auction for an additional five minutes.

DLA Troop Support will consider each offeror's final auction price for each of the Distribution Category Prices as its Final Proposal Revision for the Distribution Prices being auctioned. The end of the auction also represents Final Proposal Revisions for the acquisition. No price revisions will be accepted after the close of the reverse auction, unless the Contracting Officer decides that further discussions are needed and final price proposal revisions are again requested in accordance with Federal Acquisition Regulation (FAR) 15.307, or the Contracting Officer determines that it would be in the best interest of the Government to re-open the auction.

The Contracting Officer will schedule the time and date of the auction with offerors once the initial rounds of negotiation has been closed. When the auction has less than five minutes remaining, any price change that results in a new low Total Evaluated Price will cause DLA Troop Support to extend the auction by resetting the time remaining to five minutes.

DLA Troop Support uses this reverse auction tool: Procurex. The tool must be accessed at this web address: https://dla.procurexinc.com/. Offerors will receive a user account and training on this system prior to the reverse auction. If you have any questions during the on-line reverse auction please contact Warren Brown at 215-737- 2830 or email Warren.Brown@dla.mil / Cynthia.Cahill@dla.mil.

II. The following clauses are hereby updated and or incorporated into the solicitation:

CONTRACT CLAUSES

52.208-9 -- Contractor Use of Mandatory Sources of Supply or Services. (May 2014)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee) under 41 U.S.C. 8504. Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or an AbilityOne central nonprofit agency has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contact for AbilityOne central nonprofit agencies are:

(1) National Industries for the Blind (NIB)
1310 Braddock Place
Alexandria, VA 22314-1691
(703) 310-0500; and

(2) NISH
8401 Old Courthouse Road
Vienna, VA 22182
(571) 226-4660.

52.212-1 -- **Instructions to Offerors -- Commercial Items (Apr 2014)**

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

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

(1) The solicitation number;

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

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

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

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

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

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

(2)

(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for Bids).* The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

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

(1)

(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA Federal Supply Service Specifications Section

Suite 8100
470 L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925)

Facsimile (202 619-8978).

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites--

(i) ASSIST (https://assist.dla.mil/online/start/).

(ii) Quick Search (http://quicksearch.dla.mil/).

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

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

(i) Using the ASSIST Shopping Wizard (https://assist.dla.mil/wizard/index.cfm);

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

(iii) Ordering from DoDSSP, Building 4 Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697/2197, Facsimile (215) 697-1462.

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

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

(k) *System for Award Management.* Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the SAM database accessed through https://www.acquisition.gov.

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

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

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

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

(4) A summary of rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

52.212-3 -- Offeror Representations and Certifications -- Commercial Items (May 2014)

An offeror shall complete only paragraphs (b) of this provision if the offeror has completed the annual representations and certificates electronically via http://www.acquisition.gov . If an offeror has not completed the annual representations and certifications electronically at the System for Award Management (SAM) website, the offeror shall complete only paragraphs (c) through (o) of this provision.

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

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

"Forced or indentured child labor" means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Inverted domestic corporation," as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 26 U.S.C. 7874.

"Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999, except—

(1) FSC 5510, Lumber and Related Basic Wood Materials;

(2) Federal Supply Group (FSG) 87, Agricultural Supplies;

(3) FSG 88, Live Animals;

(4) FSG 89, Food and Related Consumables;

(5) FSC 9410, Crude Grades of Plant Materials;

(6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) FSC 9610, Ores;

(9) FSC 9620, Minerals, Natural and Synthetic; and

(10) FSC 9630, Additive Metal Materials.

"Place of manufacture" means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

"Restricted business operations" means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

Sensitive technology—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Subsidiary" means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

"Veteran-owned small business concern" means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans(as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

"Women-owned small business concern" means a small business concern --

(1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127)," means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)

(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the SAMwebsite.

(2) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through https://www.acquisition.gov. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representation and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for

paragraphs _____. *[Offeror to identify the applicable paragraphs at (c) through (o) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it [_] is, [_] is not a small business concern.

(2) Veteran-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it [_] is, [_] is not a veteran-owned small business concern.

(3) Service-disabled veteran-owned small business concern. [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it [_] is, [_] is not a service-disabled veteran-owned small business concern.

(4) Small disadvantaged business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it [_] is, [_] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) Women-owned small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [_] is, [_] is not a women-owned small business concern.

Note: Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It [_] is, [_] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [_] is, [_] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It [_] is, [_] is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [_] is, [_] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror

shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(8) Women-owned business concern (other than small business concern). [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [_] is, a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

_____

(10) [Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]

(i) *General.* The offeror represents that either—

(A) It [_] is, [_] is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the SAM Dynamic Small Business Search database maintained by the Small Business Administration , and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It [_] has, [_] has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture:* _____.]

(11) HUBZone small business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It [_] is, [_] is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It [_] is, [_] is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The offeror shall enter the names of each of the HUBZone small business concerns*

participating in the HUBZone joint venture: _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246 --

(1) Previous contracts and compliance. The offeror represents that --

(i) It [_] has, [_] has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It [_] has, [_] has not, filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that --

(i) It [_] has developed and has on file, [_] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It [_] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed $150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

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

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American—Supplies."

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

(g)

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American--Free Trade Agreements--Israeli Trade Act."

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American—Free Trade Agreements—Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[*List as necessary*]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) or this provision) as defined in the clause of this solicitation entitled "Buy American—Free Trade Agreements—Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[*List as necessary*]

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

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

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

Canadian End Products:

Line Item No.:

_____

[List as necessary]

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

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

Canadian or Israeli End Products:

Line Item No.:	Country of Origin:

[*List as necessary*]

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

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American—Free Trade Agreements—Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.:	Country of Origin:

[*List as necessary*]

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product as defined in the clause of this solicitation entitled "Trade Agreements."

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

Other End Products

Line Item No.:	Country of Origin:

[*List as necessary*]

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

(h) *Certification Regarding Responsibility Matters (Executive Order 12689).* (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals--

(1) [_] Are, [_] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) [_] Have, [_] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(3) [_] Are, [_] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) [_] Have, [_] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) Examples.

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appear rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals Contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) Listed End Product

Listed End Product:	Listed Countries of Origin:

(2) Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

[_] (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[_] (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that is has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product

furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) [_] In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) [_] Outside the United States.

(k) Certificates regarding exemptions from the application of the Service Contract Labor Standards. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

(1) [_] Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror [_] does [_] does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003-4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) [_] Certain services as described in FAR 22.1003-4(d)(1). The offeror [_] does [_] does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer identification number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701).* (Not applicable if the offeror is required to provide this information to the SAM database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) Taxpayer Identification Number (TIN).

[_] TIN:_____.

[_] TIN has been applied for.

[_] TIN is not required because:

[_] Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

[_] Offeror is an agency or instrumentality of a foreign government;

[_] Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

[_] Sole proprietorship;

[_] Partnership;

[_] Corporate entity (not tax-exempt);

[_] Corporate entity (tax-exempt);

[_] Government entity (Federal, State, or local);

[_] Foreign government;

[_] International organization per 26 CFR 1.6049-4;

[_] Other _____.

(5) Common parent.

[_] Offeror is not owned or controlled by a common parent:

[_] Name and TIN of common parent:

Name _____

TIN _____

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) Prohibition on Contracting with Inverted Domestic Corporations—

(1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.

(2) *Representation.* By submission of its offer, the offeror represents that—

(i) It is not an inverted domestic corporation; and

(ii) It is not a subsidiary of an inverted domestic corporation.

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) The offeror shall email questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) Representation and Certification. Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds $3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50(U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at http://www.treasury.gov/ofac/downloads/t11sdn.pdf).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (e.g., 52.212-3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

Alternate I (May 2014). As prescribed in 12.301(b)(2), add the following paragraph (c)(12) to the basic provision:

(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(10) of this provision.)

[*The offeror shall check the category in which its ownership falls*]:

___ Black American.

___Hispanic American.

__ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

___ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

___ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

___ Individual/concern, other than one of the preceding.

52.212-4 -- Contract Terms and Conditions -- Commercial Items. (May 2014)

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

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

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

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

(d) *Disputes*. This contract is subject to 41 U.S.C. chapter 71,Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

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

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

(g) *Invoice*.

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

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

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

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by

Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

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

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

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

(i) Payment.

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

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

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

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

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

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

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

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

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

(D) Contractor point of contact.

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

(6) Interest.

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period at fixed by the Secretary until the amount is paid.

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

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

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

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

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

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

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

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

(m) *Termination for cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) System for Award Management (SAM).

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

(2)

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

(A) Change the name in the SAM database;

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

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

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

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

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through https://www.acquisition.gov.

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

ADDENDUM TO FAR 52.212-4 - Contract Terms and Conditions – Commercial Items

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

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

Inspection and acceptance of products will be performed at destination. The Government's authorized receiving official for each customer is responsible for signing for and accepting products when they are delivered. In the absence of an applicable medical inspection authority, the final disposition decision to accept or reject product rests with the food service officer and/or the Government's authorized receiving official. However, when an applicable medical inspection authority is present, a decision to reject product rests with the medical authority under the following conditions:

(1) Unsanitary conveyances – gross filth, pesticide spillages, mold, etc.

(2) Improper temperatures of potentially hazardous foods.

(3) Unapproved sources (those not previously assessed; passed their required response time; or those deemed an unacceptable risk).

(4) Contamination (intentional or unintentional).

(5) Unwholesomeness.

(6) Off-condition or damaged.

(7) Stored product pests (insect infestation, rodent or animal damage).

(8) Food defense concerns

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

(c) Changes.

(1) In addition to bilateral modifications the Contracting Officer, at his/her discretion, may unilaterally invoke any of the contingency options set forth in this contract.

(2) The Contracting Officer may at any time, by unilateral written order, make changes within the general scope of this contract in any one or more of the following:
   (i) method of shipment or packing;
   (ii) place, manner, or time of delivery.

(3) If such change causes an increase or decrease in the cost of, or time required for, performance for any part of the work under this contract, the Contracting Officer shall make equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(4) The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

3. Paragraph (g), *Invoice*, is revised to add the following:

(3) Each delivery will be accompanied by the Contractor's delivery ticket/invoice. Three (3) copies (an original plus two) shall accompany the shipment. The customer shall sign all copies of the delivery ticket/invoice, keep one (1) copy and return original copy to the contractor. <u>Any changes must be made on the face of the invoice; attachments are not acceptable.</u>

(4) All invoicing for payment is to be filed electronically using EDI transaction set 810 (See page 83 for Subsistence Total Order and Receipt Electronic System (STORES) EDI Information). No paper invoices shall be submitted to DFAS for payment. <u>All invoices submitted by the Contractor must be "clean," i.e. all debits and/or credits must be reflected on the invoice prior to submission. Electronic invoices should be filed promptly (i.e. once all credits and/or credit adjustments are made) and in any case, in fewer than 90 days after delivery.</u>

(5) 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 contractor will be responsible for correction and re-submission.

(6) The same invoice cannot be submitted with different dollar amounts.

(7) For catch weight items, standard rounding methods must be observed, i.e. < 5: rounded down; = 5 or > 5: rounded up. All weights must be rounded to whole pounds using standard rounding methods. Any line

submitted for other than whole numbers will be rejected and require correction and re-submission by the contractor.

(8) Unit prices and extended prices must be formatted not more than two (2) decimal places to the right of the decimal point. Subsistence Total Order and Receipt Electronic System (STORES) will not accommodate positions of 3 and above beyond the decimal point (see Attachment 10).

(9) The following address must appear in the "Bill To" or "Payment Will Be Made By" block of the Contractor's invoice:

DFAS BVDP (SL4701)

P.O. Box 369031

COLUMBUS, OH 43236-9031

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

Contract Number, Call or Delivery Order Number, and Purchase Order Number;

DoDAAC;

Contract line listed in numeric sequence (also referred to as CLIN order);

Item nomenclature;

LSN or NSN;

Quantity purchased per item in DLA TROOP SUPPORT's unit of issue;

Total dollar value on each invoice (reflecting changes to the shipment, if applicable).

(11) Contractors are required to use the Vendor Reconciliation Tool [see 4. (10) below] to identify and correct mismatches between invoices submitted and customers posted receipts. It is the responsibility of the Contractor to adjust as necessary and communicate with the customer or DLA TROOP SUPPORT as needed, in order to resolve any/all discrepancies. In the event of an unresolved payment discrepancy, the contractor must present a signed delivery ticket/invoice.

4. Paragraph (i), *Payment*, is revised to add the following:

(7) DFAS Columbus Center is the payment office for this acquisition.

(8) All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.

(9) All offerors must have the ability to accept an 820 transaction set from its financial institution. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.

(10) Vendor Reconciliation Tool: In an effort to improve the payment process, contractors will have availability to view what the customer has or has not receipted, via the Business Systems Modernization (BMS) website http://www.troopsupport.dla.mil/subs/recon1.pdf. The Contractor will have access to "unreconciled" information, i.e. the invoice does not match the receipt because of a quantity or price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review on the BSM website by the Contractor. While the contractor will not have the capability to update

customer receipt information, update capability will be available for unreconciled invoice information for approximately 30 days.

(11) The Government intends to make payments under the resultant contract by electronic funds transfer (EFT). Reference Clause 52.232-33, "Mandatory Information for Electronic Funds Transfer Payment" appearing in the section of this solicitation entitled "Contract Clauses." However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

5. Paragraph (m), *Termination for Cause.* Delete paragraph (m) in its entirety and substitute the following:

(m) Termination for Cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases.

The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of $1350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for cause, such termination shall be deemed a termination for convenience.

6. Paragraph (o), *Warranty*, is revised to add the following:

"In the event that a product recall is initiated by the Contractor, grower or manufacturer, the Contractor shall follow the procedures as outlined below:

(1) Immediately notify the following personnel:

(i) Customers that have received the recalled product;
(ii) DLA TROOP SUPPORT Contracting Officer;
(iii) DLA TROOP SUPPORT Account Manager; and
(iv) DLA TROOP SUPPORT Consumer Safety Officer at 215-737-3845

(2) Provide the following information to the DLA TROOP SUPPORT Consumer Safety Officer:

(i) Reason for recall;
(ii) Level of recall, i.e. Type I, II or III;
(iii) Description of product;
(iv) Amount of product;
(v) List of customers that have received product; and
(vi) Name and phone number of responsible person (Recall Coordinator)

(3) The Contractor shall provide a Final Status Report of Recall, when completed, to the DLA TROOP SUPPORT Consumer Safety Officer."

(4) The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the Contractor gives to any customer. The supplies and the rights and remedies provided therein are in addition to, and do not limit, any rights afforded to the Government by Clause 52.212-4(o) "Warranty," "Contract Terms and Conditions-Commercial Items" and any addendum contained in the solicitation.

7. Paragraph (s), *Order of precedence*, is revised to add the following:

(10) The Vendor's Non-Price Proposal

8. Paragraph (t), Central *Contractor Registration (CCR)*, add the following:

(5) Definitions.

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

"Commercial and Government Entity (CAGE) Code" means—

(a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code."

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

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

"Registered in the CCR Database" means that—

(a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;
(b) The Contractor's CAGE code is in the CCR database; and
(c) The Government has validated all mandatory data fields to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service, and has marked the records "Active." The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process.

9. Add: Paragraph (v), Contractor Performance Assessment Reporting System (CPARS):

(1) Background

(i) Contractor Performance Assessment Reporting System (CPARS) is now hosting web-enabled applications that are used to collect and manage a library of automated Contractor performance evaluations that are completed in accordance with FAR Parts 36 and 42. FAR Part 36 identifies the requirements for documenting Contractor performance for architect-engineer and construction contracts while FAR Part 42 identifies requirements for documenting Contractor performance for

systems and non-systems acquisitions. The CPARS applications are designed for UNCLASSIFIED use only. Classified information is not to be entered into these systems. In general, Contractor performance assessments or evaluations provide a record, both positive and negative, for a given contract during a specified period of time. When evaluating Contractor performance each assessment or evaluation is based on objective facts and is supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, financial solvency assessments, construction/production management reviews, Contractor operations reviews, functional performance evaluations, and earned contract incentives.

(ii) Effective October 1, 2006, a Department of Defense (DoD) Public Key Infrastructure (PKI) Certificate will be required for all DoD users accessing CPARS. Effective November 1, 2006, a DoD PKI Certificate will be required for all Contractor users accessing CPARS. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.

(2) Obtaining a PKI certificate

(i) Contractors who do not work at a Department of Defense facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are contractors who provide digital certificates to DoD's industry partners who are using their own equipment or working in non-government facilities. A list of ECAs is available at http://iase.disa.mil/pki/eca/certificate.html. Each Contractor employee accessing CPARS will need an Identity Certificate (An Encryption Certificate is not required). Certificate prices range in from $99 - $115 per certificate per year, with volume discounts at some ECAs.

Each Contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable.

10. Add: Paragraph (w), PKI Certificate to access STORES:

(1) Background

(i) Total Order & Receipt Electronic System (STORES) is the single approved DoD food ordering system. STORES uses Electronic Data Interchange (EDI) and web-enabled applications to pass catalogs, orders and receipts among Services, contractors and DLA Troop Support. STORES consists of electronic catalogs for all food items, and it is used to collect and manage a library of automated reports. The STORES applications are designed for UNCLASSIFIED use only. Classified information is not to be entered into these systems. In general, STORES interfaces with all service food management systems and is used by over 700 customers worldwide.

(ii) Effective October 25, 2010, a Department Of Defense (DoD) Public Key Infrastructure (PKI) Certificate is required for all DoD users from an External Certificate Authority (ECA) accessing STORES. Currently, a DoD ECA/PKI Certificate will be required for all Contractor users accessing STORES. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions. STORES information will not be allowed on a public website for information assurance reasons.

The DLA Troop Support Subsistence main Electronic Catalogs have been migrated/integrated into STORES for information assurance reasons.

(2) Obtaining a PKI certificate

(i) Contractors who do not work at a Department of Defense facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are contractors who provide digital certificates to DoD's industry partners who are using their own equipment or working in non-government facilities.

(ii) Each Contractor employee accessing STORES will need an Identity Certificate (An Encryption Certificate is not required).
Certificate prices are various amounts per certificate per year, with volume discounts at some ECAs. Each Contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable. The DoD website for ECA enrollment: http://iase.disa.mil/pki/eca/certificate.html

52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (May 2014)

(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) (Public Laws 108-77, 108-78 (19 U.S.C. 3805 note)).

(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.]

_X_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

_X_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (41 U.S.C. 3509).

___ (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).

_X_ (4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) [Reserved]

___ (6) 52.204-14, Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

___ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

_X_ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) (31 U.S.C. 6101 note).

_X_ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

_X_ (10) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (May 2012) (section 738 of Division C of Public Law 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

___ (11) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

_X_ (12) 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).

___ (13) [Reserved]

___ (14) (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).

___ (15) (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.

_X_ (16) 52.219-8, Utilization of Small Business Concerns (May 2014) (15 U.S.C. 637(d)(2) and (3)).

_X_ (17) (i) 52.219-9, Small Business Subcontracting Plan (Jul 2013) (15 U.S.C. 637 (d)(4)).

___ (ii) Alternate I (Oct 2001) of 52.219-9.

_X_ (iii) Alternate II (Oct 2001) of 52.219-9.

___ (iv) Alternate III (July 2010) of 52.219-9.

___ (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).

___ (19) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).

_X_ (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

___ (21) (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.

___ (22) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (23) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (24) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).

_X_ (25) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

___ (26) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).

___ (27) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).

_X_ (28) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

_X_ (29) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jan 2014) (E.O. 13126).

_X_ (30) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

_X_ (31) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

_X_ (32) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

_X_ (33) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

_X_ (34) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

_X_ (35) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

___ (36) 52.222-54, Employment Eligibility Verification (Aug 2013). (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.)

___ (37) (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.)

___ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

___ (39) (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.

_X_ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011).

___ (41) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).

___ (42) (i) 52.225-3, Buy American--Free Trade Agreements--Israeli Trade Act (May 2014) (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, 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 (May 2014) of 52.225-3.

___ (iii) Alternate II (May 2014) of 52.225-3.

___ (iv) Alternate III (May 2014) of 52.225-3.

___ (43) 52.225-5, Trade Agreements (Nov 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

_X_ (44) 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).

___ (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2303 Note).

___ (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505), 10 U.S.C. 2307(f)).

___ (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

_X_ (50) 52.232-33, Payment by Electronic Funds Transfer— System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (51) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

___ (52) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

___ (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (54) (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 Labor Standards (May 2014) (41 U.S.C. chapter 67.).

___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (Multiple Year and Option Contracts) (May 2014) (29 U.S.C.206 and 41 U.S.C. chapter 67).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards -- Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (May 2014) (41 U.S.C. chapter 67).

___ (6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Requirements (May 2014) (41 U.S.C. chapter 67).

___ (7) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495).

___ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792).

___ (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) (41 U.S.C. 3509).

(ii) 52.219-8, Utilization of Small Business Concerns (May 2014) (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 (May 2014) (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. 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 Labor Standards (May 2014), (41 U.S.C. chapter 67).

(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 Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (May 2014) (41 U.S.C. chapter 67.)

(xi) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services--Requirements (May 2014) (41 U.S.C. chapter 67)

(xii) 52.222-54, Employment Eligibility Verification (Aug 2013).

(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xv) 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.

52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (DEVIATION 2013-O0019) (SEP 2013)

(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 clauses of 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) (41 U.S.C. 3509).

(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 (l) 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. 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 .Chapter 67).

(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. Chapter 67).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. Chapter 67).

(xii) 52.222-54, Employment Eligibility Verification (E.O. 12989) (JUL 2012).

(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) 42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xv) 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.

_X_ Alternate I (2013-O0019) (SEP 2013). 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).

52.208-9 -- Contractor Use of Mandatory Sources of Supply or Services. (May 2014)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the program operated by the Committee for Purchase from People Who Are Blind or Severely Disabled (the Committee) under 41 U.S.C. 8504. Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or an AbilityOne central nonprofit agency has authorized purchase from other sources.

(c) Price and delivery information for the mandatory supplies is available from the Contracting Officer for the supplies obtained through the DLA/GSA/VA distribution facilities. For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. Payments shall be made directly to the source making delivery. Points of contact for AbilityOne central nonprofit agencies are:

(1) National Industries for the Blind (NIB)
1310 Braddock Place
Alexandria, VA 22314-1691
(703) 310-0500; and

(2) NISH
8401 Old Courthouse Road
Vienna, VA 22182
(571) 226-4660.

52.216-9064 - ECONOMIC PRICE ADJUSTMENT (EPA) – ACTUAL MATERIAL COSTS FOR SUBSISTENCE DELIVERED PRICE BUSINESS MODEL – DLA TROOP SUPPORT SUBSISTENCE PRIME VENDOR (SPV) CONTIGUOUS UNITED STATES (CONUS), ALASKA, AND HAWAII (APR 2014)

(a) Warranties. For the portion of the schedule that is covered by this EPA clause, the Contractor warrants that—

(1) Contract unit prices covered by this contract do not include allowances for any portion of the contingency covered by this clause; and

(2) Price adjustments invoiced under this contract shall be computed in accordance with the provisions of this clause.

(b) Definitions. As used throughout this clause, the term:

(1) "Private label holder" means:

(i) A manufacturer or grower with whom the contractor holds an ownership and/or financial interest, or ownership and/or financial interest in a specific item(s) produced by a manufacturer or grower; or

(ii) An entity holding an intellectual property interest, whether by ownership or license, in the label under which product is being sold in the commercial marketplace; or

(iii) An entity holding exclusive marketing and/or sales authority of a product, or one holding property rights in a proprietary product formula.

(2) "Redistributor" means an entity independent of the contractor from which the contractor purchases product for purposes of consolidating quantities and/or obtaining a competitive delivered price.

(3) "Standard Freight" means the published list price or prevailing market rate for transportation of subsistence and food service operating supplies, i.e. the transportation charge for delivery from the manufacturer/grower/private label holder or redistributor to the SPV Contractor. This may include inter-division transfers between the SPV Contractor's warehouses provided the delivered price (inclusive of standard freight) of a product at a given time is identical to the delivered price of the same product at the same time to other commercial customers in the SPV Contractor's electronic purchasing system.

(i) In the event the SPV Contractor picks up product free on board (f.o.b.) origin from a manufacturer/grower/ private label holder, or arranges for delivery transportation from a third party source other than the manufacturer/grower/private label holder, the standard freight charge shall be based on market tariffs/conditions and shall not exceed the lesser of:

(A) The manufacturer/grower/private label holder's or manufacturer/grower/private label holder's carrier's freight price normally payable by the SPV Contractor for inbound shipments of such products and quantities to the Contractor's distribution point; or

(B) An average price based on market conditions for freight in the same market for the same type of freight service for like products, shipping methods and quantities.

(ii) In rare circumstances, and only with the Contracting Officer's written approval, the SPV Contractor may use drop shipments, i.e. the product is shipped directly from the manufacturer/grower / private label holder to the customer without the SPV Contractor taking possession. This may involve transportation charges using non-standard freight such as FedEx, United Parcel Service (UPS), or the United States (U.S.) Postal Service. In such instances the Contracting Officer will determine price reasonableness on the unit price inclusive of freight.

(4) "Contract unit price" means the total price per unit charged to DLA Troop Support for a product delivered to DLA Troop Support's customers. The Contract unit price consists of three components: delivered price plus distribution price less Government rebates and discounts. The unit price sum of the three component prices shall be rounded up or down as applicable, to the nearest cent to determine the final Contract unit price.

(5) Delivered price.

(i) Delivered price" means the most recent manufacturer, grower, or private label holder commercial price per unit to the Contractor, inclusive of all standard freight, that is input in the contractor's purchasing system as the starting basis for its pricing to customers prior to the application of any specific distribution fees, rebates, discounts, limited discounts, or other financial agreements with the Contractor's customers. The delivered price shall be based on f.o.b. destination delivered using standard freight. The delivered price shall exclude all costs that are to be covered in the distribution price. The SPV Contractor warrants that the delivered price to its delivering warehouse of a product sold at any given time by the SPV Contractor to DLA Troop Support customers is identical to the delivered price of such product sold at the same time to its other customers.

(A) Exception: For mandatory source items, the delivered price shall be limited to the nonprofit agency's price for product as set in accordance with applicable law, plus standard freight.

(B) Exception: A redistributor's price for a specific manufacturer/grower/private label holder's product (or stock keeping unit (SKU)) may be used as long as the redistributor's price for the quantity ordered is equal to or lower than the manufacturer's/ grower's/ private label holder's current price inclusive of Government rebates and discounts (as defined below). Supporting documentation (published price list, manufacturer letter/email, or similar proof of price comparison) may be required. The determination that the supporting documentation is sufficient to establish the manufacturer's/ grower's/ private label holder's current price rests solely with the Contracting Officer.

(C) Exception: Standard freight may not apply to drop shipments and f.o.b. origin pickups.

(ii) The Contractor shall utilize best commercial practices in purchasing its food items under this contract, to include seeking and using competition to the maximum extent practicable for all purchases and purchasing in the most economical order quantities and terms and conditions.

(6) "Distribution Price(s)" means the firm fixed price portion of the Contract Unit price, offered as a dollar amount per unit of issue, rounded up or down to the nearest cent. The distribution price is the only method for the Contractor to bill the Government for all aspects of contract performance other than delivered price; including but not limited to, the performance requirements of the statement of work (SOW) for the applicable SPV solicitation and resulting contract. As detailed above in paragraph (5), delivered price is distinct from and not to be included in the distribution price. For both drop shipments and Government pick-ups, the Contracting Officer may negotiate a reduced distribution price with the Contractor since the Contractor is not handling the product.

(7) "Government rebates and discounts" means all rebates, discounts, and limited discounts designated for the Government, including National Allowance Pricing Agreements (NAPA) discounts, food show discounts, early payment discounts (other than qualifying early payment discounts as defined in the Rebates, Discounts and Price Related Provisions section of the solicitation), and any other rebates, discounts, or similar arrangements designated by the manufacturer/grower/ private label holder or redistributor to be passed to the Government or passed to all customers without specific designation. In accordance with other provisions of the contract (and subject to any applicable exceptions in those provisions), all Government rebates and discounts shall be passed to the Government via a reduced catalog price (i.e. "off invoice"). Any Government rebates and discounts that must be passed to the Government and which cannot be applied as an up-front price reduction must be submitted via check payable to the U.S. Treasury, with an attached itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and contract line item number (CLIN).

(8) "Ordering catalog" means the electronic listing of items and their corresponding Contract unit prices available for ordering under this contract.

(9) "Ordering Week" means from Sunday at 12:01 AM through the following Saturday until midnight (Eastern Time ET, standard or daylight as applicable).

(c) Price adjustments.

(1) General.

(i) All Contract unit prices shall be fixed and remain unchanged until changed pursuant to this clause or other applicable provision of the contract. Only the delivered price component of the Contract unit price is subject to adjustment under this clause. After the first ordering week, if the Contractor's delivered price changes for any or all Contract unit prices, the Contract unit price shall be changed in the next week's ordering catalog upon the Contractor's request, submitted in accordance with paragraph (iii) below, by the same dollar amount of the change in the delivered price, subject to the limitations in paragraph (d). The price change shall be effective at the beginning of the next ordering week. All ordering catalog unit prices computed in accordance with this clause and in effect when an order is placed shall remain in effect for that order through delivery. DLA Troop Support will be charged the Contract unit price in effect at the time of each order regardless of any changes in the unit price occurring in any subsequent ordering week.

(ii) Catalog delivered prices must be reflective of the prime vendor's last receipt price (the price of the stock most recently received into SPV contractor's inventory).

(iii) Updates to the delivered price: All notices and requests for new item delivered prices and price changes shall be submitted weekly, no later than 1:30 PM Eastern Time on Wednesday, to be effective in the following ordering week's ordering catalog prices. The delivered price shall have any and all Government rebates and discounts subtractions made prior to presenting the delivered price to DLA Troop Support. The Contractor shall notify the Contracting Officer of its notice/request in the form of an electronic data interchange (EDI) 832 transaction set. The change notice shall include the Contractor's adjustment in the delivered price component of the applicable Contract unit price. Upon the Contracting Officer's acceptance of such EDI 832 price changes in accordance with paragraph (v) below, the price change transaction sets

will post in the next week's ordering catalog and each Contract unit price shall be changed by the same dollar amount of the change in the delivered price in the next week's ordering catalog.

(iv) All price changes, and catalog contract prices, are subject to review by the Government. The Contracting Officer may at any time require the submission of supporting data to substantiate any requested price change or the requested continuation of the pre-existing price for any item, including prices applicable to prior ordering weeks. Upon notice from the Contracting Officer that supporting data is required, the Contractor shall promptly furnish to the Government all supporting data, including but not limited to, invoices, quotes, price lists, manufacturer/grower/private label holder documentation regarding Government rebates and discounts, and any other substantiating information requested by the Contracting Officer.

(v) Price change requests that the Contracting Officer questions or finds to be inconsistent with the requirements of this clause shall not be posted until the Contracting Officer specifically authorizes the posting. If the Contracting Officer does not notify the Contractor by close of business Eastern Time each Friday that a price or a price change request is being questioned or has been found to be erroneous, the price change(s) will post to the ordering catalog effective the beginning of the following ordering week. The posting of updated prices in the ordering catalog, calculated in accordance with this clause, constitutes a modification to this contract. No further contract modification is required to effect this change. Any changes that post to the ordering catalog do not constitute a waiver of any of the rights delineated elsewhere in the contract.

(vi) Should the Contracting Officer determine that, or question whether a price change request contained an erroneous unit price or price change, or cannot otherwise determine the changed price(s) to be fair and reasonable, such as when the changed price(s) is(are) higher than lower delivered prices for items of comparable quality which are reasonably available to the Government or Contractor from other sources, the Contracting Officer will so advise the Contractor, prior to close of business Eastern Time on Friday. If the Contracting Officer cannot determine a price fair and reasonable, and the Contracting Officer and the Contractor cannot negotiate a fair and reasonable price, the Contracting Officer may reject any price change and direct in writing that the item in question be removed from the Contractor's ordering catalog, without Government liability. The Contracting Officer may subsequently remove any such item from the ordering catalog if the Contractor fails to remove it. The Government has the right to procure such removed items from any alternate source of supply, and the failure of the Contractor to supply such item may be considered negatively in any evaluation of performance.

(vii) In the event of a price change not posting or an ordering catalog contract unit price not computed in accordance with this clause, resulting in an incorrectly increased or decreased Contract unit price, upon discovery of such event the Contractor shall promptly notify the Contracting Officer in writing and promptly thereafter correct its ordering catalog and submit a refund including interest for any amounts paid to the Contractor resulting from the erroneous price. In the event of an erroneous price decrease in the ordering catalog, if the contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor, the Contractor may submit a request for equitable adjustment for consideration by the Contracting Officer.

(2) Limitations. All adjustments under this clause shall be limited to the effect on contract unit prices of actual increases or decreases in the delivered prices for material. There shall be no upward adjustment for—

(i) Supplies for which the delivered price is not affected by such changes;

(ii) Changes in the quantities of materials; and

(iii) Increases in unit prices that the Contracting Officer determines are computed incorrectly (i.e. not adhering to the Contract unit price definition in this clause) and/or increases in unit prices that the Contracting Officer determines are not fair and reasonable.

(3) If the Contracting Officer rejects a proposed adjustment for an item because the adjusted unit price cannot be determined fair and reasonable, the Contractor shall have no obligation to fill future orders for such item as of the effective date of the

proposed adjustment unless such item is subsequently added to the contract at a Unit Price that is determined fair and reasonable. Alternately, the item may be retained on the catalog at the prior (unadjusted) price for as long as both parties agree to do so.

(d) Upward ceiling on economic price adjustment. The aggregate of contract delivered price increases for each item under this clause during the contract period inclusive of any option period(s) shall not exceed 30 percent (%) for all items except fresh fruits and vegetables (FF&V) and 90 percent (%) for fresh fruits and vegetables (FF&V) of the initial contract delivered price, except as provided below:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. In the event the latest actual market price for an item would result in a contract unit price that will exceed the allowable ceiling price under the contract, then the Contractor shall immediately notify the Contracting Officer in writing or via its EDI 832 price change request and separate email no later than the time specified in paragraph (c)(1)(iii) above. With either such notification the Contractor shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.33

(2) If an actual increase in the delivered price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill future orders for such items, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing. After evaluation of a requested actual price increase, if the Contracting Officer authorizes the change in the Contract unit price, the Contractor shall submit an EDI 832 price change. The price change shall be posted for the following week's ordering catalog.

(e) Downward limitation on economic price adjustments. There is no downward limitation on the aggregated percentage of decreases that may be made under this clause.

(f) Examination of records. The Contracting Officer or designated representative shall have the right to examine the Contractor's books, records, documents and other data, to include commercial sales data, that the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause. Such examination may occur up to twice a year (except as provided for below) until the end of 3 years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR), whichever is earlier. These will normally involve Government selection of a statistically significant sample size of invoices/records to examine based on the number of line items on the specific contract catalog. If an examination of records reveals irregularities, further examinations and/or a larger sample size may be required. In addition to normal examination, the Government may conduct additional examinations at the Contracting Officer's discretion.

(g) Final invoice. The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required or authorized by this clause.

(h) Disputes. Any dispute arising under this clause shall be determined in accordance with the "Disputes" clause of the contract.

52.246-9044 - SANITARY CONDITIONS (APR 2014)

(a) Food establishments.

(1) All establishments and distributors furnishing subsistence items under DLA Troop Support contracts are subject to sanitation approval and surveillance as deemed appropriate by the Military Medical Service or by other Federal agencies recognized by the Military Medical Service. The Government does not intend to make any award for, nor accept, any subsistence products manufactured, processed, or stored in a facility which fails to maintain acceptable levels of food safety and food defense, is operating under such unsanitary conditions as may lead to product contamination or adulteration constituting a health hazard, or which has not been listed in an appropriate Government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the U.S. Army Public Health Command (USAPHC) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement, (Worldwide Directory) (available at: http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx). Compliance with the current edition of DoD Military Standard 3006A, Sanitation Requirements for Food Establishments, is mandatory for listing of establishments in the Worldwide Directory. Suppliers also agree to inform the Contracting Officer immediately upon notification that a facility is no longer sanitarily approved and/or removed from the Worldwide Directory and/or other Federal agency's listing, as indicated in paragraph (2) below. Suppliers also agree to inform the Contracting Officer when sanitary approval is regained and listing is reinstated.

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

(i) Meat and meat products and poultry and poultry products may be supplied from establishments which are currently listed in the "Meat, Poultry and Egg Inspection Directory,] published by the United States Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS), at http://www/fsis/usda/gov/wps/portal/fsis/topics/inspection/mpi-directory . The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the USDA shield and applicable establishment number. USDA listed establishments processing products not subject to the Federal Meat and Poultry Products Inspection Acts must be listed in the W]orldwide Directory for those items.

(ii) Intrastate commerce of meat and meat products and poultry and poultry products for direct delivery to military installations within the same state (intrastate) may be supplied when the items are processed in establishments under state inspection programs certified by the USDA as being "at least equal to" the Federal Meat and Poultry Products Inspection Acts. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

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

(iv) Egg products (liquid, dehydrated, frozen) may be supplied from establishments listed in the "Meat, Poultry and Egg Product Inspection Directory" published by the USDA FSIS at

http://apps.ams.usda.gov/plantbook/Query_Pages/PlantBook_Query.asp . All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

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

(vi) Pasteurized milk and milk products may be supplied from plants having a pasteurization plant compliance rating of 90 percent or higher, as certified by a state milk sanitation officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers" (IMS), published by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) at http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2007965.htm. These plants may serve as sources of pasteurized milk and milk products as defined in Section I of the "Grade 'A' Pasteurized Milk Ordinance" (PMO) published by the USDHHS, FDA at http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm.

(vii) Manufactured or processed dairy products only from plants listed in Section I of the "Dairy Plants Surveyed and Approved for USDA Grading Service", published electronically by Dairy Grading Branch, AMS, USDA (available at: http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRD3651022) may serve as sources of manufactured or processed dairy products as listed by the specific USDA product/operation code. Plants producing products not specifically listed by USDA product/operation code must be Worldwide Directory listed (e.g., plant is coded to produce cubed cheddar but not shredded cheddar; or, plant is coded for cubed cheddar but not cubed mozzarella). Plants listed in Section II and denoted as "P" codes (packaging and processing) must be Worldwide Directory listed.

(viii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists" (ICSSL), published by the USDHHS, FDA at http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2006753.htm.

(3) Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4H/MCO P1010.31H, Veterinary/Medical Food Safety, Quality Assurance, and Laboratory Service, for a list of establishment types that may be exempt from Worldwide Directory listing. (AR 40-657 is available from National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312 ; 1-888-584-8332 ; or download from web site: http://www.apd.army.mil/pdffiles/r40_657.pdf) For the most current listing of exempt plants/products, see the Worldwide Directory (available at: http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx).

(4) Subsistence items other than those exempt from listing in the Worldwide Directory, bearing labels reading "Distributed By", "Manufactured For", etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

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

(b) Delivery conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product 'unfit for intended purpose', supplies tendered for acceptance may be rejected without further inspection.

52.252-2 – CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: http://farsite.hill.af.mil/.

The following additional clauses incorporated by REFERENCE are here by updated:

CLAUSE Number	Title	Date
FAR 52.232-17	Interest	MAY 2014
FAR52.203-17	Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.	APR 2014
DFARS 252.203-7002	Requirement to Inform Employees of Whistleblower Rights	SEP 2013
DFARS 252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist Country	MAR 2014
DFARS 252.225-7021	Trade Agreements	OCT 2013
DFARS 252.247-7023	Transportation of Supplies by Sea	APR 2014
DLAD 52.215-9006	AbilityOne, (Formerly Called Javits-Wagner-O'Day Act ("JWOD")) Entity Support – Contractor Reporting	DEC 2012

252.225-7000 Buy American--Balance of Payments Program CERTIFICATE (JAN 2014)

(a) *Definitions.* "Commercially available off-the-shelf (COTS) item," "component," "domestic end product," "foreign end product," "qualifying country," "qualifying country end product," and "United States" have the meanings given in the Buy American and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program clause of this solicitation, the offeror certifies that—

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

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

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

Line Item Number	Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of "domestic end product":

Line Item Number	Country of Origin (If known)

252.209-7993- Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction under any Federal Law—Fiscal Year 2014 Appropriations. (DEVIATION 2014-OO0009) (FEB 2014)

(a) In accordance with sections 8113 and 8114 of the Department of Defense Appropriations Act, 2014, and sections 414 and 415 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2014 (Public Law 113-76, Divisions C and J), none of the funds made available by those divisions (including Military Construction funds) may be used to enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered

suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is [ ] is not [ ] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

252.209-7994 - REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW—FISCAL YEAR 2014 APPROPRIATIONS (DEVIATION 2014-O0004) (OCTOBER 2013)

(a) In accordance with section 101(a) of Division A of the Continuing Appropriations Act, 2014 (Pub. L. 113-46), none of the funds made available by that Act for DoD (including Military Construction funds) may be used to enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this further action is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability,

(2) It is [ ] is not [ ] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: http://farsite.hill.af.mil/.

252.225-7021 -TRADE AGREEMENTS (OCT 2013)

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

"Caribbean Basin country end product"—

(i) Means an article that—

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.

"Commercially available off-the-shelf (COTS) item"—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of "commercial item" in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

"Component" means an article, material, or supply incorporated directly into an end product.

"Designated country" means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as "the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" (Chinese Taipei)), or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

"Designated country end product" means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.

"End product" means those articles, materials, and supplies to be acquired under this contract for public use.

"Free Trade Agreement country end product" means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

"Least developed country end product" means an article that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but

for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

"Nondesignated country end product" means any end product that is not a U.S.-made end product or a designated country end product.

"Qualifying country" means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

Australia

Austria

Belgium

Canada

Czech Republic

Denmark

Egypt

Finland

France

Germany

Greece

Israel

Italy

Luxembourg

Netherlands

Norway

Poland

Portugal

Spain

Sweden

Switzerland

Turkey

United Kingdom of Great Britain and Northern Ireland.

"Qualifying country end product" means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if—

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(*1*) Components mined, produced, or manufactured in a qualifying country.

(*2*) Components mined, produced, or manufactured in the United States.

(*3*) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-made end product" means an article that—

(i) Is mined, produced, or manufactured in the United States; or

(ii) Is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

"WTO GPA country end product" means an article that—

(i) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, or designated country end products unless—

(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and

(2)(i) Offers of U.S.-made, qualifying country, or designated country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or

(ii) A national interest waiver has been granted.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(e) The HTSUS is available on the Internet at http://www.usitc.gov/tata/hts/bychapter/index.htm. The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States—Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States—Caribbean Basin Trade Partnership Act.

252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA—BASIC (APR 2014)

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

"Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

"Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

"Foreign-flag vessel" means any vessel that is not a U.S.-flag vessel.

"Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

"Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

"Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

"U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if—

(i) This contract is a construction contract; or

(ii) The supplies being transported are—

(A) Noncommercial items; or

(B) Commercial items that—

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of foreign-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of steamship company.

(f) If this contract exceeds the simplified acquisition threshold, the Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all foreign-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on foreign-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

	ITEM DESCRIPTI	CONTRACT LINE IT	QUANTITY
TOTAL			

(g) If this contract exceeds the simplified acquisition threshold and the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of foreign-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts, for the types of supplies described in paragraph (b)(2) of this clause, including subcontracts for commercial items, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.