

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <b>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NUMBER	PAGE 1 OF <b>117</b>
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER <b>SPE300-16-R-0023</b>		6. SOLICITATION ISSUE DATE <b>09/01/2016</b>
7. FOR SOLICITATION INFORMATION CALL:		a. NAME <b>Timothy Dlugokecki /Zoraya Wilson</b>		b. TELEPHONE NUMBER (No collect calls) <b>215-737-7445/9235</b>	8. OFFER DUE DATE/ LOCAL TIME <b>09/30/2016 3:00 PM</b>
9. ISSUED BY <b>DLA TROOP SUPPORT SUBSISTENCE SUPPLY CHAIN 700 ROBBINS AVE PHILADELPHIA, PA 19111-5092</b>		CODE	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: <b>85</b> % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM      NAICS: <b>See page 77</b> <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> EDWOSB      SIZE STANDARD: <b>See page 77</b> <input type="checkbox"/> 8 (A)		
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING
15. DELIVER TO			16. ADMINISTERED BY <b>SEE BLOCK 9</b>		
17a. CONTRACTOR/ OFFEROR		CODE	18a. PAYMENT WILL BE MADE BY		
TELEPHONE NO.		FACILITY CODE	18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM		
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE
	<b>See Attachment 1: Beef Schedule of Items</b>				
			<i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>		
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA			<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED		
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA			<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED		
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED			<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		
30b. NAME AND TITLE OF SIGNER (Type or print)	30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or print)	31c. DATE SIGNED		

**Continuation of Blocks from SF 1449**

1. **BLOCK 8.** (continued): Offer Due Date/Local Time: \_\_\_\_\_
2. **BLOCK 9.** (continued):

All offers/modifications/withdrawals must be plainly marked on the **OUTERMOST ENVELOPE** with the solicitation number, closing date, and time set for the receipt of offers.

Address and Send **MAILED OFFER** to:

DEFENSE LOGISTICS AGENCY  
DLA TROOP SUPPORT  
POST OFFICE BOX 56667  
PHILADELPHIA, PA 19111-6667  
SOLICITATION NUMBER: **SPE300-16-R-0023**  
**OPENING:** September 01, 2016

Deliver **HANDCARRIED OFFER**, including delivery by commercial carrier, to:

DLA TROOP SUPPORT  
BUSINESS OPPORTUNITIES OFFICE  
BLDG. 36, SECOND FLOOR  
700 ROBBINS AVENUE  
PHILADELPHIA, PA 19111-5092  
SOLICITATION NUMBER: **SPE300-16-R-0023**  
**CLOSING:** September 30, 2016 3:00 PM

**Notes:** 1. All hand carried offers are to be delivered to the Business Opportunities Office between 8:00 a.m. and 5:00 p.m., Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103. Offerors using a commercial carrier service must ensure that the carrier service “hand carries” the package to the Business Opportunities Office specified above for hand carried offers prior to the scheduled opening/closing time. Package must be plainly marked **ON THE OUTSIDE OF THE COMMERCIAL CARRIER’S ENVELOPE** with the solicitation number, date, and time set forth for receipt of offers as indicate in **Block 8 of the Standard Form 1449.**

2. Examples of “hand carried” offers include: In-person delivery by contractor, Fed Ex, Airborne, UPS, DHL, Emery, other commercial carrier, USPS Express Mail, and USPS Certified Mail.

**ADDITIONAL NOTE:**

Contractors intending to deliver offers in-person should be advised that the Business Opportunities Office (Bid Room) is located within a secured military installation. In order to gain access to the facility, an escort may be required. The escort will be an employee of the Bid Room. The following are telephone numbers for the Bid Room: (215)737-8511, (215)737-9044, (215)737-

7354, (215)737-0317, or (215)737-8566. It is the offeror’s responsibility to ensure that the offers are received at the correct location at the length of time necessary to gain access to the facility varies based on a number of circumstances, it is recommended that you arrive at the installation at least one hour prior to the time solicitation closes to allow for security processing and to secure an escort. **NOTE: THIS IS A SUGGESTION AND NOT A GUARANTEE THAT YOU WILL GAIN ACCESS TO THE BASE IF YOU ARRIVE ONE HOUR BEFORE THE OFFER IS DUE.**

**NOTE:** Facsimile and e-mail offers are not acceptable forms of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal revision(s).

**3. BLOCK 17a.** (continued):

Offeror’s assigned Data Universal Numbering System (DUNS) Number: \_\_\_\_\_  
(If you do not have a DUNS number, contact the individual identified in Block 7a of the SF 1449 or see 52.212-1, Instructions to Offerors—Commercial Items (paragraph j) for information on contacting Dun and Bradstreet.)

Offeror’s assigned Contractor and Government Entity (CAGE) Code: \_\_\_\_\_

PRIMARY COMPANY  
POC/NEGOTIATOR: \_\_\_\_\_

PHONE#: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

**4. BLOCK 17b.**

Remittance Address: (if different from Contractor/Offeror address in block 17a of the SF 1449.)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**5. BLOCKS 19-24.**

Item No., Schedule of Items/Services, Quantity, Unit:

**CAUTION NOTICE  
NOTICE TO DLA SUPPLIERS**

The Government reserves the right to cancel this solicitation. If this should occur, the Government will not be liable for any proposal preparation costs or any other costs the contractors may have incurred.

In accordance with FAR 52.225-25, each offeror must certify that the offeror, and any person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act. Each offeror shall update its ORCA certifications and/or by submission of an offer, make the above certification (See FAR 52.212-3).

**CONTRACTOR CODE OF BUSINESS ETHICS (FEB 2012)**

FAR Part 3.1002(a) requires all government contractors to conduct themselves with the highest degree of integrity and honesty. Contractors should have a written code of business ethics and conduct within thirty days of award. To promote compliance with such code of business ethics and conduct, contractors should have an employee business ethics and compliance training program that facilitates timely discovery and disclosure of improper conduct in connection with government contracts and ensures corrective measures are promptly instituted and carried out. A contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose to the government, in connection with the award, performance, or closeout of a government contract performed by the contractor or a subcontract awarded there under, credible evidence of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code or a violation of the False Claims Act. (31 U.S.C. 3729-3733)

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

**PRE-PROPOSAL CONFERENCE**

DLA Troop Support will conduct a Pre-Proposal Conference to further clarify and discuss the requirements of the solicitation. The Pre-Proposal Conference will be held on September 28, 2016 at the Hilton Philadelphia Airport, 4509 Island Avenue, Philadelphia, PA 19153, 215-365-4150. Attendance is strongly suggested. If you plan to attend, please send an email to [Zoraya.Wilson@dla.mil](mailto:Zoraya.Wilson@dla.mil). Please include the following information with your request:

Name of Firm

Name of Title of Representative(s)

Address of Firm  
 Phone and Fax Numbers  
 Email Address of Representative  
 Size of Business

### PRE-PROPOSAL QUESTIONS???

Any contractor wishing to submit questions or topics to be addressed at the conference may do so, as long as the questions/topics are received no less than three (3) business days prior to the date and time specified for the conference. Questions may be submitted via email to [Zoraya.Wilson@dla.mil](mailto:Zoraya.Wilson@dla.mil).

### REMINDER!!!

Number	Please be sure to fill out the solicitation completely, including:	Check
1	<b>Page 1:</b> blocks 17 and 30. Block 30a must be signed.	
2	<b>Page 3:</b> continuation of block 17 (DUNS, CAGE and remittance address).	
3	<b>Page 3:</b> Identify your authorized negotiators above as required. Did you identify which negotiator will serve as the primary point of contact?	
4	<b>Page 11:</b> If you are a Large or Foreign Business, submit your Small Business Subcontracting Plan in accordance with FAR 52.219-9.	
5	<b>Page 46:</b> 52.215-6 Place of Performance. Submit a list of all your affiliates / subsidiaries / partially or wholly-owned companies that will be utilized for this contract.	
6	<b>Page 114:</b> 252.225-7000, Buy American Act Balance of Payments Program Certificate (if applicable).	
7	<b>Page 80-85:</b> Prepare and return one (1) electronic copy of the pricing portion on a CD, two (2) electronic copies of the offeror's product specification sheets, the USDA FSIS mandated Principle Display Panels and Information Panels, and the DLA Troop Support mandated OCONUS case labels on a CD, and one (1) written signed copy of this entire solicitation with your proposal to include Offerors Representations and Certifications FAR 52.212-3 fill-ins, and the Attachment 1- Schedule of Supplies, and Attachment 2-Questionnaire.	
8	<b>Page 91-103:</b> 52.212-3, Offeror Representations and Certifications – Commercial Items.	
9	<b>Page 104-109:</b> Refer to clause 52.215-1 Instruction to Offerors-Competitive Acquisition (JAN 2004)	
10	<b>Page 83:</b> Submit product samples to the place specified in the solicitation. Any changes to the place and/or timing will be addressed in a future amendments.	
11	Return one (1) signed and completed copy of the solicitation to include all the fill-ins and any amendments (all pages) issued to this solicitation to include any required clause fill-ins.	

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**STATEMENT OF WORK****I. INTRODUCTION**

- i. The Defense Logistics Agency-Troop Support (DLA-Troop Support) intends to enter into a Fixed Price, Indefinite Delivery/Indefinite Quantity Contract(s) (ID/IQC) with Economic Price Adjustments (EPA) with a single or multiple suppliers/processors of beef items. All beef items contained in this solicitation are subject to additions and/or deletions based on Customer requirements. The awardee(s) will act as the preferred supplier for the beef products listed in Attachment 1-Schedule of Items. The OCONUS Subsistence Prime Vendors will be authorized to order beef products in the Schedule of Items directly from the awardee(s) of the contract(s) resulting from this solicitation at prices established in the contract(s).
- ii. The Government has established three lots in the Schedule of Items. The items contained in each lot represent the requirements of the Armed Forces in all OCONUS locations. The lots are as follows:
  - Lot 1-Sub-Primal Cuts
  - Lot 2-Portion Cuts
  - Lot 3-Further Processed
- iii. The Government intends to make one award per lot to the technically acceptable proposal offering the lowest total evaluated aggregate price for each lot. Lot 1 contains Sub-Primal Cuts and is Unrestricted. Lot 2 contains Portion Cuts and is Set-Aside for small business. Lot 3 contains Further Processed and is Set-Aside for small business. In order for an offeror to be considered for award, it needs to quote on every item within the lot. Award will be made on a per lot basis; however, this does not preclude the government from awarding more than one lot to the same offeror. See Excel Spreadsheet-Attachment 1- Schedule of Items.
- iv. The Government will utilize the Lowest Price Technically Acceptable Process as the method for selecting the awardee(s). Proposals will be evaluated for technical acceptability. Awards will be made on an all or none basis per lot. Offerors must be technically acceptable in every factor in order for the entire proposal to be rated technically acceptable in accordance with FAR 52.212-2.
- v. Offerors must indicate starting on the first page of its written proposal whether they take any exceptions to the terms and conditions in the solicitation and any item description in the Schedule of Items. Alternate commercial items may not be considered for award on this acquisition. Minor deviations such as case size may be acceptable, however all deviations must be approved by the Joint Services Policy Board (JSPB). The attached Schedule of Items contains a worksheet/tab titled Alternate Offers. All alternate offers must be recorded on this sheet, including price and description of deviation.
- vi. The contracts shall be for a term of three (3) years plus a sixty (60) day implementation period immediately after contract award. Prices shall be fixed at time of award and during the

60-day implementation period. The first adjustment will occur either 60 days or the First Sunday of the Month (FSOM) whichever date is later. Subsequent adjustments will occur and become effective each following FSOM in accordance with DLAD clause 52.216-9084, Economic Price Adjustment-National Contracts-Subsistence (October 2014) and addendum included in this Solicitation (see page 50). Prices shall be FOB Origin. Only the DLA Troop Support Contracting Officer may approve any price adjustments via a contract modification.

- vii. The quantities that appear in this solicitation are annual estimated quantities based on the historical demand. They are not guaranteed ordering quantities. The Government is not committed to order above the guaranteed minimum specified elsewhere in this solicitation. Please note that possible changes in troop levels in different areas of the world may affect the actual quantities that will be ordered under any contract awarded as a result of this solicitation. Please consider this information when preparing your proposal.
- viii. In accordance with 252.225-7012, Preference for Certain Domestic Commodities (FEB 2013) paragraph (a)(1), all products supplied under this contract must comply with the Berry Amendment.
- ix. The NAICS codes for Lot 1 of this solicitation are 311611-Slaughter and 311612-Processing.
- x. The NAICS code for Lot 2 and Lot 3 is 311612- Processing.
- xi. It is the policy of the Federal Government to encourage responsible uses of medically-important antibiotics in the meat supply chain by supporting the emerging market for meat that has been produced according to responsible antibiotic-use policies, defined as those policies under which meat producers use medically important antibiotics only under veterinary oversight and only when needed to prevent, control, and treat disease - but not for growth promotion.

This policy is expected to be in place in 2020; however, offerors are strongly encouraged to begin adopting responsible antibiotic-use policies prior to this date. More information about this policy can be found at

<https://www.whitehouse.gov/the-press-office/2015/06/02/fact-sheet-over-150-animal-and-health-stakeholders-join-white-house-effo>

- xii. The following clauses are included along with other clauses found in the solicitation:

52.215-9023 Reverse Auction (OCT 2013)-If the Contracting Officer decides to conduct an online reverse auction, prior to the start of the auction, the current lowest evaluated aggregate price for **each lot** may be broadcast to offerors participating in the reverse auction. At certain intervals during the auction, the auction may be paused and the lowest evaluated aggregate price at the time of the pause will be broadcast to all offerors participating. The timing, length and number of pauses shall be determined by the Contracting Officer. By submitting a proposal, offerors are agreeing to disclose their evaluated aggregate price.

The following clause applies to Lot 1-Sub-Primal Cuts only:

52.219-4, Notice of Price Evaluation Preference for HUB Zone Small Business Concerns

52.219-9, Small Business Subcontracting Plan (OCT 2015) (15U.S.C. 637 (d)(4)).

The following clause applies to Lot 2-Portion Cuts and Lot 3-Further Processed only:

52.219-14, Limitations on Subcontracting

52.219-28, Post Award Small Business Program Representation (JUL 2013)

(15 U.S.C. 632(a)(2)).

## II. ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM QUANTITY

The guaranteed minimum shall be 25% of the estimated contract dollar value. The contract maximum shall be 200% of the estimated contract dollar value. The Government's obligation under this contract shall only be that of the guaranteed minimum.

LOTS	ANNUAL CONTRACT ESTIMATE	CONTRACT ESTIMATE (3yrs)	GUARANTEED MINIMUM 25%	CONTRACT MAXIMUM 200%
<b>Lot 1-Sub-Primal Cuts</b>	\$13,231,461.31	\$39,694,383.93	\$9,923,595.98	\$79,388,767.85
<b>Lot 2-Portion Cuts</b>	\$44,978,759.24	\$134,936,277.72	\$33,734,069.43	\$269,872,555.44
<b>Lot 3- Further Processed</b>	\$9,185,313.62	\$27,555,940.86	\$6,888,985.21	\$55,111,881.71

## III. CONTRACT AND DELIVERY ORDER LIMITATIONS

[X] (a) Delivery orders will specify delivery no less than 14 days from the date of order. Changes or cancellations to delivery orders may be made by giving the Contractor notice no less than 5 days [remembering that days are always calendar days unless otherwise defined] before the required delivery date.

(b) Maximum contract limitation. The maximum quantity or maximum dollar value that may be ordered against this contract is **\$404,373,205.01, or 200%**.

(c) Annual Estimated Dollar Value for this contract(s) is

\$13,231,461.31 for Lot 1-Sub-Primal Cuts

\$44,978,759.24 for Lot 2-Portion Cuts

\$9,185,313.62 for Lot 3-Further Processed

(d) Guaranteed minimum.

(1) The Government guarantees that it will order under this contract (and under the contract awarded for any partial set-aside) the following minimum, as applicable:

(i) Base period of one year.

\_\_\_\_\_ (Quantity)  
\_\_\_\_\_ (Percentage of the annual estimated quantity or dollar value)

(ii) Base period of two or more years.

\_\_\_\_\_ (Quantity) multiplied by \_\_\_\_\_.

25% of annual estimated dollar value\* (Percentage) multiplied by 3 years.

**Lot 1-Sub-Primal Cuts:**

25% of annual estimated dollar value = \$3,307,865.33 multiplied by 3 years = \$9,923,595.98.

**Lot 2-Portion Cuts**

25% of annual estimated dollar value = \$11,244,689.81 multiplied by 3 years = \$33,734,069.43.

**Lot 3-Further Processed**

25% of annual estimated dollar value = \$2,296,328.40 multiplied by 3 years = \$6,888,985.21

(iii) The following minimum quantities within the time periods prescribed (quarter (QTR)) represents a three-month period computed from date of award):

Contract line-item (CLIN) First quarter; Second quarter; Third quarter; Fourth quarter;

\_\_\_\_\_

(iv) The Contractor will not be obligated to honor any order with free on board (f.o.b.) destination terms that requires delivery to a single destination of a quantity less than that shown below:

CLIN

Minimum quantity per destination

\_\_\_\_\_ \$250 \_\_\_\_\_

\_\_\_\_\_

(2) The Government may fulfill the guarantee by a single delivery order or by any number of delivery orders subject to the minimum per order specified in the clause Order Limitations, Federal Acquisition Regulation (FAR) clause 52.216-19 (a). The maximum quantity per order does not apply until after the guaranteed minimum is satisfied.

(3) In the event that a single delivery order includes both items that are within the guaranteed minimum and items in excess of the guaranteed minimum, the maximum

delivery order limitations in FAR 52.216-19 (b) shall apply, and the Contractor shall be governed by the notice requirement of FAR 52.216-19 (d).

(4) The total of the delivery orders issued during the base contract period will apply to the minimum guarantee stated in this paragraph (c). The Government's obligations with regard to the guarantee will be satisfied when the total of the delivery orders equals or exceeds the guaranteed quantity or guaranteed dollar value, as applicable.

(d) If this is an invitation for bids (IFB) and the Government elects to award a different quantity than that solicited or bid upon, the delivery schedule will be changed in direct proportion to the change in quantity. If this solicitation involves a partial set-aside, the Government will consider each destination (or combined destinations) separately in awarding the set-aside portion. The destination(s) appearing on page(s)\_\_\_\_N/A\_\_\_\_\_ is (are) the non-set aside portion.

**IV. SCHEDULE OF ITEMS**

See Attachment 1 (Beef Schedule of Items/price proposal). The Schedule of Items represents the list of items that will be required for this acquisition. Items may be added or deleted from the Schedule of Items at the discretion of the Contracting Officer. Item additions and deletions are influenced by changes to the Armed Forces and other authorized customers' menu requirements.

**V. CONTRACT IMPLEMENTATION PERIOD**

The contract implementation period is defined as the transition period which begins immediately after award and ends when each Subsistence Prime Vendor (SPV) supported under the contract has placed its first order under the new contract. The implementation period shall be 60 days after award.

The following terms shall apply:

- A. By the 60<sup>th</sup> day following award date, the contractor shall be at full operational capacity to support the OCONUS DLA Troop Support Subsistence Prime Vendors with current contracts under the terms and conditions of the contract. If a stop-work order is issued as a result of a protest, the implementation period may be extended until cancellation of the stop-work order.

The implementation timeline begins on the contract award date and ends 60 days thereafter. If a stop work order is issued during the implementation, the National Contract Holder will be required to stop work and will not be able to perform unless the stop work order is rescinded. If the stop work order is rescinded, the National Contract Holder will resume the implementation schedule from the date that the stop work order was issued. The 60-day period will not re-start from the beginning. For example:

Contract Award Date:            March 30, 2016

Stop Work Order Issued: April 30, 2016  
Stop Work Order Rescinded: May 30, 2016  
Implementation Timeline: March 30, 2016 – April 30, 2016 and May 31, 2016 – June 30, 2016.

- B. Products ordered after the implementation period by the SPV and covered under the resultant contract(s) will be ordered at the product price as defined by the new contract.
- C. It is the Government's intent to have the OCONUS SPVs place orders after the 60-day implementation period. The intent is to have SPVs deplete their current supply chain items and phase in the National Contract items. The supplier shall be prepared to make first order deliveries no earlier than 14 days following the implementation period. Delivery is defined by product leaving the National Contract Awardee Place of Performance.
- D. During the implementation period, each party (Government, National Contract Awardee and SPV) has roles.
  - 1) Within 15 days after contract award:
    - a) DLA Troop Support will schedule a post-award conference at DLA Troop Support in Philadelphia with the awardee(s) to coordinate implementation and discuss expectations for successful transition.
  - 2) Within 30 days after contract award:
    - a) DLA Troop Support will notify JSPB and the OCONUS SPVs of Award and establish unique Local Stock Numbers.
    - b) The National Contract Awardee(s) shall establish business relationships with the OCONUS SPVs. The agreement should include at a minimum, discussion concerning any special labeling (customer dependent; i.e. Navy), Source loading requirements, shipments to CONUS consolidators, Temperature Monitoring Devices (TMD), palletization requirements and any special import documents (i.e. health certificate) etc.
    - c) The National Contract Awardee shall submit an implementation (ramp-up) plan that reports which SPVs have been contacted, and plans to reach out to remaining SPVs.
    - d) The awardee will notify the Contracting Officer within 45 days from receipt of award if an agreement cannot be reached with any OCONUS SPV. A plan outlining steps to enter into agreements with remaining SPVs shall be submitted with the notification.

- 3) Within 45 days after contract award:  
Following frequent communication between the Awardee(s) and DLA Troop Support regarding implementation, an in process review will be accomplished in person or other means (for example, teleconference, video-teleconference) to assess implementation progress and discuss any issues.
- 4) Within 60 days of contract award:
  - a) Sample case labels depicting National contract-specific stock number shall be submitted to the National Contracts Procurement Contracting Officers (PCOs) for evaluation.
  - b) DLA Troop Support will schedule an in process review at DLA Troop Support in Philadelphia with the awardee(s) to assess the progress of the implementation.
- 5) Day 61 – The National Contractor may begin receiving orders from OCONUS SPVs.
- 6) Day 180–After action discussions (Hotwash) with Awardee(s) to discuss performance, identify strengths and weaknesses, and lessons learned.

## **VI. ORDERING/PAYMENT**

- A. Offerors are advised that DLA Troop Support intends to authorize its OCONUS Subsistence Prime Vendors to place orders under this contract pursuant to FAR 51 and/or other authority. The contractor agrees to accept the orders placed by the Prime Vendors and provide the items covered by this contract at the prices agreed to under this contract. The effective price is the price on the date of the order.
- B. All deliveries shall be coordinated by the individual Prime Vendors.
- C. Invoices shall be sent to the respective Prime Vendor. The Prime Vendor is responsible for all payments for items ordered against this contract. In the event of late or non-payment by the Prime Vendor, the contractor is required to contact the DLA Troop Support Contracting Officer for the specific responsible Prime Vendor.

## **VII. SURGE AND SUSTAINMENT REQUIREMENTS**

- A. The primary function of all DLA TROOP SUPPORT logistic support initiatives is the maintenance of military preparedness in peacetime and war. DLA TROOP SUPPORT's Subsistence Prime Vendors (SPV) have a critical role in ensuring that this absolute requirement is satisfied. The Contract Holder shares in this responsibility. The DLA TROOP SUPPORT SPV contracts may contain clauses which obligate the DLA TROOP SUPPORT SPV to respond to high volume, short

suspense material requests in support of military "surges". Where these surge clauses are in effect, the DLA TROOP SUPPORT SPV has been provided line item specific information regarding product identification, ordering quantities, and required delivery dates. In most instances the material quantities required to meet the military's immediate needs are far in excess of normal peacetime usage, and acceptable order ship time may be expressed in terms of hours.

- B. DLA defines surge as the ability to ramp up quickly to meet early requirements normally needed within the first 45 days. Sustainment is defined as the ability to sustain an increased pace throughout the contingency(s) for six months or longer. The spectrum of possible contingencies includes major theatre and smaller scale contingency operations.
- C. The DLA TROOP SUPPORT Subsistence Prime Vendor shall consult with and advise the Contract Holder when it has been determined that they represent a source for surge sensitive, readiness items. The DLA TROOP SUPPORT SPV will notify the Contract Holder of the projected quantities involved, as well as the necessary delivery time frames, and develop mutually acceptable surge support arrangements. This coordination must take place in advance of actual surge execution in order to ensure that the requisite supply and response capabilities are firmly established. The Contract Holder shall work in concert with the DLA TROOP SUPPORT SPV to ensure that material support plans accurately reflect the capabilities and capacities of both parties.
- D. This will include tests of these capabilities and capacities. The ultimate goal is the maximization of product availability in the quantities and time frames required by the military services. The Contract Holder who declines to enter into cooperative partnerships with any DLA TROOP SUPPORT Subsistence Prime Vendor for the expressed purpose of supporting the military's readiness requirements, or fails to respond to actual surge orders in accordance with previously established and agreed upon support parameters, may jeopardize its current market standing with the military.
- E. The Contract Holder shall provide all reasonable cooperation when unusual requirements arise. Unusual requirements may include, for example, natural disasters, national emergencies or other situations that create a surge in requirements.

## **VIII. TRANSPORTATION**

As the Government reserves the right to use the system that provides the best services to our customers (readiness included as a factor) the following applies:

- A. It is the responsibility of the awardee to coordinate with the SPV for transportation to a SPV CONUS consolidation point or source load product at the Awardee's Place of Performance to ship directly to the SPV OCONUS warehouse facility. The



awardee is advised that there are weight and cube sea van requirements for source loading to go to OCONUS SPV facilities, documentation requirements and special handling which should be discussed with the OCONUS SPV. Source Loading is the preferred method for transportation to OCONUS SPV warehouse facilities. This should be addressed with the SPV during the first 30 days following contract award.

- B. The SPV OCONUS contractor will be financially responsible for providing appropriate Temperature Monitoring Device(s) (TMDs) for the inside of the sea vans and for compartmentalization (freeze, chill), as appropriate for the total transit time. The TMD utilized may be for a longer recording time, but in no case can it be for a shorter recording time.

#### **IX. CONTRACTOR RESPONSIBILITIES**

- A. The National Contract Awardee will be responsible for all export documentation as required by the individual country supported by the SPV, as well as packaging/packing and marking of products. Specific information on what documentation is required will be provided by the SPV.
- B. The National Contract Awardee will be responsible for making a visual inspection of any container used to transport product to ascertain that it is intact and that all equipment appears to be operable.
- C. All freeze and chill trucks will use temperature monitoring devices (TMD), readings of which will be made available upon request.
- D. Additionally, the National Contract Awardee will be responsible for the van temperature verification, pre-cooling vans, when appropriate, and loading vans.

#### **X. GOVERNMENT RESPONSIBILITIES FOR SOURCE-LOADED SHIPMENTS**

- A. The DLA Distribution Representative in coordination with the Prime Vendor will be responsible for making ocean transportation bookings that provide transportation from the contractor's CONUS facility to the door of the PV's OCONUS facility.
- B. The DLA Distribution Transportation Operations team will generate the Transportation and Control Movement Document (TCMD), commercial invoice, commercial packing list and Consulate letter that will be used to identify that the products being shipped by the Contractor are for "U.S. Armed Forces."

#### **XI. CONTRACT REQUIREMENTS**

- A. The contractor must possess the necessary facilities, equipment, technical skills, and capacity to successfully provide items required by this solicitation.

- B. The contractor must be aware of individual country export restrictions for products supported under this solicitation in accordance with the list found at <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/export-library-requirements-by-country>.
- C. The Contractor is required to respond to Surge requirements when the Prime Vendor is faced with a significant increase in demand.

## **XII. QUALITY ASSURANCE REQUIREMENTS**

### **A. PRODUCT QUALITY**

1. The Contractor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act and regulations promulgated there under. This warranty will apply regardless of whether or not the supplies have been:
  - a. Shipped in interstate commerce,
  - b. Seized under either Act or inspected by the Food and Drug Administration or Department of Agriculture.
  - c. Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said Acts and regulations promulgated there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.
2. The Government shall have six months from the date of delivery of the supplies to the government within which to discover a breach of this warranty. Notwithstanding the time at which such breach is discovered, the Government reserves the right to give notice of breach of this warranty at any time within this six-month period or within 30 days after expiration of such period, and any such notice shall preserve the rights and remedies provided herein.
3. Within a reasonable time after notice to the Contractor of breach of this warranty, the Government may, at its election:
  - a. Retain all or part of the supplies and recover from the Contractor, or deduct from the contract price, a sum the Government determines to be equitable under the circumstances;
  - b. Return or offer to return all or part of the supplies to the Contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the supplies are seized under either Act or regulations promulgated there

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

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

## 2. FOOD SAFETY AND INSPECTION SERVICE (FSIS) REQUIREMENTS:

The items supplied under this contract must be produced and processed in a FSIS federally inspected establishment, be accurately marked and/or labeled, and meet all FSIS regulatory requirements, including all microbiological testing requirements.

## 3. SANITARY CONDITIONS FOR FOOD ESTABLISHMENTS

- a. 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/DoDAApprovedFoodSources.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.

- b. 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.
- c. 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 Worldwide Directory for those items.
- d. 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.
- e. 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>.
- f. 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](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.

- g. 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](http://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.
- h. 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>.
- i. 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.
- j. 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>.

- k. 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/pdf/files/r40\\_657.pdf](http://www.apd.army.mil/pdf/files/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>).
- l. 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.
- m. 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.
- n. 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.

**4. SHELF-LIFE**

- a. All products delivered to OCONUS Prime Vendors shall be as fresh as possible and must have no less than two-thirds (2/3) of the manufacturer's stated shelf life remaining at the time of receipt at the OCONUS Prime Vendor facility.
- b. All products shall be identified with readable "open coded" date of production/processing and date of expiration.

**5. PRODUCT QUALITY REQUIREMENTS**

- a. No products supplied under this contract shall contain meat derived from organs.
- b. No products supplied under this contract shall contain emulsified filler materials.
- c. No products supplied under this contract shall contain fillers, such as soy protein, when used to extend product more than 1%.
- d. No products supplied under this contract shall contain Monosodium Glutamate (MSG) as an added ingredient, in accordance with the DOD Menu Standards guidelines.
- e. No products supplied under this contract shall contain chemical or protein based tenderizers such as ficin, bromelin, or papain.
- f. All products supplied under this contract shall not contain ingredients that would increase the sodium or fat content in accordance with the DOD Menu Standards guidelines.
- g. All products supplied under this contract shall not contain oils that result in higher levels of trans-fat in accordance with the DOD Menu Standards guidelines.
- h. No products supplied under this contract shall have a sodium content level exceeding 800 mg per 3 ounce serving.
- i. For ground beef items - Frozen boneless beef may be used provided it is ground into the final product within 60 days from the date of pack. The following objectionable materials shall be excluded: a) Major lymph glands (prefemoral, popliteal, and prescapular), thymus gland, and the sciatic (ischiatric) nerve (lies medial to the outside round); b) All bone, cartilage, and the following heavy connective tissues: a) White fibrous – Shoulder tendon, elbow tendon, silver skin (from the outside round), sacrosciatic ligament, opaque periosteum, serous membrane (peritoneum), tendinous ends of shanks, gracilis membrane, patellar ligament (associated with the stifle joint), and achilles tendon; b) Yellow elastin

– Back strap and abdominal tunic. Additionally, the use of lean finely textured beef (LFTB) “pink slime” is also prohibited.

- j. All portion weights have been specified in the item descriptions, therefore random sized portions will not be acceptable under this contract.
- k. For items that state a specific weight range, no tolerances will be applied and all units must fall between the stated parameters.
- l. For all portion cut items, in accordance with the North American Meat Purchaser’s (NAMP) Guide, the following tolerances will be utilized:

Less than 6.0 ounce - +/- 0.25 ounce  
6.0 to 12.0 ounce - +/- 0.50 ounce  
12.01 to 24.0 ounce - +/- 0.75 ounce

- m. All products supplied under this contract shall meet the case weights identified in the item descriptions.
- n. For processed beef products (Meatballs, etc.) – Raw material may be frozen for no more than 60 days prior to being incorporated into the finished product.

**6. MEAT HANDLING**

Frozen products must be processed and packed to allow removal of the individual units from the container without damage to the other units. The intent is to be able to remove only that amount of product required for current needs, without the necessity of defrosting all units.

NOTE: a product designated by DLA Troop Support as “Frozen” shall never be frozen using a slow-frozen process.

For clarification purposes, the following is provided:

For item descriptions that state “frozen”, the following applies: Product will be frozen to an internal temperature of not higher than 0oF (-17.8oC) within 72 hours from the time of final fabrication of the item (see USDA Institutional Meat Purchase Specifications (IMPS) Freezing Option 1).

For item descriptions that state “individually quick frozen”, the following applies: Product will be brought to an internal temperature not to exceed 0oF (-17.8oC) within 24 hours from the time of final fabrication of the item (see USDA Institutional Meat Purchase Specifications (IMPS) Freezing Option 2).

NAMP/IMPS fresh products to be delivered frozen will be determined to be in excellent condition in the fresh-chilled state. All product to be frozen will be placed in the freezer within 4 hours after final fabrication of item. Fresh-chilled meat not processed on the same calendar day of determination for excellent condition



requirements, may be frozen and stockpiled for later use, provided it is processed not more than 60 days from the date of initial examination. The boneless meat will be frozen in accordance with IMPS Freezing Option 1 or Freezing Option 2. The meat will be maintained frozen during storage, and the internal temperature will not exceed 40°F (4.4°C) when further processing continues.

**7. PACKAGING AND PACKING**

- a. The contractor will assure that the materials and methods utilized for packaging and packing are in accordance with best commercial practices and comply with USDA Food Safety Inspection Service (FSIS) regulations, the National Motor Freight Classification, and Uniform Freight Classification Code, as applicable.
- b. When the packaging method in the item description on the Schedule of Items specifically states “vacuum packaged”, the product **MUST** be vacuum packaged
- c. When packaging method is not specifically mentioned in the item description on the Schedule of Items, packaging method utilized may be vacuum packaging or layer packed with waxed paper or plastic material between layers and boxes completely lined with plastic bags.
- d. Bulk ground beef will be packaged in plastic bags or casings (chubs). Filled bags or casings will have practically all air pockets forced out through the open end and will be closed by metal or plastic clips, tying, or folding to completely cover the product. When closed by folding, to avoid possible purge into the container, the open end of the bag will extend far enough beyond the product so that the bag end can be folded over the top of the packaged product.

**8. LABELING**

a. **USDA FSIS Labeling**

In accordance with USDA-FSIS labeling regulations, all products must be appropriately labeled as follows:

The Principal Display Panel (PDP) showing:

- i. Product Name
- ii. Handling Statement
- iii. Legend/Establishment Number
- iv. Net Weight Statement

The Information Panel showing:

- i. Ingredients Statement
- ii. Signature Line

## iii. Nutrition Facts\*

## Mandatory Safe Handling Instructions Displayed Anywhere on Labeling

\* Although the nutritional statement is not mandatory on some items, if nutritional facts are not included on the Information Panel, offeror must provide the nutritional facts on the manufacturer's specification.

## b. DLA Troop Support Label Wording Requirements for Principle Display Panels.

In order to verify products, meet the applicable item descriptions, the following is provided:

- i. For all beef items, whose item description specifies a particular grade, the grade declaration on the Principle Display Panel must clearly identify the appropriate USDA grade designation (i.e., if the item description calls for USDA Choice Grade, the label must clearly state "USDA Choice" to be considered an acceptable match to that portion of the description). The use of abbreviations (i.e., CH) or marketing terms (Ann's Choice) are unacceptable and would deem the item as being an unacceptable match to the item description requirement.
- ii. For all raw beef items, whose item description specifies a particular NAMP number, the NAMP number must be declared on the Principle Display Panel (i.e., NAMP 189A).
- iii. For ground beef bulk and ground beef patty items, the lean/fat percentages must be declared on the Principle Display Panel (i.e., 90% lean/10% fat; 90% lean; or 10% fat). Labels on ground beef items that merely "imply" the fat to lean percentages (i.e., 90/10 or 85/15) without the qualifier "lean"; "fat"; or "lean/fat" will be considered as only meeting the basic standard of identity for ground beef (i.e., 70% lean) would deem the item as being an unacceptable match to the item description requirement.
- iv. For cooked ground beef bulk item, the Principle Display Panel must declare "Prepared from XX%", for example, "Prepared from 90% lean ground beef". Any Principle Display Panel without this statement will be deemed as Unacceptable in that it does not meet the item description specified.
- v. For cooked ground beef patty items, the Principle Display Panel must declare "Prepared from XX%", for example, "Prepared from 85% lean ground beef". Any Principle Display Panel without this

statement will be deemed as Unacceptable in that it does not meet the item description specified.

- vi. For fully cooked items whose item descriptions specify “prepared from NAMP XXX”, the Principle Display Panel must state “prepared from NAMP XXX”. Any Principle Display Panel without this statement will be deemed as Unacceptable in that it does not meet the item description specified.

c. DLA Troop Support Mandated OCONUS Label

In addition to USDA FSIS mandated label(s), DLA Troop Support also requires a special OCONUS label to be placed on each and every case for its’ OCONUS customers. At a minimum, shipping cases shall be marked or labeled on one end or side panel with the following information:

- 1) Item Nomenclature or Description
- 2) Global Trade Item Number (GTIN)
- 3) Date of Pack
- 4) Product Expiration Date and/or Best If Used By Date
- 5) USDA Establishment Number
- 6) NAMP (or derived from NAMP if further processed)
- 7) Grade (e.g. USDA Choice or USDA Select), if applicable
- 8) Local Stock Number

d. Prime Vendor Mandated OCONUS Labeling Requirements

It is the responsibility of the awardee to coordinate with the OCONUS SPV for any special labeling requirements. More information about SPV OCONUS contracts can be found at:

<http://www.dla.mil/TroopSupport/Subsistence/Foodservices/Regions/OCONUS.aspx>

9. CLARIFICATION OF LABELING TERMS FOR BEEF PRODUCTS

a. Compliance of Breaded Product

FSIS regulations (Directive 7620.3) require that the weight of batter and breading used as a coating for breaded product must not exceed 30% of the weight of the finished breaded beef product. The meat portion of the product

thus represents 70% of the finished product. The 30% breading limitation applies to the combination of the weights of the battering and the breading operation(s).

b. Grade Designations

The label for all beef items, whose item descriptions specify a particular grade, must clearly identify the appropriate USDA grade designation (i.e. if the item description calls for US Choice Grade, the label must clearly state “USDA Choice” to be considered an acceptable match to that portion of the description). The use of abbreviations (i.e., CH) or marketing terms (Ann’s Choice) are unacceptable and would deem the item as being an unacceptable match to the item description requirement.

c. Precooked (P/C) Vs. Fully Cooked (F/C)

Precooked - Products that have been cooked but may require reheating or additional cooking prior to eating.

Fully Cooked - To be considered fully cooked the product generally must have reached a minimum internal temperature of 148oF and show product characteristics typical of a cooked product: partial bone separation, color, texture, flavor, etc.

d. Marinated Vs. Solution Added

Below is an excerpt from USDA-FSIS’ publication, “Food Standards and Labeling Policy Book”, August 2005 edition, regarding labeling requirements for marinated.

Marinated - To be labeled “marinated”, a product must use a marinade that is a mixture in which food is either soaked, massaged, tumbled, or injected in order to improve taste, tenderness, or other sensory attributes, e.g., color or juiciness. Time allotted in a marinade depends on many factors, e.g., thickness and size of the meat and strength of the marinade. Marinade should be that amount necessary to affect the finished product, and limited to 10 percent pickup in meat products.

Products exceeding the 10% pickup limit shall be identified as having solution added as a qualifier to the item name. Product is to be labeled with the item name/standard of identity, followed immediately with terminology such as “with X% solution added” or “marinated with up to X% solution”.

Unless specifically identified in the item description, no products supplied under this contract shall contain added solutions. For those items that do

identify solution added in the item description, solution percentages shall not exceed the limit identified in the item descriptions.

In an effort to ensure the accuracy of all item descriptions, we will catalog items that have received some degree of heat treatment in accordance with their label declaration in terms of either fully cooked (to include cooked or RTE) or precooked (to include partially cooked). As all food item labels must be approved by the appropriate federal regulatory authority (USDA FSIS for meat and poultry items), we will defer to the wording declared on the approved label.

From 9 CFR Part 430:

Ready-to-eat (RTE) product. A meat or poultry product that is in a form that is edible without additional preparation to achieve food safety and may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. RTE product is not required to bear a safe-handling instruction (as required for non-RTE products by 9 CFR 317.2(l) and 381.125(b)) or other labeling that directs that the product must be cooked or otherwise treated for safety, and can include frozen meat and poultry products.

For meat and poultry items, we also reference the definitions supplied in the North American Meat Processors Association (NAMP) publication, "The Meat Buyer's Guide".

#### 10. LEVEL OF PRODUCT QUALITY

All items must meet or exceed the Government's item description in order to be assigned a Government stock number. When designating an item as a match for the DLA Troop Support item in the schedule of items, the item must be:

- a. Identical in respect to standard of identity/product name, to include addition of marinade/solution added.
- b. Identical for portion control size.
- c. Equivalent in respect to grade and fabrication.

#### 11. PRODUCT SAMPLES

Prospective vendors will be required to submit product samples for testing by the United States Department of Agriculture (USDA) to ensure contracted items meet Grade, wholesomeness, and other desired characteristics. These samples shall be submitted at no expense whatsoever, to the Government.

## 12. TRANSPORTATION AND STORAGE TEMPERATURE REQUIREMENTS

The contractor is responsible for proper product storage, segregation, and loading of product in accordance with good commercial practices. The contractor will be responsible for delivering frozen products at or below 0oF (-17.8oC). Product exceeding 0oF (-17.8oC) at the time of shipment will not be acceptable. The following will apply:

- a. In order for frozen items to be accepted by the receiving OCONUS SPV, the following criteria must be observed:
  - i. Packages must be solid, not soft, upon arrival.
  - ii. Container and wrapping must be intact, not damaged, and in a solid condition.
  - iii. Packages must be free of drip and show no evidence of deterioration due to mishandling, thawing and refreezing, freezer burn, or off odor.
  - iv. Cello wrapped packages shall not be discolored or show other signs of freezer burn.
- b. Chill and freeze products must be shipped in refrigerated (Reefer) Vans and appropriately separated per temperature requirements.

## 13. PRIME VENDOR QUALITY AUDITS

Items shipped under the resultant contracts will be subject to evaluation at Prime Vendor Quality Audits, Quality Systems Management Visits (QSMVs) or other inspections performed by DLA Troop Support for purposes of ensuring product quality.

## 14. FOOD DEFENSE

The contractor must maintain a Food Defense/Product Protection Plan in accordance with the checklist found at:

[http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food\\_defense\\_check.pdf](http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food_defense_check.pdf)

## 15. PEST MANAGEMENT PROGRAM

The contractor must maintain a Pest Management Program in accordance with the checklist found at:

<https://www.troopsupport.dla.mil/subs/pestmgmt/theory/cheklist.pdf>

**XIII. PALLETIZATION**

- A. All OCONUS SPV contractor shipments must be palletized in accordance with good commercial practices.
- B. Palletization requirements for all Overseas Shipments: All Wood Packaging Material (WPM) acquired by DoD must meet requirements of International Standards for Phytosanitary Measures (ISPM) 15, "Guidelines for Regulating Wood Packaging Materials in International Trade." DoD shipments inside and outside of the United States must meet ISPM 15 whenever WPM is used to ship DoD cargo, or when wood is being acquired by DLA for future use as packaging material. WPM is defined as wood pallets, skids, load boards, pallet collars, wooden boxes, reels, dunnage, crates, frame and cleats.
- C. If product(s) is to be shipped to a SPV CONUS Consolidation warehouse, the National Contract Awardee must use good commercial practice to ensure that the product arrives at its destination in resalable condition.
- D. The SPV is responsible for all associated palletization costs that are above and beyond the normal commercial practice for CONUS shipments. For example, the SPV is required to use heat treated pallets for overseas shipments. They must be American sized pallets (48 inches x 40 inches ), may require corner bracing and extra shrink wrapping to ensure product stability during an overseas voyage. Please be advised that the SPV is financially responsible for costs to the National Contract awardee for palletization, special packaging, or shipping requirements dependent on the Area of Responsibility (AOR), if the items are to be source loaded. The National Contract Awardee is required to separately invoice for said pallets or special packaging or bracing requirements, etc. These costs are not to be included in the product price. Where practical, pallet exchange programs may be implemented by the OCONUS SPV. Pallets may not always be returned on a 1 to 1 basis. This does not relieve the contractor from delivering products on the proper type pallet. Pallet retrieval and all associated costs shall be the responsibility of the OCONUS SPV. In addition to these requirements, the OCONUS SPV may have special import documentation requirements and USTRANSCOM requirements that should be coordinated with the National Contract Awardee and OCONUS SPV.
- E. Cases may be mixed on the pallet, but are to be skillfully built to protect the product and case integrity as to allow the receiver to out check/in check all items on that pallet. All shipments must include a pallet manifest in addition to the truck manifest (if delivered to a SPV CONUS Consolidation warehouse).

**XIV. TITLE**

Title shall pass to the OCONUS SPV when, the contractors' obligation under the FOB origin contract and requirements of the statement of work have been satisfied, unless otherwise agreed to between the National Contract Holder and the OCONUS SPV.

**XV. NEW ITEMS**

- a) Since the items in this contract satisfy all the Services (Army, Air Force, Navy, Marines and other authorized customers), menu changes can occur. Requests for new item additions or replacement items will require Services Headquarters' approval. New item additions must be approved by the Contracting Officer through bilateral modification with negotiated prices prior to the item being added to the contract.
- b) New items will not be added to the contract unless the Contracting Officer determines the proposed prices for the item to be fair and reasonable in accordance with FAR 13.106 and approves the addition.
- c) If the National Contract Awardee is not capable of fulfilling the requirement or the pricing is not fair and reasonable, the SPV may source from another supplier.

**XVI. FILL RATE**

The National Contract Awardee is required to provide a minimum contract order of 99%. It is expected that the SPV will receive up to 100% of what they order from the Awardee (i.e. no short shipments). Fill rates will be measured in two categories: non-catch weight items and catch weight items as defined in the item's STORES product description. Fill rates will be documented in the Contractor Performance Review System (CPARS) and low fill rates may impact past performance evaluations on subsequent acquisitions.

Definitions:

Non catch-weight item: An item which has a specific weight per case, e.g. 890501E624704, BEEF FAJITA STRIPS, FZN, US CHOICE GRADE, UNSEASONED, 5/10 LB PG.

For this example, non-catch weight item, the SPV orders 50 cases, it is expected that the National Contract Awardee would ship 50 cases. If they would only ship 49 cases, the fill rate for this line would be the following:

$$\text{Awardee Cases shipped divided by SPV cases ordered} = 49/50 \times 100 = 98\%$$

Catch-weight item: An item for which a weight range is acceptable; normally meat items are purchased by the pound:



BEEF RIB, ROAST-READY, FULLY COOKED, FROZEN, prepared from USDA Choice Grade, rare, marinated with up to 10% solution, with natural juices, 2/10-15 pounds each, prepared from NAMP 109

For this example, catch weight item, the average weight for each case is between 20 and 30 pounds. For catch weight items, the fill rate will be calculated by dividing the pounds shipped by the pounds ordered.

The SPV orders 100 pounds, the National Contract Awardee ships 100 pounds based on 4 cases (two 30 lbs and two 40 lbs.)

The fill rate in this example is 100 pounds shipped divided by the SPV order quantity equals  $100/100 \times 100 = 100\%$

Cases shipped: For non-catch weight items, the product quantity that the OCONUS SPV has ordered and the National Contract Awardee has shipped, not including damaged cases, and mis-picks.

Pounds shipped: For catch weight items, the product quantity that the OCONUS SPV has, ordered and the National Contract Awardee has shipped not including damaged cases, and mis-picks.

Pounds ordered: For catch weight items, the product quantity requested by OCONUS SPV. However, in the event that a catch weight item is overfilled, and the OCONUS SPV accepts the extra quantity, the 'pounds ordered' will be adjusted to match the 'pounds accepted'. This is to preclude a fill rate greater than 100%.

## **XVII. CONTRACT AUTHORITY, ADMINISTRATION, INVOICES, AND REPORTS**

### **A. CONTRACTING AUTHORITY**

1. The DLA Troop Support Contracting Officer is the only person authorized to approve changes, or modify any requirement of the contract. Notwithstanding any provisions contained elsewhere in the contract, said authority remains solely with the DLA Troop Support Contracting Officer.
2. In the event the contractor effects any change at the direction of any person other than the DLA Troop Support Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made. The Contracting Officer must authorize any modification or costs associated with a change.
3. Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA Troop Support Contracting Officer.

**B. ADMINISTRATION**

1. The DLA Troop Support Contracting Officer shall maintain responsibility for all contract management functions. Any changes to the terms and conditions of the contract must be approved in writing by the Contracting Officer.
2. The DLA Troop Support Contracting Officer or designee will monitor the guaranteed minimum and contract ceiling dollar values, and record the USDA Carlot Report market indexes for Economic Price Adjustments. The DLA Troop Support Contracting Officer will modify the contract for price changes. DLA Contracting Officer or designee will forward price updates to the OCONUS SPVs.

**C. INVOICING**

The National Contract Holder shall provide an invoice that is used to bill the OCONUS SPV containing the following elements:

1. Lot item number (e.g. 2-10)
2. LSN
3. SPV Name
4. SPV purchase Order Number
5. Awardee Product SKU
6. STORES item description
7. Quantity ordered in LBS or cases (this is dependent upon the item's STORES item description)
8. Purchase Order date
9. Ship date
10. Quantity shipped in LBS or cases (this is dependent upon the item's STORES item description)
11. Unit Price per LB or Case (this is dependent upon the item's STORES item description)
12. Extended Price
13. Payment terms (i.e., 10 days 2%; net 30)

**XVIII. MANAGEMENT REPORTS**

The contractor shall provide the following reports to the Contracting Officer in the frequency indicated. Negative reports are required and the government reserves the right to add additional reports at no additional cost. Each quantity and dollar value provided should be based on the items unit of issue.

The contractor is required to add the following statement to every management report submitted to DLA Troop Support: "I confirm that all the information submitted to the Government is complete and accurate to the best of my knowledge. I understand that false statements contained herein, may be punishable by law."

1. Invoice Sales Report (Monthly): On the tenth of each month, the National Contract Awardee will be required to submit a report on orders invoiced to OCONUS SPVs for the previous month. These reports must include, at a minimum, the Lot Number, LSN, SPV Name, SPV purchase Order Number (PO), Awardee Product SKU, STORES description, Quantity ordered ( in LBS), Quantity ordered in cases (this is dependent upon the item's STORES description), order date, Ship date, Quantity shipped (in LBS),Quantity shipped in cases (this is dependent upon the item's STORES description, Unit Price per LB, Unit Price per Case (this is dependent upon the item's STORES description, and Extended Price. In addition, the contractor must provide legible copies of all SPV POs and National Contract Award invoices to SPVs occurring within the same calendar month FSOM to day prior to the FSOM for the next month. If products are ordered near the end of an ordering month but do not ship until the following month, the PO copy is still required to be reported in the current reporting period. For the following reporting period, the PO copy will have to be resubmitted along with a copy of the invoice.

An electronic transmission is required (Excel Spreadsheet for data table and PDF format for invoices to SPVs).

2. Socio-Economic Report (Monthly):

This report shall list all products manufactured and/or supplied by small business, small disadvantaged business, minority owned small business, women-owned small business, women owned small disadvantaged business, HUB Zone small business, veteran owned small business, or service disabled veteran owned small business. This shall be sorted by manufacturer/supplier and include quantity and dollar value and shall be sorted by the applicable business size category of the manufacturer/supplier. NIB/SourceAmerica firms are not to be categorized under Small Disadvantaged Business as they are non-profit organizations and should be considered their own separate category.

**Note:** Only large businesses are required to submit this information. This report is for direct subcontracts for products supplied to customers. This report is not to include indirect costs. SBA must certify HUB Zone businesses.

A summary page of the report shall also be submitted that highlights the total dollars and percentages for each category. This information is very important since DLA Troop Support is required to report its success in meeting these goals for the Defense Logistics Agency

(DLA). Also requested, but not required since DLA does not mandate these goals be reported, is a listing of products supplied and/or manufactured by UNICOR, Labor Surplus Areas, Historically Black Colleges or Universities and Minority Institutions.

## **XIX. BUSINESS RELATIONSHIPS**

The successful awardee must establish a business relationship with each authorized DLA Troop Support OCONUS Prime Vendor to facilitate the sale of the items covered by this contract at the established prices. The awardee will notify the Contracting Officer within 45 days from receipt of award if an agreement cannot be reached. Failure or refusal to come to agreeable terms with OCONUS Prime Vendors may constitute sufficient cause for terminating this contract under FAR 52.212-4 paragraph (m) Contract Terms and Conditions- Commercial Items (MAY, Termination for Cause.

### **CONTRACT CLAUSES**

#### **52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (May 2015)**

(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 Government-wide 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.

(v) *Incorporation by reference.* The Contractor’s representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

**Addendum to 52.212-4**

*The following paragraphs of 52.212-4 is amended as indicated below:*

**1. Paragraph (g) and (i), Invoice and Payment.**

Paragraph (g) and (i), are revised to add the following:

The language defined at the Statement of Work, section XVIII (c) takes precedence over the language defined at clause 52.212-4 (g) and (i).

**2. Paragraph (o), Warranty**

Paragraph (o) is revised to add the following:

In the event that a product recall is initiated by the National Contract Supplier or OCONUS DLA SPV, the contractor should follow the procedures as outlined below:

- a) Immediately notify the following personnel:

OCONUS SPVs

DLA Troop Support Contracting Officer- National Contracts Contracting Officer

DLA Troop Support Consumer Safety Officers:

Jacqueline Telesford, CW3 USA MIL. DLA TROOP Support

Phone: 215-737-2922

Email: [Jacqueline.Telesford@dla.mil](mailto:Jacqueline.Telesford@dla.mil)

Kellie Triplett, MAJ USA DLA MIL. DLA Troop Support

Phone: 215-737-2934

Email: [Kellie.Triplett@dla.mil](mailto:Kellie.Triplett@dla.mil)

- b) Provide the following information to the DLA Troop Support Consumer Safety Officer:

Reason for recall

Level of recall, i.e. Type I, II or III

Description of product, including specific manufacturer's lot numbers

Amount of product

List of customers that have received product

Name and phone number of responsible person (Recall Coordinator)

- c) The contractor should provide a Final Status Report of Recall, when completed, to the DLA Troop Support Consumer Safety Officer.
- d) 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 an addendum contained in the solicitation.

**3. Paragraph (m), Termination for Cause.**

Paragraph (m) is deleted in its entirety and replaced with the following:

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 replacement purchase or any other damages resulting from such default, the National Contract Awardee shall pay, and the Government shall accept, the sum of \$1,350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

**4. Paragraph (t), *System for Award Management*.**

Add Paragraph (t), is revised to add the following paragraph:

(a) Definitions.

“System for Award Management (SAM) 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—

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

(2) 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 SAM 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 System for Award Management database” means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, and Contractor and Government Entity (CAGE) code into the SAM database;

(2) The contractor has completed the Core Data, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service. The Contractor will be required to provide consent for TIN validation to the Government as part of the SAM registration process; and

(4) The Government has marked the record “Active”.

### **52.215-6 -- Place of Performance (Oct 1997)**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, [ ] **intends, [ ] does not intend [check applicable block]** to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance(Street Address, City, State, County, Zip Code)	<b>Name and Address of Owner and Operator of the Plant or Facility if Other Than Offeror or Respondent</b>

### **Addendum to 52.215-6**

In addition to the requirements of 52.215-6 Place of Performance above, if the Awardee uses multiple facilities to produce the items, they must consolidate the items at one centralized distribution location if source loading. The address of the centralized distribution location should be listed as a place of performance in paragraph (b) above and identified as the centralized distribution location.

### **CLAUSE NUMBER**

### **TITLE/DATE**

### **52.215-9023 REVERSE AUCTION (OCT 2013)**

The Contracting Officer may utilize on-line reverse auctioning as a means of conducting price discussions under this solicitation. If the Contracting Officer does not conduct a reverse auction, award may be made on the basis of initial offers or following discussions not using reverse auctioning as a pricing technique. If the Contracting Officer decides to use on-line reverse auctioning to conduct price negotiations, the Contracting Officer will notify offerors of this decision and the following provisions will apply.

(a) The award decision will be made in accordance with the evaluation factors as set forth in the solicitation. The reverse on-line auction will be used as a pricing technique during discussions to establish the final offered prices from each offeror. These prices will be used in conjunction with the evaluation factors stated elsewhere in the solicitation in order to make the award decision in accordance with the basis for award stated in the solicitation.

(b) Following the decision to conduct discussions using on-line reverse auctioning as a pricing technique, the Contracting Officer or his/her representative will provide offerors determined to be in the competitive range with information concerning the on-line auction process. The Government intends to use a commercial web-based product to conduct the reverse auction.

(c) Prior to or simultaneously with conducting the on-line reverse auction, the Contracting Officer may hold discussions with the offerors concerning matters appropriate for discussion, such as issues involving technical proposals or unbalanced pricing.

(d) The lowest offeror's price(s) for each round of the reverse auction will be disclosed to other offerors and anyone else having authorized access to the on-line auction. This disclosure is anonymous, meaning that each offeror's identity will be concealed from other offerors (although it will be known to the Government; only a generic identifier will be used for each offeror's proposed pricing, such as "Offeror A" or "lowest-priced offeror"). By submitting a proposal in response to the solicitation, offerors agree to participate in the reverse auction and that their prices may be disclosed, including to other offerors, during the reverse auction.

(e) The reverse auction system currently in use designates offers as "Lead," meaning the current low price in that auction, or "Not Lead," meaning not the current low price in that auction. In the event of a tie offer, the reverse auction provider's system designates the first offer of that price as "Lead" and the second or subsequent offer of that price as "Not Lead." Offerors shall not submit a tie offer, since this is inconsistent with the purpose of the reverse auction. If a tie offer is submitted, the "Not Lead" offeror that submitted the tie offer must offer a changed price; it will be ineligible for award if the final price in the auction is the tie offer price.

(f) An offeror's final auction price at the close of the reverse auction will be considered its final proposal revision. 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 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.

(g) The following information is provided regarding the procedures to be followed if a reverse auction is conducted.

(1) Each offeror identified by the Contracting Officer as a participant in the reverse auction will be contacted by Defense Logistic Agency's commercial reverse auction service provider to advise the offeror of the event and to provide an explanation of the process.

(2) In order for an Offeror to participate in the reverse auction, such offeror must agree with terms and conditions of the entire solicitation, including this provision, and agree to the commercial reverse auction service provider's terms and conditions for using its service. Information concerning the reverse auction process and the commercial service provider's terms and conditions is embedded within the email notification sent by the on-line reverse auction pricing tool system administrator.

(3) Offerors shall secure the passwords and other confidential materials provided by the commercial reverse auction service provider or the Government and ensure they are used only for purposes of participation in the reverse auction. Offerors shall keep their own and other offerors' pricing in confidence until after contract award.

(4) Any offeror unable to enter pricing through the commercial reverse auction service provider's system during a reverse auction must notify the Contracting Officer or designated representative immediately. The Contracting Officer may, at his/her sole discretion, extend or re-open the reverse auction if the reason for the offeror's inability to enter pricing is determined to be without fault on the part of the offeror and outside the offeror's control.

(5) The reverse auction will be conducted using the commercial reverse auction service provider's website as embedded in the email notification. Offerors shall be responsible for providing their own computer and internet connection.

(6) Training:

(i) The commercial reverse auction service provider and/or a Government representative will provide familiarization training to offerors' employees; this training may be provided through written material, the commercial reverse auction service provider's website, and/or other means.

(ii) An employee of an offeror who successfully completes the training shall be designated as a 'trained offeror.' Only trained offerors may participate in a reverse auction. The Contracting Officer reserves the right to request that offerors provide an alternate offeror employee to become a 'trained offeror.' The Contracting Officer also reserves the right to take away the 'trained offeror' designation from any trained offeror who fails to abide by the solicitation's or commercial reverse auction service provider's terms and conditions.

#### **52.216-9006 ADDITION/ DELETION OF ITEMS (AUG 2005)**

(a) The Government reserves the right to unilaterally delete items that were available from only one manufacturer at the time of award if an alternate source of supply becomes available or the Government's requirements are modified to provide for full and open competition. The Government will provide a 30-day advance notice to the Contractor prior to deleting any item from the Contract.

(b) New items may be added to the contract through bilateral modification with negotiated prices. All new requirements are subject to synopsis prior to addition to the contract.



(c) Discontinued items:

(1) The Contractor agrees to provide the Government with immediate, written notification when an item is to be discontinued by the manufacturer, including a recommendation for any potential substitute or replacement items. If the Government elects to include a substitute or replacement item in the contract, the contract will be modified accordingly.

(2) If an item is discontinued without replacement, the notice should include a recommendation concerning the availability of items that are comparable in form, fit, and function. The Contractor shall not incur any costs related to alternate sources of supply without the express written approval of the Contracting Officer. The Government has the option to make a last time order, or series of orders, within 30 days after receiving written notification of the discontinued item after which the item will be deleted from the contract. The Contractor shall honor any last time order unless it is returned to the ordering office within 10 days after issuance, with written notice stating the full quantity is not available for shipment. The terms of such order(s) will be negotiated by the parties, including changes to the delivery schedule and maximum quantity available for shipment.

52.216-19 -- Order Limitations (Oct 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$250, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of N/A

(2) Any order for a combination of items in excess of N/A

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

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

**52.216-9084 ECONOMIC PRICE ADJUSTMENT (EPA)-NATIONAL CONTRACTS-SUBSISTENCE (OCT 2014)**

(a) *Warranties.* For the portion of the Schedule that is covered by this EPA clause, the Contractor warrants that the unit prices included in the Schedule do not include allowances for any portion of the contingency covered by this clause.

(b) The base market price for the purpose of the adjustment calculations under this clause shall be the arithmetic average of the prices for each applicable economic indicator for the period specified under the “Base Market Price Period” column below; for the initial Base Market Price, the specified period shall end with either the solicitation date for proposals (if no discussions are held)[,] the due date for final proposal revisions (if discussions are held), or the solicitation opening date (if sealed bidding is used), as applicable.

<b>DLA TROOP SUPPORT ITEM DESCR.</b>	<b>USDA CARLOT ECONOMIC INDICATOR</b>	<b>PUBLISHER / PUBLICATI ON/FREQUE NCY PUBLISHED</b>	<b>BASE MARKET PRICE PERIOD</b>	<b>ADJUSTING MARKET PRICE PERIOD</b>
BEEF LOIN, TENDERLOIN, FULL, SIDE MUSCLE ON, DEFATTED, RAW, FROZEN, USDA Select Grade, vacuum packaged, maximum average surface fat 0.25 inch, 4-7.5 pound each, NAMP 189A, 1/40 pound average case	US Select, NAMP 189A-4 Loin, tndrlain, trmd, heavy	USDA National Meat Carlot Report, Weekly	The weighted average price per 100 lbs. for the IMPS/FL (NAMPS) description reflected in the Weekly Published Carlot Report immediately preceding the final closing date of the solicitation	The first adjustment market price period will be derived from the published data in the Weekly Carlot Report from the prior weekly published reports until 9 days before the FSOM. Subsequent adjustments will be based on all weekly published Carlot Reports

(c) The adjusting market price shall be the arithmetic average of the prices of each applicable economic indicator published for the period specified under the “Adjusting Market Price Period”

column shown in paragraph (b) immediately preceding the effective date of the adjustment period. "Base unit price" is the unit price as awarded for the base contract period and for each pricing tier period or option period for each item subject to adjustment pursuant to this clause, and shall be used in calculating price adjustments. This price is exclusive of any adjustment pursuant to this clause.

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

(e) "Adjustment period" is the amount of time, measured in months, during which the unit price for each contract line item must remain fixed.

(1) The initial base unit price (see paragraph (c) above) shall be the price for the first adjustment period following contact award.

(2) The length of each adjustment period will be (see addendum) months;

(3) Unit Prices shall not be adjusted for the first adjustment period following contract award and may only be adjusted for each adjustment period after that first adjustment period; and

(4) There shall be (12) adjustment periods per calendar year.

(f) "Adjusted Unit Price" is the adjusted price for each contract line item applicable at the start of and throughout each new adjustment period, as calculated following the procedure in (g) below.

(g) The Adjusted Unit Price for each item for each adjustment period shall be determined by increasing or decreasing (as appropriate) the Base Unit Price applicable to that adjustment period for each item by the applicable Market Price Change for each item. Each Adjusted Unit Price shall be rounded to two decimal places. Adjustments shall be calculated as follows:

(1) Compute the Adjusting Market Price and the Base Market Price for each item subject to adjustment. (Round to four decimal places)

(2) Adjusting Market Price – Base Market Price = Market Price Change (+ or -). (Round to two decimal places)

(3) Current Base Unit Price (+ or -) Market Price Change = Adjusted Unit Price.

(4) The following calculation example is provided.

## EXAMPLE OF ADJUSTMENT CALCULATION

Final Proposal Revision due date: June 28, 2013

\*For the purpose of the example adjustment, the base market price will be the economic indicator for the four weeks immediately preceding the due date for Final Proposal Revision.

ITEM	ECONOMIC INDICATOR	PUBLISHER/ PUBLICATION/ FREQUENCY PUBLISHED	BASE MARKET PRICE PERIOD	ADJUSTING MARKET PRICE PERIOD
Chicken Breast Filets	Breasts. B/S, Georgia FOB Dock, Final Wtd. Avg. Price	USDA/Broiler Market News Report/Final Wtd. Avg. Prices are Reported on Mondays*	4 week weighted average price for end of period preceding adjustment period	3 months immediately preceding the date of adjustment

The arithmetic average of the prices listed in the United States Department of Agriculture (USDA) Broiler Market New Report for Chicken Breasts – B/S (Boneless/Skinless) during the four (4) week period immediately preceding the due date for Final Proposal Revisions will be used to calculate the base market price for the Chicken Breasts – B/S

## Base Market Price calculation

\*Note 1: The numbers used in the following example are hypothetical and are being utilized for illustration purposes only for how the price adjustments will be calculated pursuant to this clause.

\*Note 2: The prices reported in the USDA/Broiler Market News are reported in cents per LB. To convert the prices in Dollars per LB, divide by 100. For the purpose of this example and the EPA price adjustment calculations, the prices shall be shown in Dollars per LB.

Date	Price in Dollars per LB
24 June 2013	\$1.7850
17 June 2013	\$1.7500
10 June 2013	\$1.8150
03 June 2013	<u>\$1.8400</u>
Total Four Weeks	\$7.1900

Total/4 = Arithmetic  
average \$1.7975

\*Note 3: For some four (4) week periods, the USDA may publish fewer than four (4) issues of the summary due to events such as Federal Holidays. In all such cases, only those issues published for the relevant four-week period will be used in the calculations.

Base award date: August 30, 2013 Base Unit Price: \$2.39

\*Note 4: For the purpose of this example, the initial offered prices will be fixed for three months (August 30, 2013 – November 30, 2013), which would be the first adjustment period following contract award. For this example, the effective modification date for the second adjustment period is November 30, 2013.

The arithmetic average of the prices listed in the United States Department of Agriculture (USDA) Broiler Market New Report for Chicken Breasts – B/S (Boneless/Skinless) during the 3-month period (approximately 13 weekly reports) immediately preceding the effective date of the modification (i.e. November 30, 2013) will be used to calculate the first adjustment period for the Chicken Breasts – B/S

Adjusted Market Price calculation

Date	Price in Dollars per LB
25 November 2013	\$1.5200
18 November 2013	\$1.5500
11 November 2013	\$1.5900
04 November 2013	\$1.6350
28 October 2013	\$1.6700
21 October 2013	\$1.7950
14 October 2013	\$1.8650
07 October 2013	\$2.0300

30 September 2013	\$2.0350
23 September 2013	\$2.0600
16 September 2013	\$2.0750
09 September 2013	\$1.9850
02 September 2013	<u>\$1.9000</u>
Total 13 Weeks	\$23.7100
Total/13 = Arithmetic average	\$1.8238

1. Calculate the Adjusting Market Price and the Base Market Price. From the example above: Base Market Price = \$1.7975 and Adjusting Market Price = \$1.8238 (Round to four decimal places)

2. Calculate Market Price Change (+/-):

Adjusting Market Price – Base Market Price = \$1.8238 - \$1.7975 = \$0.03 (Round to two decimal places)

3. Calculate Adjusted Unit Price: Base Unit Price (+/-) Market Price Change

\*Note: Since this is an example of the first price adjustment under this clause, the base unit price would be the price as awarded.

$$\$2.39 + \$0.03 = \$2.42$$

(h) Price adjustments pursuant to this clause shall be made by contract modification showing the calculations used to derive the adjusted contract unit price. All order pricing will be the contract price in effect at the time the order is placed. No price adjustment under this clause will take effect unless and until a formal modification adjusting the price is made.

(i) Any pricing actions pursuant to the Changes Clause or other provisions of the contract will be priced as though there were no provisions for economic price adjustment.

(j) *Upward ceiling on economic price adjustment.* The total increase in any contract unit price during and at the end of all adjustment periods to which a particular base unit price is applicable shall not exceed **70% US Choice graded products and 70% US Select graded products, and 80% for ungraded Ground Beef derived products** of that base unit price agreed to at time of award. There is no percentage limit on downward adjustments under this clause.

(k) 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 adjustment

ceiling for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification 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.

(l) If an increase in the price index would raise a contract unit price for an item above the current ceiling, the Contracting Officer may issue 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.

(m) *Revision of market price indicator.* In the event (i) any applicable market price indicator is discontinued or its method of derivation is altered substantially or (ii) the Contracting Officer determines that a particular market price indicator consistently and substantially no longer reflects market conditions, the parties shall mutually agree upon an appropriate and comparable substitute, and the contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions.

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

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

(p) In the event any applicable market price indicator is not published for any week, quarter, month, etc., that week, quarter, month, etc., will not be included in calculating the Base Market Price or the Adjusting Market Price, as applicable. For instance, if within a three-month period an indicator was expected to be published 13 times (1 time per week) but was not published 2 times, the average of the 11 published prices only will be calculated. When a range of prices is provided, for the purposes of the calculations the arithmetic average of the high and low number will be calculated to determine the indicator for that period.

### **Addendum to 52.216-9084**

*Paragraph (b) is hereby amended to add the following:*

The Base Market Price for every item in each lot will be established by evaluating a USDA Weekly National Carlot Meat Report for each item for the previous four (4) week period prior to Final Proposal Revisions. Calculations of the adjustments shall be the arithmetic average of the prices for each item and its applicable economic indicator

**Paragraph (d) is hereby amended to add the following:**

The USDA Weekly National Meat Carlot Report, published by The USDA Department of Agriculture on a weekly basis, will be used to update price adjustments. The effective date of the adjustment shall be the First Sunday of the Month (FSOM). The USDA Weekly National Meat Carlot Report can be found at <https://www.ams.usda.gov/mnreports/lswwklyblue.pdf>

The USDA Weekly National Carlot Meat Report is published every Friday by 5:00 P.M for the week ending the Saturday of that week. For holidays the report will be issued on the next business day. Negotiated Sales are based on FOB Plant negotiated prices and volume of boxed beef cuts delivered within 0-21 days and on average industry cutting yields. Values reflect U.S. dollars per 100 pounds. The report reflects the number of trades, the total pounds, the price range, and the weighted average price for those trades. For every NAMP derived from IMPS, the Government will use the weighted average to calculate price adjustments. For the purpose of all price adjustments, the weighted average for every NAMP will be divided by 100 in order to arrive at a per pound price.

**Paragraph (e) (2) is hereby amended to add the following:**

Pricing shall be fixed during the implementation period. The length of each price adjustment period will be the number of Published Weekly Carlot reports in the previous period prior to adjustment and will be effective on the FSOM for the following period. Price adjustments for the follow on periods will be initiated nine (9) days before the following FSOM.

For example, Contract is awarded March 30, 2016. First price change would be effective June 5, 2016 (FSOM). The index data that would be evaluated would be derived from CARLOT reports from May 27, May 20, May 13, May 6, and April 29, April 22, April 15, April 08, April 01, March 25, March 18, March 11, and March, 16. For the second price change (effective July 03, 2016), index data would be evaluated from CARLOT reports from June 17, June 10, June 03, and May 27.

**Paragraph (g) (4) is hereby by revised as follows:****EXAMPLE OF ADJUSTMENT CALCULATION**

ITEM	ECONOMIC INDICATOR	PUBLISHER/PUBLICATION/FREQUENCY PUBLISHED	BASE MARKET PRICE PERIOD	ADJUSTING MARKET PRICE PERIOD
BEEF LOIN, TENDERLOIN, FULL, SIDE MUSCLE ON, DEFATTED, RAW, FROZEN, USDA Select Grade, vacuum packaged, maximum average surface fat 0.25 inch, 4-7.5 pound each, NAMP 189A, 1/40 pound average case	US Select, NAMP 189A-4 Loin, tndrlain, trmd, heavy, FOB USDA National Carlot Meat, Final Wtd. Avg. Price NOTE: Please refer to the Schedule of Items for NAMPS associated with each item	USDA National Carlot Meat Report/Final Weighted Average Prices are Reported on Fridays*	The weighted average price per 100 lbs. for the IMPS/FL* description reflected in the Weekly Published Carlot Report immediately preceding the final closing date of the solicitation	The first adjustment market price period will be derived from the published data in the Weekly Carlot Report from the prior published reports until 9 days before the FSOM. Subsequent adjustments will be based on all published Carlot Weekly Reports



\*Please see the Schedule of Items that has a column that links each item on the schedule to a specific Institutional Meat Purchase Specifications (IMPS) index/ FL.

### **Base Market Price Calculation**

Note 1: The numbers used in the following example are hypothetical and are being utilized for illustration purposes only for how the price adjustments will be calculated pursuant to this clause.

Note 2: For the purpose of this example, the arithmetic average of the prices listed in the United States Department of Agriculture (USDA) Weekly National Meat Carlot Report for Beef Loin during the four **(4) week period** immediately preceding the due date for **Final Proposal Revisions** will be used to calculate the **Base Market Price** for Beef Loin.

Note 3: For some four (4) week periods, the USDA may publish fewer than four (4) issues of the summary due to events such as Federal Holidays. In all such cases, only those issues published for the relevant four-week period will be used in the calculations. Report is published every Friday by 5:00 P.M. For holidays the report will be issued on the next business day.

**Final Proposal Revision Due Date: February 29, 2016**

USDA Weekly National Carlot Meat Report Date	USDA Carlot Weighted Average for NAMP 189-A Beef Loin Tenderloin, US Select Grade	USDA Carlot Weighted Average/100 lbs.
26-Feb-16	\$1,002.62	\$10.0262
19-Feb-16	\$965.21	\$9.6521
12-Feb-16	\$957.08	\$9.5708
5-Feb-16	\$1,021.31	\$10.2131
Total Four Weeks		\$39.4622
<b>Base Market price =(Total/4 weeks = Arithmetic Average)</b>		<b>\$9.8656</b>

### **Adjusted Market Price Calculation**

#### **FIRST ADJUSTMENT PERIOD 60 days following Implementation**

(The effective modification date for the first adjustment period is June 05, 2016. For the purpose of administrative lead time, the Government will begin to evaluate data nine (9) calendar days before the FSOM).

Note 1: For the purpose of this example, the arithmetic average of the prices listed in the United States Department of Agriculture (USDA) National Meat Carlot Report corresponding to the item's identified NAMPs/IMPS/FL code during the period published from the time of **Final Proposal Revisions to 60 days after contract award** will be used to calculate the Adjusting Market Price for the Beef Loin.

Award Date: March 30, 2016		
Example Base Unit Price (price as awarded):		\$12.00
USDA Weekly National Meat Carlot Report Date	USDA Carlot Weighted Average for NAMP 189-A Beef Loin Tenderloin, US Select Grade	USDA Carlot Weighted Average/100 lbs
27-May-16	\$1,005.32	\$10.0532
20-May-16	\$1,006.44	\$10.0644
13-May-16	\$949.84	\$9.4984
6-May-16	\$976.40	\$9.7640
29-Apr-16	\$964.71	\$9.6471
22-Apr-16	\$918.10	\$9.1810
15-Apr-16	\$855.25	\$8.5525
8-Apr-16	\$877.01	\$8.7701
1-Apr-16	\$933.51	\$9.3351
25-Mar-16	\$928.22	\$9.2822
18-Mar-16	\$930.23	\$9.3023
11-Mar-16	\$925.79	\$9.2579
4-Mar-16	\$928.99	\$9.2899
<b>Total</b>		<b>\$121.9981</b>
<b>Adjusting Market Price= (Total/13 weeks = Arithmetic Average)</b>		<b>\$9.3845</b>

### Adjusted Market Price Calculation:

#### 1. Calculate the Adjusting Market Price for NAMP 189-Beef Loin Tenderloin, US Select Grade from the example above:

Total USDA Carlot Weighted Average /100 lbs. (rounded to **four** decimal places) divided by 13 weeks = Adjusting Market Price (Rounded to **four** decimal places).

\$121.9981 divided 13 weeks = **\$9.3845**

#### 2. Calculate the Market Price Change (+/-)

Adjusting Market Price - Base Market Price Change = Market Price Change (Round to **two** decimal places).

= \$9.3845 - \$9.8656 = -\$0.4811 becomes **-\$0.48**

**3. Calculate Adjusted Unit Price: Base Unit Price (+/-) Market Price Change**

\*NOTE: Since this is an example of the first price adjustment under this clause, the base unit price would be the price as awarded.

Base Unit Price (+/-) Market Price Change = Adjusted Unit Price

\$12.00 -\$0.48 = **\$11.52**

<b><u>Second Adjustment Period</u></b>		
(The effective modification date for the second adjustment period is July 03, 2016. For the purpose of administrative lead time, the Government will begin to evaluate data nine (9) calendar days before the FSOM.)		
<b>First Period Adjusted Unit Price</b>		<b>\$11.52</b>
USDA Weekly National Meat Carlot Report Date	USDA Carlot Weighted Average for NAMP 189-A Beef Loin Tenderloin, US Select Grade	USDA Carlot Weighted Average/100 lbs.
17-Jun-16	\$1,005.07	\$10.0507
10-Jun-16	\$1,008.63	\$10.0863
03-Jun-16	\$1,007.21	\$10.0721
27-May-16	\$1,008.08	\$10.0808
<b>Total</b>		<b>\$40.2899</b>
<b>Adjusting Market Price= (Total/4 weeks) = Arithmetic Average)</b>		<b>\$10.0725</b>

**Adjusted Market Price Calculation****1. Calculate the Adjusting Market Price for NAMP 189-Beef Loin Tenderloin, US Select Grade from the example above:**

Total USDA Carlot Weighted Average /100 lbs. (rounded to **four** decimal places) divided by 4 weeks = Adjusting Market Price (Rounded to **four** decimal places).

\$40.2899 divided by 4 weeks = **\$10.0725**

**2. Calculate Market Price Change (+/-):**

Adjusting Market Price - Previous Period Adjusted Market Price = Market Price Change  
(Round to **two** decimal places)

\$10.0725-\$9.3845=\$0.6880 becomes **\$0.69**

**3. Calculate New Adjusted Unit Price:**

Previous Period Adjusted Unit Price (+/-) Market Price Change = New Adjusted Unit Price

$$\$11.52 + \$0.69 = \underline{\$12.21}$$

**52.216-22 Indefinite Quantity (OCT 1995)**

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 30 days after contract expiration.

**52.247-29 F.O.B – ORIGIN (FEB 2006)**

(a) The term "f.o.b. origin," as used in this clause, means free of expense to the Government delivered --

(1) On board the indicated type of conveyance of the carrier (or of the Government, if specified) at a designated point in the city, county, and State from which the shipment will be made and from which line-haul transportation service (as distinguished from switching, local drayage, or other terminal service) will begin;

(2) To, and placed on, the carrier's wharf (at shipside, within reach of the ship's loading tackle, when the shipping point is within a port area having water transportation service) or the carrier's freight station;

(3) To a U.S. Postal Service facility; or

(4) If stated in the solicitation, to any Government designated point located within the same city or commercial zone as the f.o.b. origin point specified in the contract (the Federal Motor Carrier Safety Administration prescribes commercial zones at Subpart B of 49 CFR part 372).

(b) The Contractor shall --

(1)

- (i) Pack and mark the shipment to comply with contract specifications; or
- (ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements to protect the goods and to ensure assessment of the lowest applicable transportation charge;
- (2)
- (i) Order specified carrier equipment when requested by the Government; or
- (ii) If not specified, order appropriate carrier equipment not in excess of capacity to accommodate shipment;
- (3) Deliver the shipment in good order and condition to the carrier, and load, stow, trim, block, and/or brace carload or truckload shipment (when loaded by the Contractor) on or in the carrier's conveyance as required by carrier rules and regulations;
- (4) Be responsible for any loss of and/or damage to the goods --
  - (i) Occurring before delivery to the carrier;
  - (ii) Resulting from improper packing and marking; or
  - (iii) Resulting from improper loading, stowing, trimming, blocking, and/or bracing of the shipment, if loaded by the Contractor on or in the carrier's conveyance;
- (5) Complete the Government bill of lading supplied by the ordering agency or, when a Government bill of lading is not supplied, prepare a commercial bill of lading or other transportation receipt. The bill of lading shall show --
  - (i) A description of the shipment in terms of the governing freight classification or tariff (or Government rate tender) under which lowest freight rates are applicable;
  - (ii) The seals affixed to the conveyance with their serial numbers or other identification;
  - (iii) Lengths and capacities of cars or trucks ordered and furnished;
  - (iv) Other pertinent information required to effect prompt delivery to the consignee, including name, delivery address, postal address and ZIP code of consignee, routing, etc.;
  - (v) Special instructions or annotations requested by the ordering agency for commercial bills of lading; e.g., "This shipment is the property of, and the freight charges paid to the carrier(s) will be reimbursed by, the Government"; and
  - (vi) The signature of the carrier's agent and the date the shipment is received by the carrier; and

(6) Distribute the copies of the bill of lading, or other transportation receipts, as directed by the ordering agency.

(c) These Contractor responsibilities are specified for performance at the plant or plants at which the supplies are to be finally inspected and accepted, unless the facilities for shipment by carrier's equipment are not available at the Contractor's plant, in which case the responsibilities shall be performed f.o.b. the point or points in the same or nearest city where the specified carrier's facilities are available; subject, however, to the following qualifications:

(1) If the Contractor's shipping plant is located in the State of Alaska or Hawaii, the Contractor shall deliver the supplies listed for shipment outside Alaska or Hawaii to the port of loading in Alaska or Hawaii, respectively, as specified in the contract, at Contractor's expense, and to that extent the contract shall be "f.o.b. destination."

(2) Notwithstanding subparagraph (c)(1) of this clause, if the Contractor's shipping plant is located in the State of Hawaii, and the contract requires delivery to be made by container service, the Contractor shall deliver the supplies, at the Contractor's expense, to the container yard in the same or nearest city where seavan container service is available.

**52.247-59 F.O.B. ORIGIN – CARLOAD AND TRUCKLOAD SHIPMENTS (APR 1984)**

(a) The Contractor agrees that shipment shall be made in carload or truckload lots when the quantity to be delivered to any one destination in any delivery period pursuant to the contract schedule of deliveries is sufficient to constitute a carload or truckload shipment, except as may otherwise be permitted or directed, in writing, by the Contracting Officer.

(b) For evaluation purposes, the agreed weight of a carload or truckload shall be the highest applicable minimum weight that will result in the lowest freight rate (or per car charge) on file or published in common carrier tariffs or tenders as of the date of bid opening (or the closing date specified for receipt of proposals).

(c) For purposes of actual delivery, the agreed weight of a carload or truckload will be the highest applicable minimum weight that will result in the lowest possible freight rate (or per car charge) on file or published as of date of shipment.

(d) If the total weight of any scheduled quantity to a destination is less than the highest carload/truckload minimum weight used for evaluation of offers, the Contractor agrees to ship such scheduled quantity in one shipment.

(e) The Contractor shall be liable to the Government for any increased costs to the Government resulting from failure to comply with the above requirements.

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JUN 2016)**

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) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015)

(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:

(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).

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (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).

(4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Oct 2015) (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).

(8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) (31 U.S.C. 6101 note).

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

\_\_\_ (10) [Reserved]

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

\_\_\_ (ii) Alternate I (Nov 2011) of 52.219-3.

\_\_X\_\_ (12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

\_\_\_ (ii) Alternate I (Jan 2011) of 52.219-4.

\_\_\_ (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).

\_\_X\_\_ (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 (Oct 2014) (15 U.S.C. 637(d)(2) and (3)).

\_\_X\_\_ (17) (i) 52.219-9, Small Business Subcontracting Plan (Oct 2015) (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 (Oct 2015) of 52.219-9.

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

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

(22) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).

(23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).

(24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).

(25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

(26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Feb 2016) (E.O. 13126).

(27) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(28) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).

(29) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(30) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(31) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).

(32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

(33) (i) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

(ii) Alternate I (Mar 2015) of 52.222-50, (22 U.S.C. chapter 78 and E.O. 13627).

(34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

(35) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_ (36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O.13693).

\_\_\_ (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).

\_\_\_ (38) (i) 52.223-13, Acquisition of EPEAT® -Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514

\_\_\_ (ii) Alternate I (Oct 2015) of 52.223-13.

\_\_\_ (39) (i) 52.223-14, Acquisition of EPEAT® -Registered Television (Jun 2014) (E.O.s 13423 and 13514).

\_\_\_ (ii) Alternate I (Jun 2014) of 52.223-14.

X (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

\_\_\_ (41) (i) 52.223-16, Acquisition of EPEAT® -Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

\_\_\_ (ii) Alternate I (Jun 2014) of 52.223-16.

\_\_\_ (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011) (E.O. 13513).

\_\_\_ (43) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).

X (44) 52.223-21, Foams (Jun 2016) (E.O. 13696).

\_\_\_ (45) 52.225-1, Buy American--Supplies (May 2014) (41 U.S.C. chapter 83).

\_\_\_ (46) (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.

\_\_\_ (47) 52.225-5, Trade Agreements (Feb 2016) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

\_\_\_ (48) 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).

\_\_\_ (49) 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).

\_\_\_ (50) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (51) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (52) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505), 10 U.S.C. 2307(f)).

\_\_\_ (53) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

\_\_\_ (54) 52.232-33, Payment by Electronic Funds Transfer— System for Award Management (Jul 2013) (31 U.S.C. 3332).

\_\_\_ (55) 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management (Jul 2013) (31 U.S.C. 3332).

\_\_\_ (56) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).

\_\_\_ (57) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

\_\_\_ (58) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

\_\_\_ (ii) Alternate I (Apr 2003) of 52.247-64.

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

\_\_\_ (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495)

\_\_\_ (2) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67.).

\_\_\_ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (4) 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).

\_\_\_ (5) 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).

\_\_\_ (6) 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).

\_\_\_ (7) 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).

\_\_\_ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (E.O. 13658).

\_\_\_ (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792).

\_\_\_ (10) 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 (Oct 2015) (41 U.S.C. 3509).

(ii) 52.219-8, Utilization of Small Business Concerns (Oct 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 \$700,000 (\$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) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(v) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).

(vi) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(vii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(viii) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).

(ix) 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.

(x) 52.222-41, Service Contract Labor Standards (May 2014), (41 U.S.C. chapter 67).

(xi) \_\_\_\_ (A) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

\_\_\_ (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 E.O. 13627).

(xii) 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.)

(xiii) 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)

(xiv) 52.222-54, Employment Eligibility Verification (Oct 2015) (E. O. 12989).

(xv) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015).

(xvi) 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).

(xvii) 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.

(xviii) 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.

**Addendum**

*The following additional clauses are set forth in full text:*

**52.211-16 VARIATION IN QUANTITY (APR 1984)**

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

(b) The permissible variation shall be limited to:

\_\_\_0\_\_\_ percent increase

\_\_\_0\_\_\_ percent decrease

**52.223-1-Biobased Product Certification (May 2012)**

As required by the Farm Security and Rural Investment Act of 2002 and the Energy Policy Act of 2005 (7 U.S.C. 8102(c)(3)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 3201, subpart B) to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the offeror as a direct result of this contract, will comply with the applicable specifications or other contractual requirements.

**52.223-2 -- Affirmative Procurement of Biobased Products Under Service And Construction Contracts (Sep 2013)**

(a) In the performance of this contract, the contractor shall make maximum use of biobased products that are United States Department of Agriculture (USDA)-designated items unless—

(1) The product cannot be acquired—

(i) Competitively within a time frame providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) The product is to be used in an application covered by a USDA categorical exemption (see 7 CFR 3201.3(e)). For example, all USDA-designated items are exempt from the preferred procurement requirement for the following:

(i) Spacecraft system and launch support equipment.

(ii) Military equipment, i.e., a product or system designed or procured for combat or combat-related missions.

(b) Information about this requirement and these products is available at <http://www.biopreferred.gov>.

(c) In the performance of this contract, the Contractor shall—

(1) Report to <http://www.sam.gov>, with a copy to the Contracting Officer, on the product types and dollar value of any USDA-designated biobased products purchased by the Contractor during the previous Government fiscal year, between October 1 and September 30; and

(2) Submit this report not later than—

(i) October 31 of each year during contract performance; and

(ii) At the end of contract performance.

**52.223-5-Pollution Prevention and Right-to-Know Information (May 2011)**

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

“Toxic chemical” means a chemical or chemical category in listed in 40 CFR 372.65.

(b) Federal facilities are required to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050), and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

- (1) The emergency planning reporting requirements of Section 302 of EPCRA.
- (2) The emergency notice requirements of Section 304 of EPCRA
- (3) The list of Material Safety Data Sheets required by Section 311 of EPCRA
- (4) The emergency and hazardous chemical inventory forms of Section 312 of EPCRA
- (5) The toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA
- (6) The toxic chemical and hazardous substance release and use reduction goals of section 2(e) of Executive Order 13423 and of Executive Order 13514.

*Alternate I (May 2011).* As prescribed in 23.1005(b), add the following paragraph (c)(7) to the basic clause:

(c)(7) The environmental management system as described in section 3(b) of E.O. 13423 and 2(j) of E.O. 13514.

*Alternate II (May 2011).* As prescribed in 23.1005(c), add the following paragraph (c)(7) to the basic clause. If Alternate I is also prescribed, renumber paragraph (c)(7) as paragraph (c)(8).

(c)(7) The facility compliance audits as described in section 3(c) of E.O. 13423.



**SOLICITATION AND PROVISIONS****52.212-1 INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS (OCT 2015)**

(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 pre-award 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 \$3,500, and offers of \$3,500 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.

### **Addendum to 52.212-1**

*The following paragraphs of 52.212-1 are amended as indicated below:*

1. **Paragraph (a)**, is hereby amended to add the following:

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 1000 employees (NAICS 311611 and 311612).

**2. Paragraph (b), *Submission of Offers*** is expanded as follows:

Submit signed and dated offers as specified on page 1 of this solicitation at Block 9 on or before the exact due date/local time as specified on page 1 at Block 8. **Email, Facsimile or offers submitted via (DLA's Internet Bid Board System (DIBBS) are NOT PERMITTED** for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal revision(s).

**3. Paragraph (b)(4)**, is hereby deleted and replaced with the following:

An electronic image of the USDA FSIS mandated label(s) and the specification sheet for each item in the applicable lot must be submitted. The electronic image of the label must be of sufficient clarity to easily evaluate compliance with the requirements in the solicitation. In accordance with USDA FSIS labeling regulations (<http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling/labeling-procedures/checklist-mandatory-features-label>), each label must declare the product name, handling statement, legend, establishment number, net weight, ingredients statement, signature line, nutrition facts, and safe handling instructions when required. NOTE: For evaluation purposes, the specification sheet must state the following, where applicable:

1. Number of portions per case. If the number of portions per case varies, state the minimum and maximum number of portions per case.
2. Portion weights. If the portion weights vary per item, state the minimum and maximum portion weights per item.
3. Whether the item is a standard net weight case or a catch weight case.
4. Product Grade. State the product's USDA Grade or specify if product is ungraded.
5. Method of freezing. State whether the items are frozen; individually quick frozen (IQF) with ice glazing; individually quick frozen (IQF) without ice glazing; etc.).
6. Type of internal packaging (i.e., plastic bag, heat shrinkable; plastic bag, resealable; tray pack; etc.).

Additional information on labeling can be found at:

<http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling>

**4. Paragraph (c), *Period for Acceptance of Offers***

Period of acceptance is changed from 30 calendar days to read 270 calendar days

**5. (a) Paragraph (e), *Multiple Offers*** is deleted and replaced with the following:

Alternate commercial items may not be considered for award on this acquisition. Minor deviations such as case size may be acceptable. Deviations must receive end customer approval.

The attached worksheet containing the Schedule of Items has a tab titled Alternate Offers. All alternate offers must be identified on the first page of the proposal and the spreadsheet tab labeled alternate offers, including price and description of deviation.

**6. Paragraph (f), Late Submissions, Modifications, Revisions, and Withdrawals of Offers is expanded as follows:**

Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and:

It was sent by mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after the receipt at the Government installation.

It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals.

If there is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or

Any modification or revision of a proposal or response to requested information, including any final proposal revision, is subject to the same conditions indicated above.

Proposals may be withdrawn by written notice (including facsimile) received at any time before award.

**7. Paragraph (g), Contract Award.**

If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other non-price factors considered.

**8. Paragraph (h), Multiple Awards is revised to read as follows:**

It is the intent of the Government to make one award per lot; however, one vendor may receive more than one award.

**PROPOSAL SUBMISSION REQUIREMENTS:**

Offerors must submit the following:

1. Offerors must indicate starting on the first page of their written proposal whether they take any exception to the terms and conditions in the solicitation. Offerors must also indicate if they are offering an alternate pack size (Alternate Offer) for any item(s) in any lot in the Schedule of Items.
2. Offerors are reminded to quote pricing on every item in a single lot. For Small Business Set-Aside (lots 2 and 3), an Offeror is permitted to quote on more than one lot. To express exceptions to terms and conditions, the offeror shall state the term and/or condition as it appears in the solicitation followed by an explanation of the exception taken.

**3. Price Proposal**

- a. One (1) electronic copy of the pricing proposal on a Compact Disk (CD) (the Excel Spreadsheet found at Attachment 1).
- b. One (1) written copy (a physical copy of the Excel Spreadsheet including all alternate offers as applicable) of the pricing proposal in a binder. All written offers need to be submitted on 8.5 in x 11in Standard Paper. Proposals that do not provide the required information in the prescribed format may be excluded from further consideration.

**4. Technical Proposal**

The Government will be evaluating the offeror on three factors: Factor 1- Label Matches Requirements; Factor 2- Past Performance and Factor 3- Product Evaluation and Cuttings.

**FACTOR 1 –Label Matches Requirements**

For all items on the Applicable Lot(s) quoted, the offeror must provide two (2) Compact Disks (CDs) and one (1) written copy of the offeror's product specification and clear, legible images of the Principal Display Panel (PDP), Information Panel, and the DLA mandated OCONUS case label. Offerors mandatory elements:

- i. The Principal Display Panel (PDP) showing:
  - 1) Product Name



- 2) Handling Statement
- 3) Legend/Establishment Number
- 4) Net Weight Statement
- ii. The Information Panel showing:
  - 1) Ingredients Statement
  - 2) Signature Line
  - 3) Nutrition Facts\*
- iii. Mandatory Safe Handling Instructions Displayed Anywhere on Labeling  
\* Although the nutritional statement is not mandatory on some items, if nutritional facts are not included on the Information Panel, offeror must provide the nutritional facts on the manufacturer's product specification.
- iv. DLA Troop Support Mandated OCONUS Label

In addition to USDA FSIS mandated label(s), DLA Troop Support also requires a special OCONUS label to be placed on each and every case for its' OCONUS customers. At a minimum, shipping cases shall be marked or labeled on one end or side panel with the following information:

- 1) Item Nomenclature or Description
- 2) Global Trade Item Number (GTIN)
- 3) Date of Pack
- 4) Product Expiration Date and/or Best If Used By Date
- 5) USDA FSIS Establishment Number
- 6) NAMP (or derived from NAMP if further processed)
- 7) Grade (e.g. USDA Choice or USDA Select), if applicable
- 8) Local Stock Number

NOTE: As Local Stock Numbers are not currently assigned to items in the Schedule of Items, Offerors may leave this field blank.

Offerors must also ensure that the manufacturer's product specification contains, at a minimum: product name/standard of identity (to include the addition of solution or marinade), brand name, GTIN #, Manufacturer SKU #, Country of Origin, name and address of original manufacturing facility, grade of product, NAMP/IMPS #, state/method of refrigeration (IQF, frozen, etc.), tare weight, and manufacturer's stated product shelf life, and cooking instructions (to include time and temperature requirements) for Fully Cooked items.

**FACTOR 2– Past Performance**

## A. Past Performance:

For purposes of evaluating Past Performance, offerors that are proposing a joint venture, partnership or a teaming approach may provide past performance information on team members (i.e. partners, key subcontractors or other affiliates that will perform essential functions of the contract). Offerors that are relying on past performance information of their team members must clearly demonstrate that the team member will have meaningful involvement in the performance of the resultant contract for that past performance to be considered. The most relevant past performance, and that which will receive the most credit, however, is the information directly related to the offeror.

1. Provide a brief performance record of up to five (5) of your highest dollar value and most comparable contracts, whether they are commercial or Government contracts, from the 18-month period preceding the closing date of the solicitation. **Note:** No more than 2 joint venture, partnership or teaming approach contracts may be included in the 5 (selected contracts). Provide the following information for EACH of the 5 selected contracts:

- a. Contract/Account Number or Identifier.
- b. Contract Holder Point of Contact Information (Name, E-mail address, and phone number).
- c. Time period that the account has been serviced.
- d. Annual sales dollar value
- e. Number of customers that you deliver to on a routine schedule
- f. Brief statement of the work performed to include a discussion of experience performing deliveries nationwide and/or worldwide.
- g. Narrative to explain how the contract is similar in size and/or complexity to the solicited requirements.
- h. Discuss problems that you have encountered during performance and what steps were taken to resolve the problems, along with their resolutions

2. The offeror shall distribute the questionnaire (Attachment 2) to each contract holder identified in response to paragraph 1 above. Questionnaires shall be completed by the contract holder and e-mailed directly from the contract holder to the following e-mail addresses: [timothy.dlugokecki@dla.mil](mailto:timothy.dlugokecki@dla.mil) and [zoraya.wilsonmatos@dla.mil](mailto:zoraya.wilsonmatos@dla.mil) no later than the solicitation closing date (original or amended). Offerors should follow-up with the contract holders to ensure the timely submission of questionnaires. This is not the responsibility of the Government or the Contracting Officer. The Government may contact the offeror's listed

references to confirm the provided information and further survey the performance of the offeror. The Government may also obtain and use past performance information from sources other than those identified by the offeror, including those from publicly available, non-confidential verifiable sources.

**FACTOR 3 – Product Evaluation and Cuttings**

In this Factor, the Government will verify that the samples submitted meet the item description in terms of standard of identity, count, portion/case weight, percent of solution added, packaging/packing requirements, grade (if applicable), NAMP #, method of refrigeration, cooked state, are in compliance with the Berry Amendment and DoD Approved Sources requirements, and exhibit no off odor, off condition, temperature abuse, and/or fabrication or workmanship issues.

Consideration for contract award is contingent upon an Acceptable rating for all evaluated product samples. These samples shall be submitted at no expense whatsoever, to the Government. As destructive sampling will be performed, samples will not be returned.

Thirteen (13) items from the Schedule of Items have been selected for testing; two (2) items from Lot 1, five (5) Items from Lot 2, and six (6) items from Lot 3. When requested by the Contracting Officer, offerors are required to submit two (2) cases of each line item for the applicable Lot they choose to offer on. Samples are to be delivered to the following location no later than close of business on the date provided by the Contracting Officer in a future solicitation amendment.

Ship Product Sample to:  
Attention: Raymond Beu  
B4200 1630 Byrd Ave  
Fort Lee, VA 23801  
Commercial: 804-734-3192  
EACH CASE SAMPLE SHALL CONTAIN A LABEL THAT  
DEPICTS THE SOLICITATION NUMBER - SPE300-16-R-0023 AND LOT ITEM NUMBER (e.g. 1-2)

**Samples identified for sampling are as follows:**

**Lot 1**

Item 1-2 - BEEF RIB, RIBEYE ROLL, RAW, FROZEN, USDA Choice Grade, practically free of surface fat, vacuum packaged, 8-12 pound each, NAMP 112, 1/40 pound average case

Item 1-7 - BEEF ROUND, SIRLOIN TIP (KNUCKLE), PEELED, RAW, FROZEN, USDA Choice Grade, vacuum packaged, maximum average surface fat 0.25 inch , 4/8-12 pound each, NAMP 167A, 1/40 pound average case

**Lot 2**

Item 2-7 - BEEF LOIN, STRIP LOIN STEAK, BONELESS, RAW, CENTER-CUT, INDIVIDUALLY QUICK FROZEN, USDA Choice Grade, PSO 4, maximum average surface fat 0.25 inch, 80/8 ounce each, NAMP 1180A, 1/40-pound case

Item 2-11 - BEEF FOR STEWING, RAW, FROZEN, diced, USDA Choice Grade, vacuum packaged, 5 to 10 pound bag, NAMP 135A, 1/40 pound case

Item 2-13 - BEEF FAJITA STRIPS, RAW, FROZEN, USDA Select Grade, seasoned, not to exceed 800 mg sodium per 3 ounce serving, 1/2 inch by 1/2 inch with 2.5 inch minimum length, vacuum packaged, 5 or 10 pound bags, 1/40 pound case

Item 2-20 - BEEF, GROUND, BULK, RAW, FROZEN, 90% minimum lean, not to exceed 10% fat, 5 or 10 pound chub packages, NAMP 136, 1/40 pound case

Item 2-23 - BEEF ROUND, TOP (INSIDE), CAP OFF, RAW, FROZEN, USDA Choice Grade, maximum average surface fat 0.25 inch, vacuum packaged, 8-12 pound each, NAMP 169A, 1/40 pound average case

**Lot 3**

Item 3-1 - BEEF RIB, RIBEYE, LIP-ON, FULLY COOKED, FROZEN, prepared from minimum USDA Select Grade, rare, vacuum packaged, 12-16 pound each, NAMP 630A, 1/40 pound average case

Item 3-5 - BEEF BRISKET, BONELESS, DECKLE-OFF, CORNED, FULLY COOKED, FROZEN, prepared from USDA Choice Grade, 20% maximum solution, maximum surface fat average 0.25 inch, not to exceed 800 mg sodium per 3 ounce serving, vacuum packaged, 6-8 pound each, NAMP 625, 1/40 pound average case

Item 3-8 - BEEF, PULLED, FULLY COOKED, FROZEN, seasoned, without sauce, not to exceed 800 mg sodium per 3 oz serving, 8/5 pound containers, 1/40 pound case

Item 3-10 - BEEF, GROUND, PATTIES, FULLY COOKED, INDIVIDUALLY QUICK FROZEN, charbroiled or flamebroiled, 128/4.5-5 ounce each, prepared from 85% minimum lean, prepared from NAMP 1136, 1/40-pound case

Item 3-12 - BEEFSTEAK (CHICKEN FRIED STEAK), BATTERED/BREADED, FULLY COOKED, FROZEN, not to exceed 800 mg sodium per 4 oz serving, no extenders allowable, 80/4 ounce each, 1/20 pound case

Item 3-13 - BEEFSTEAK, SALISBURY, FULLY COOKED, INDIVIDUALLY QUICK FROZEN, seasoned, prepared from minimum 90% lean ground beef, not to exceed 800 mg sodium per 3 ounce serving, no extenders allowable, without gravy, 40/4 ounce each, 1/10 pound case

### **Price Proposal Requirements**

When preparing your proposal, please remember to quote **per pound** pricing for every item contained in a lot. Proposals not containing pricing for every item in a lot will not be considered for award.

In addition, complete the other requirements on the spreadsheet. They are: Price Per Pound expressed to two decimal places; for example, \$1.50 (column F), please note: Extended Price (column G) will automatically populate based on Quantity (column E) and the Price Per Pound (column F), slaughter or processor company name (column H; fill in), Cage Code (column I; fill in), slaughter/processor or both (column J; (drop down menu)), USDA Establishment Number (column K; fill in), Subcontracted Item; yes or no (column L; (drop down menu)), Subcontractor Name if yes in column L (column M; fill in if applicable), Subcontractor USDA Establishment Number if yes in column L (column N).

### **52.212-2 EVALUATION--COMMERCIAL ITEMS (OCT 2014)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other non-price factors considered. The following technical and price factors shall be used to evaluate offers:

The Government will use Low Price Technically Acceptable (LPTA) procedures to evaluate offers.

**1. Technical Acceptability** – The offeror takes no exceptions to the terms and conditions in the solicitation for all items in at least one lot found in the Schedule of Items. By submitting a proposal with no exceptions, an offeror is confirming they possess the necessary facilities, equipment, technical skills and capacity to successfully provide all items required by this solicitation. Offerors

must also indicate if they are offering an alternate pack size (Alternate Offer) for any item(s) in any lot in the Schedule of Items. The Government reserves the right to perform a pre-award survey to verify capability and capacity.

The following factors shall be used to evaluate offers:

**Factor 1 – Label Matches Requirements**

Principal Display Panel, Information Panel, Product Specification, and Case Label Photo. Documentation provided will be reviewed by a DLA Troop Support Technical representative to determine compliance with item description in the Schedule of Items in terms of:

- Standard of identity
- Specified Grade
- Specified Count
- Specified portion weight
- Specified packing/packaging requirements
- Compliance with DOD Approved Sources requirements
- Compliance with USDA FSIS labeling regulations

Examples of Failure to meet the label requirements outlined in the solicitation rendering an item as Unacceptable:

1. USDA FSIS mandated Principle Display Panel and/or Information Panel are not provided
2. Product Specification is not provided.
3. DLA Troop Support mandated OCONUS label is not provided.
4. USDA FSIS mandated label(s) lack the Inspection Stamp/ Legend/Establishment Number providing evidence that final processing was performed in a facility located in the United States (domestic source violation/Berry Amendment noncompliant (i.e. cannot verify is “Product of USA”).
5. USDA FSIS mandated label(s) lack the Inspection Stamp/ Legend/Establishment Number providing evidence that final processing was performed in a facility under USDA FSIS inspection (Approved Source violation).
6. Label(s) indicate product is NOT an exact match for the NAMP item identified in the item description, if applicable.
7. Label(s) indicate product is NOT an exact match to the portion size/weight identified in the item description (to include any applicable tolerances).
8. Label(s) indicate product exceeds the percentage of liquid (solution or marinade) added to that identified in the item description, if applicable.
9. No USDA Choice Grade declaration is stated on Principle Display Panel for items requiring Choice Grade.
10. No USDA Select Grade declaration is stated on Principle Display Panel for items requiring Select Grade.
11. USDA FSIS mandated label(s) lack wording clearly identifying the product as frozen nor do the label(s) provide the acceptable Safe Handling Instructions required for a frozen product.

12. Case labeling does not include all USDA FSIS regulatory mandated elements required on the (Principle Display Panel and/or Information Panel).

Examples of Correctable Failures to meet the labeling requirements outlined in the solicitation:

1. Required elements on DLA Troop Support mandated OCONUS label are incomplete or missing.
2. Product specification does not identify the number of portions per case.
3. Product specification does not identify the portion weights.
4. Product specification does not identify whether the item is a standard net fixed weight case or a catch weight case.
5. Product specification does not identify the product's Grade (if applicable)
6. Product specification does not identify the method of freezing (i.e. frozen; individually quick frozen (IQF) with ice glazing; individually quick frozen (IQF) without ice glazing; etc.).
7. Product specification does not identify the type of internal packaging (i.e., plastic bag, heat shrinkable; plastic bag, resealable; tray pack; etc.).

If an offeror submits more than one item in a lot that is technically unacceptable for this factor, the offeror will be eliminated from consideration for award of the applicable lot.

If all offerors fail to provide an identical match on a particular line item in a lot, that line item will be verified for the requirement's accuracy.

## **Factor 2- Past Performance**

The Government will evaluate the offeror's record of Past Performance through its written proposal, Government in-house records (if applicable), and the information provided by the points of contact or references designated by the offeror. Government in-house records will be considered more reliable than information provided by other references. Government in-house records include, but are not limited to, Past Performance Information Retrieval System (PPIRS), Contractor Performance Assessment Reporting System (CPARS), information received through the Subsistence Total Order and Receipt Electronic System (STORES), and Customer Surveys.

Note: The Government may contact the offeror's listed references to confirm the accuracy of the provided information as well as further survey the performance of the offeror. The Government may also obtain and use past performance information from sources other than those identified by the offeror, including those from publicly available, non-confidential sources.

There are two aspects to the past performance evaluation. The first is to evaluate whether each offeror's past performance is relevant to the performance requirements of the contract identified in the solicitation. The second aspect of the past performance evaluation is to determine how well the offeror performed on its prior contracts.

In establishing what is relevant for past performance, consideration shall be given to those aspects of an offeror's contract history which provide the most confidence that the offeror will satisfy the current procurement requirements. Those aspects of relevancy include similarity of experience performing as a food supplier in terms of dollar value and number of customers supported.

The estimated requirements of the solicited contract (each lot) are as follows:

<b>National Beef Contract</b>	
	Annual Dollar Value
<b>Lot 1-Sub-Primal Cuts</b>	\$13,231,461.31
<b>Lot 2-Portion Cuts</b>	\$44,978,759.24
<b>Lot 3- Further Processed</b>	\$9,346,070.82
Number of Customers Supported on a Routine Schedule	19 OCONUS SPV Platforms

### Factor 3 –Product Evaluation and Cuttings

Product samples will be evaluated by the United States Department of Agriculture (USDA) AMS representatives to ensure they meet the item description in terms of:

- Standard of identity
- Specified Grade
- Specified Count
- Specified portion weight
- Specified packing/packaging requirements are in Excellent condition (no evidence of freezer burn, dehydration, temperature abuse)
- Exhibit no objectionable off flavor
- Exhibit no off odor
- Contain no foreign material
- Exhibit no evidence of contamination or adulteration
- Exhibit no major workmanship or fabrication defects
- Compliance with DOD Approved Sources requirements
- Compliance with USDA FSIS labeling regulations

Examples of Failure to meet the cutting requirements outlined in the solicitation rendering an item as Unacceptable:

1. Inspection determines the product net weight (case gross weight minus tare weight) is less than the case net weight declared on the Principle Display Panel.
2. Inspection determines that the product portion size/weight is outside the product portion size/weight identified in the item description (to include any applicable tolerances).
3. Inspection determinations product's state of refrigeration is not frozen as required in the item description.
4. Inspection determines that product is NOT processed/frozen in a manner that allows removal of the individual units from the case without damage to the other internal units within the case.
5. Product is NOT an exact match for the USDA grade identified in the item description, if applicable.
6. Product is NOT an exact match for the NAMP item identified in the item description, if applicable.



7. Product exceeds the percentage of liquid (solution or marinade) added to the product as identified in the item description, if applicable.
8. Product is NOT vacuum packaged as required in the item description, if applicable.
9. Product possesses significant workmanship/fabrication defects (bruises, blood clots, bloody tissue, blood discoloration, spinal cord portions, exposed blood vessels, cod and/or udder fat, gambrel cord, etc) that materially affect the item serviceability for its intended purpose and/or prevents the performance and production of an end item/meal by the customer.
10. Label(s) indicates product has passed its' Expiration Date/Best by Date.
11. Item exhibits excessive ice crystallization, freezer burn, or other indicators, that in the opinion of the USDA AMS subject matter expert(s), are indicative of temperature abuse.
12. Item exhibits odors foreign to fresh meat (sour, rancid, putrid).
13. Item contains foreign material.
14. In the opinion of the USDA, AMS subject matter expert(s), product is in less than Excellent condition.

Examples of Correctable Failures to meet the cutting requirements outlined in the solicitation:

1. DLA Troop Support mandated OCONUS label is not present on product case.
2. Required elements on DLA Troop Support mandated OCONUS label are incomplete or missing.
3. Information on DLA Troop Support mandated OCONUS label conflicts with information on USDA FSIS mandated case labeling (Principle Display Panel and/or Information Panel).

During the product evaluation and cuttings, the DLA Troop Support Technical Representative, with input from USDA AMS representatives, will assign an Acceptable or Unacceptable rating based on compliance with, or departure from, stated requirements as specified in the solicitation.

For evaluation purposes, if an offeror submits an item in a lot that is determined to be Unacceptable, this item will be removed from the Schedule of Items for all offerors for the purpose of price evaluation.

If an offeror submits item(s) in a lot that are deemed technically unacceptable, that Offeror will be advised that product(s) were unacceptable via telephone or email during the evaluation. The Offeror will be permitted to resubmit replacement product samples by overnighting them to the same location as specified in the Solicitation for re-evaluation.

If the replacement product(s) fail technical evaluation again, that Offeror will not be eligible for award for that particular lot.

If all offerors fail to provide an identical match on the same line item in a lot, that line item will be verified for the requirement's accuracy.

**2. Pricing** – Pricing is required for all items in at least one lot. The Government will perform a price analysis on all items found in the Schedule of Items. The estimated quantities in the Schedule of Items shall be multiplied by the unit prices to determine the lowest evaluated aggregate price.

Unit prices will be evaluated to determine if there are any outliers with the ultimate award decision based on the lowest evaluated aggregate. The resultant contract(s) will be based on the lowest evaluated aggregate price offered meeting or exceeding the technical acceptability standard. The Government intends to make one award per lot.

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

### **Addendum to 52.212-2:**

*The following paragraphs of 52.212-2 are amended as indicated below:*

**2. Paragraph (b)** is hereby deleted.

**3. Paragraph (d)** is hereby added as follows:

(d) Source Selection and Evaluation Procedures:

Summary: Subsequent to the date specified in the solicitation for receipt of proposals, all timely proposals will undergo a technical and price evaluation as described below. The Contracting Officer may make a competitive range determination based on these evaluations, and submit it to the Source Selection Authority (SSA) for approval. Unless award is made on the basis of initial proposals, written and/or oral discussions will be conducted with all offerors in the competitive range. Final revised offers resulting from discussions will undergo further technical and price evaluations. Finally, a proposal will be selected for award by the SSA, as described below.

### **Price Evaluation Process**

Price will be evaluated in accordance with the Price Evaluation Process outlined in clause 52.212-2(a)(2). The Government will evaluate the offeror's unit price on all items found in the Schedule of Items, and the ultimate award decision will be based on the lowest evaluated aggregate meeting or exceeding the technical acceptability standard for each lot.

### **Technical Evaluation Process**

Technical Acceptability will be evaluated in accordance with the Technical Evaluation Process outlined in clause 52.212-2(a)(1). Proposals so technically deficient as to make them technically unacceptable will be rejected as unacceptable. No discussions will be held with rejected offerors, nor will any rejected offeror be given an opportunity to revise its offer to correct deficiencies in order to become acceptable after the date and time specified for the receipt of offers.

Offerors are required to present all of their information as prescribed in the section of this solicitation entitled Proposal Submission Requirements.

**Competitive Range Determination.** If discussions are required, after initial evaluations are completed, the contracting officer will make a competitive range determination. The Government reserves the right to reduce the competitive range for efficiency. Offerors in the competitive range will be included in discussions. Offerors not in the competitive range will not participate in discussions and will no longer be considered for award. Offerors excluded from the competitive range will be notified in writing. At that time, pursuant to FAR 15.505 (A) an offeror may request a pre-award or post-award debriefing. If a pre-award debriefing is held only limited information will be releasable. Offerors debriefed after the competitive range determination are not entitled to a second debriefing after the award is made.

### **Selection Process.**

Past Performance Evaluations will be conducted by Contract Specialist (CS) and Procuring Contracting Officers (PCO). Labels and Specifications evaluations will be conducted by a DLA Product Specialist. Final technical evaluations for Factor 3 will be completed by the DLA Food Technologist/Quality Assurance Specialist with input from USDA AMS representatives. Pricing evaluations will be completed by the Contract Specialist (CS) and the Procuring Contracting Officers (PCO). The CS and the PCOs will prepare written recommendations for the Source Selection Authority (SSA). It is the ultimate decision of the SSA to determine which offeror receives the award.

### **52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (JUL 2016) ALTERNATE I (OCT 2014NOV 2015)**

The offeror shall complete only paragraphs (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) Web site accessed through <http://www.acquisition.gov> . If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (p) 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.

“Highest-level owner” means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

“Immediate owner” means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

“Inverted domestic corporation,” means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

“Manufactured end product” means any end product in product and service codes (PSCs) 1000-9999, except—

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 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.

“Small disadvantaged business concern, consistent with 13 CFR 124.1002,” means a small business concern under the size standard applicable to the acquisition, that--

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by--

- (i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“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 SAM website.

(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 (p) 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 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:

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

(i) It  is,  is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material 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)(10)(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.:

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[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 \$3,500 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 appeal rights.

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

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

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

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

(1) Listed End 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 it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

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

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

(2)  Outside the United States.

(k) Certificates regarding exemptions from the application of the Service Contract 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.

(1) *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) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(2) *Representation.* The offeror represents that—

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

(ii) It  is,  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](mailto: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 \$3,500 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.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a DUNS Number in the solicitation.

(1) The Offeror represents that it  has or  does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates “has” in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: \_\_\_\_\_

Immediate owner legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity:

Yes or  No.

(3) If the Offeror indicates “yes” in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest level owner CAGE code: \_\_\_\_\_

Highest level owner legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

### **Addendum**

*The following additional provisions are set forth in full text:*

#### **52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a **FIXED PRICE INDEFINITE DELIVERY/INDEFINITE QUANTITY WITH AN ECONOMIC PRICE ADJUSTMENT** contracts resulting from this solicitation.

#### **52.233-9001 DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011)**

(a) The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.

(b) Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor (see FAR 52.233-1), or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel (see DLA Directive 5145.1). Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.

(c) If you wish to opt out of this clause, check here [ ]. Alternate wording may be negotiated with the contracting officer.

**52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE**  
**(FEB 1998)**

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

- FAR: <https://www.acquisition.gov/far/index.html>;
- DFARS: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>
- DLAD: <http://www.dla.mil/Acquisition/Documents/DLAD%20Rev%205.htm>

**252.203-7005 Representation Relating to Compensation of Former DOD Officials (NOV 2011)**

(a) *Definition.* “Covered DoD official” is defined in the clause at [252.203-7000](#), Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104-2.

**52.215-1 Instruction to Offerors- Competitive Acquisition (JAN 2004)**

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

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer’s discretion, result in the offeror being allowed to revise its proposal.”

“In writing,” “writing,” or “written” means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation’s closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.



“Time,” if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) *Amendments to solicitations.* If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) *Submission, modification, revision, and withdrawal of proposals.*

(1) Unless other methods (*e.g.*, electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages

(i) addressed to the office specified in the solicitation, and

(ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show --

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror’s behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the issuing office.

(3) *Submission, modification, revision, and withdrawal of proposals.*

(i) Offerors are responsible for submitting proposals, and any modification, or revisions, 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 proposal or revision is due.

(ii)

(A) Any proposal, modification, or revision 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 --

(1) 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 proposals; or

(2) 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

(3) It is the only proposal received.

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

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

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals 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.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person

requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) *Offer expiration date.* Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) *Restriction on disclosure and use of data.* Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall --

(1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed -- in whole or in part -- for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of -- or in connection with -- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [*insert numbers or other identification of sheets*]; and

(2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) *Contract award.*

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government's interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.
- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.
- (7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.
- (9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.
- (10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.
- (11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

- (i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
- (ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (iv) A summary of the rationale for award.
- (v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (vi) 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.

#### **52.209-7 Information Regarding Responsibility Matters (JUL 2013)**

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

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

#### **52.222-24 Pre-award On-Site Equal Opportunity Compliance Review (Feb 1999)**

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

**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/these address(es):

- FAR: <https://www.acquisition.gov/far/index.html>;
- DFARS: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>
- DLAD: <http://www.dla.mil/Acquisition/Documents/DLAD%20Rev%205.htm>

*The following additional clauses are incorporated by reference:*

52.211-9014, Contractor Retention of Traceability Documentation (AUG 2012) DLA

52.211-9010, Shipping Label Requirements—Military Standard (MIL-STD)-129P (APR 2014)  
DLAD

52.211-9014, Contractor Retention of Traceability Documentation (AUG 2012) DLAD

52.225-25, Prohibition on Contracting With Entities Engaging in Sanctioned Activities Relating to Iran—Representation and Certification (OCT 2015)

52.232-17, Interest (MAY 2014) FAR

52.233-9000 Agency Protests (NOV 2011)

52.242-13, Bankruptcy (JUL 1995) FAR

52.242-15, Stop Work Order (AUG 1989) FAR

52.225-25, Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran - Representation and Certification (OCT 2015)

52.232-17 Interest (MAY 2014)

52.233-9000, Agency Protests (NOV 2011)

52.242-13, Bankruptcy (JUL 1995)

52.242-15, Stop Work Order (AUG 1989)

52.246-16 -Responsibility for Supplies (APR1984)

52.246-9085 Production Lot Testing (PLT) Government (JAN 2015)

52.246-9086 Production Lot Testing (PLT) Contractor (JAN 2015)

52.246-9086 ALT I Production Lot Testing (PLT) Contractor (JAN 2015)  
Alternate I (JUL 2011)

52.247-9012 Requirements for Treatment of Wood Packaging Material (WPM) (FEB 2007)  
DLAD

252.203-7000-REQUIREMENTS RELATING TO COMPENSATION OF FORMER DOD  
OFFICIALS (SEP 2011)

252.203-7001-PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE  
CONTRACT - RELATED FELONIES (DEC 2008)

252.204-7003 Control of Government Personnel Work Product (APR 1992)

252.203-7996, Prohibition on Contracting with Entities that Require Certain Internal  
Confidentiality Agreements – Representation (OCT 2015)

252.203-7997, Prohibition on Contracting with Entities that Require Certain Internal  
Confidentiality Agreements (OCT 2015) has been added.

252.204-7008, Compliance with Safeguarding Covered Defense Information Controls (DEC 2015)

252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC  
2015) DFARS

252.209-7001 Disclosure of Ownership or Control by the Government of a Terrorist Country (JAN  
2009) DFARS

252.209-7004, Subcontracting with Firms that are Owned or Controlled by the Government of a  
Country That is a State Sponsor of Terrorism (OCT 2015) DFARS

252.209-7991, Representation by Corporations Regarding an Unpaid Delinquent Tax Liability or a  
Felony Conviction under any Federal Law – Fiscal Year 2016 Appropriations (OCT 2015)

252.211-7006 Passive Radio Frequency Identification (SEP 2011) DFARS

252.219-7000, ADVANCING SMALL BUSINESS GROWTH (MAY 2015)

252.225-7002 Qualifying Country Sources as Subcontractors (DEC 2012) DFARS

252.225-7050, Disclosure of ownership or Control by the Government of a Country that is a State  
Sponsor of Terrorism (OCT 2015)

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



1.  FAR 52.203-3, Gratuities (APR 1984)
2.  DFARS 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011)
3.  DFARS 252.203-7003, Agency Office of the Inspector General (DEC 2012)
4.  DFARS 252.203-7005, Representation Relating to Compensation of Former DoD Officials (NOV 2011)
5.  DFARS 252.204-7011, Alternative Line Item Structure (SEP 2011)
6.  DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2015)
7.  DFARS 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Solicitation Offerors (FEB 2014)
8.  DFARS 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors (FEB 2014)
9.  DFARS 252.204-7015, Disclosure of Information to Litigation Support Contractors (FEB 2014)
10.  DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991)
11.  DFARS 252.211-7003, Item Unique Identification and Valuation (DEC 2013)
12.  DFARS 252.211-7006, Passive Radio Frequency Identification (SEP 2011)
13.  DFARS 252.211-7007, Reporting of Government-Furnished Property (AUG 2012)
14.  DFARS 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation (JUL 2012)
15.  DFARS 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation (OCT 2013)
16.  DFARS 252.215-7007, Notice of Intent to Resolicit (JUN 2012)
17.  DFARS 252.215-7008, Only One Offer (OCT 2013)
18.  DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (OCT 2014)

19. \_\_\_\_ DFARS 252.219-7004, Small Business Subcontracting Plan (Test Program) (OCT 2014)
20. \_\_\_\_ DFARS 252.223-7008, Prohibition of Hexavalent Chromium (JUN 2013)
21.  DFARS 252.225-7000, Buy American—Balance of Payments Program Certificate (NOV 2014)
  - a. \_\_\_\_ Alternate I (NOV 2014) of 52.225-7000
22.  DFARS 252.225-7001, Buy American and Balance of Payments Program (NOV 2014)
  - a. \_\_\_\_ Alternate I (NOV 2014) of 252.225-7001
23. \_\_\_\_ DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals (MAR 2013)
24. \_\_\_\_ DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (OCT 2014)
25. \_\_\_\_ DFARS 252.225-7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate (JUL 2009)
26.  DFARS 252.225-7012, Preference for Certain Domestic Commodities (FEB 2013)
27. \_\_\_\_ DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)
28. \_\_\_\_ DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011)
29. \_\_\_\_ DFARS 252.225-7017, Photovoltaic Devices (OCT 2015)
30. \_\_\_\_ DFARS 252.225-7018, Photovoltaic Devices—Certificate (OCT 2015)
31. \_\_\_\_ DFARS 252.225-7020, Trade Agreements Certificate (NOV 2014)
  - a. \_\_\_\_ Alternate I (NOV 2014) of 252.225-7020
32.  DFARS 252.225-7021, Trade Agreements (OCT 2015)
  - a. \_\_\_\_ Alternate II (OCT 2015) of 252.225-7021
33. \_\_\_\_ DFARS 252.225-7023, Preference for Products or Services from Afghanistan (SEP 2013)

34. \_\_\_\_\_ DFARS 252.225-7024, Requirement for Products or Services from Afghanistan (SEP 2013)
35. \_\_\_\_\_ DFARS 252.225-7026, Acquisition Restricted to Products or Services from Afghanistan (SEP 2013)
36. \_\_\_\_\_ DFARS 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003)
37. \_\_\_\_\_ DFARS 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003)
38. \_\_\_\_\_ DFARS 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police (SEP 2013)
39. \_\_\_\_\_ DFARS 252.225-7031, Secondary Arab Boycott of Israel (JUN 2005)
40. \_\_\_\_\_ DFARS 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate (NOV 2014)
  - a. \_\_\_\_\_ Alternate I (NOV 2014) of 252.225-7035
  - b. \_\_\_\_\_ Alternate II (NOV 2014) of 252.225-7035
  - c. \_\_\_\_\_ Alternate III (NOV 2014) of 252.225-7035
  - d. \_\_\_\_\_ Alternate IV (NOV 2014) of 252.225-7035
  - e. \_\_\_\_\_ Alternate V (NOV 2014) of 252.225-7035
41. \_\_\_\_\_ DFARS 252.225-7036, Buy American --Free Trade Agreements--Balance of Payment Program (NOV 2014)
  - a. \_\_\_\_\_ Alternate I (NOV 2014) of 252.225-7036
  - b. \_\_\_\_\_ Alternate II (NOV 2014) of 252.225-7036
  - c. \_\_\_\_\_ Alternate III (NOV 2014) of 252.225-7036
  - d. \_\_\_\_\_ Alternate IV (NOV 2014) of 252.225-7036
  - e. \_\_\_\_\_ Alternate V (NOV 2014) of 252.225-7036
42. \_\_\_\_\_ DFARS 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (AUG 2015)

43. \_\_\_\_\_ DFARS 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (JUN 2015)
44.  DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004)
45. \_\_\_\_\_ DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2014)
46. \_\_\_\_\_ DFARS 252.227-7015, Technical Data -- Commercial Items (FEB 2014)
47. \_\_\_\_\_ DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2013),
48.  DFARS 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012)
49. \_\_\_\_\_ DFARS 252.232-7009, Mandatory Payment by Governmentwide Commercial Purchase Card (DEC 2006)
50. \_\_\_\_\_ DFARS 252.232-7010, Levies on Contract Payments (DEC 2006)
51. \_\_\_\_\_ DFARS 252.232-7011, Payments in Support of Emergencies and Contingency Operations (MAY 2013)
52. \_\_\_\_\_ DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
53. \_\_\_\_\_ DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
54. \_\_\_\_\_ DFARS 252.239-7017, Notice of Supply Chain Risk (NOV 2013)
55. \_\_\_\_\_ DFARS 252.239-7018, Supply Chain Risk (OCT 2015)
56.  DFARS 252.243-7002, Requests for Equitable Adjustment (DEC 2012)
57. \_\_\_\_\_ DFARS 252.244-7000, Subcontracts for Commercial Items (JUN 2013)
58. \_\_\_\_\_ DFARS 252.246-7003, Notification of Potential Safety Issues (JUN 2013)
59. \_\_\_\_\_ DFARS 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations (OCT 2010)
60. \_\_\_\_\_ DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)

61. \_\_\_\_\_ DFARS 252.247-7022, Representation of Extent of Transportation by Sea (AUG 1992)
62.   X   DFARS 252.247-7023, Transportation of Supplies by Sea (APR 2014).
  - a. \_\_\_\_\_ Alternate I (APR 2014) of 252.247-7023.
  - b. \_\_\_\_\_ Alternate II (APR 2014) of 252.247-7023
63. \_\_\_\_\_ DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)
64. \_\_\_\_\_ DFARS 252.247-7025, Reflagging or Repair Work (JUN 2005)
65. \_\_\_\_\_ DFARS 252.247-7026, Evaluation Preference for Use of Domestic Shipyards – Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (NOV 2008)
66. \_\_\_\_\_ DFARS 252.247-7027, Riding Gang Member Requirements (OCT 2011)
67. \_\_\_\_\_ DFARS 252.247-7028, Application for U.S Government Shipping Documentation/Instructions (JUN 2012)

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

1. DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2014)
2. DFARS 252.227-7015, Technical Data – Commercial Items (FEB 2014)
3. DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2013)
4. DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
5. DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
6. DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)
7. DFARS 252.247-7023, Transportation of Supplies by Sea (APR 2014)
8. DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)