

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE 1 OF 28 PAGES
2. AMENDMENT/MODIFICATION NO. 0003	3. EFFECTIVE DATE 04/16/2013	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)	
6. ISSUED BY DLA TROOP SUPPORT SUBSISTENCE SUPPLY CHAIN 700 ROBBINS AVENUE PHILADELPHIA, PA 19111-5092	CODE SP0300	7. ADMINISTERED BY (If other than Item 6) SEE BLOCK 6		
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)		<input checked="" type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NO. SPM300-13-R-0014	
		<input checked="" type="checkbox"/>	9B. DATED (SEE ITEM 11) 02/14/2013	
		<input type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ORDER NO.	
		<input type="checkbox"/>	10B. DATED (SEE ITEM 13)	
CODE	FACILITY CODE			

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

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

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

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

12. ACCOUNTING AND APPROPRIATION DATA (If required)

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

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

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

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

The closing date for subject solicitation has hereby been extended to May 2, 2013 at 3:00 PM local time. Please be sure to include a signed copy of this amendment with your proposal.

(Continued, page 2)

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

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

SECTION 1 – PRE-PROPOSAL CONFERENCE

A Pre-Proposal conference was held telephonically on February 2, 2012 at 2:00 PM. The participants were as follows:

DLA Troop Support

CAPT Mike Hansen, USN, Director of Subsistence
Tom Daley, Deputy Director of Subsistence
Tina Piotrowski, Director of Supplier Operations, Subsistence
Tom Lydon, Chief, Strategic Material Sourcing Group
Eileen Friel, Contracting Officer
Zoraya Wilson, Contract Specialist
R. Zen Schaper, Office of Counsel
Mary Ellen Dobbins, Contract Review Division
Kris Cunningham, Contract Review Division
Maureen Steffani
Margaret Conforto, Contract Specialist
Chris Plunkett
Leah Aleman, Supervisory Food Technologist
Bill Blake, Food Technologist
Cathie Sexton
Tina Frederico, Contract Specialist
Joe Zulli, Contract Specialist

Bella Products & Services, LLC

Julio Hernandez

EBREX Food Services

Paul Underhill

Fiabella Foods

Nanine Mattei

Financial Instrument & Investment Corp. (FIIC)

Salal Maarouf

James A. Kennedy & Associates

James A. Kennedy
Richard A. Harsh

SPM300-13-R-0014
Amendment 0003

Koch Foods

Brian Reisen

N'Genuity Enterprises

Dustin Thomas

Perdue Foods LLC

Mitch Boswell

Tracie Davis

Drew Getty

Pilgrim's

Ken Kotecki

Prime Vendor Inc.

Ray Miller

Rastelli Global

Tony Rastelli

Jim Haverstick

Alexis Jones

Star Food Service, Inc.

Frank Bankoff

TWI

Andy Pena

Patrick Blum

Tyson Foods

Donnie Ganoung

Scott Bartlett

Jory White

UniTrans International, Inc.

Richard Todorovic

All participants were required to pre-register for the conference. Questions were submitted in advance of the conference. Those questions were discussed during the conference as well as additional questions that were asked. Participants were asked to submit all questions asked during the conference as well as any additional questions in writing to the Contracting Officer via email. The following are all questions

asked and/or submitted and DLA Troop Support's responses. Similar questions may have been consolidated for simplicity:

- 1) **Q:** Ref. 52.212-4, Risk of loss: Does risk pass to the Government, carrier or Prime Vendor purchasing the product?
A: Risk passes to the Prime Vendor, as is the current practice
- 2) **Q:** Will partnering associations with brokers or subcontracting with third party producers be permitted?
A: Yes, partnering is permitted. However, there are cost implications with larger partnering efforts that may drive prices up, making your offer less competitive.
- 3) **Q:** Will a firm (non-manufacturer) using a third party business as producer/co-packer be permitted to offer on either lot, and especially the small business set-aside?
A: Yes, but on the set-aside portion both the offeror and the third party must be small businesses.
- 4) **Q:** Ref. Page 36, 52.212-1 (a). Does this indicate the Government's willingness to accept offers from small non-producing entities that have their products procured by a manufacturing company that may itself be a large business?
A: Not for Lot 1
- 5) **Q:** Will Prime Vendors be permitted to order through a third party consolidator as is current practice?
A: Yes. It will be up to the OCONUS PV to tell the chicken vendors to deliver to a consolidator but at no additional cost to the chicken vendor.
- 6) **Q:** Does the Government make payment to the manufacturer or does the Prime Vendor make payments?
A: The Prime Vendor is responsible for paying the chicken supplier.
- 7) **Q:** What is the required time frame for submission of the QA plan?
A: A Quality Assurance Plan will not be required.
- 8) **Q:** Will past performance be included as an evaluation factor for this award?
A: No.
- 9) **Q:** If a third party consolidator is utilized will producer (contractor) be responsible for transportation costs from production plant to consolidator location or is FOB origin at production point used?
A: If the Prime Vendor uses a consolidator, the Prime Vendor pays.

- 10) **Q:** As this is an OCONUS contract, will DTS “Point to Point” shipping be used as is now the practice? Will DLA Traffic Management division continue to arrange bookings and transport to the required port of embarkation?
A: Yes, as is the current practice.
- 11) **Q:** As this is OCONUS only how will efficient use of shipping containers be achieved when a prime vendor orders only 1 or 2 pallets of a single item?
A: The OCONUS Prime Vendors will strongly be encouraged to order multiple items together to take advantage of source loading.
- 12) **Q:** Must all product/package sizes offered match those in Attachment 1 to be considered technically sufficient?
A: Yes, however changes may be made during the life of the contract through mutual agreement of the vendor and the Government.
- 13) **Q:** Do the estimated requirements include the quantities required for Afghanistan, Saudi Arabia, Bahrain and Qatar or will they be added as those contracts are awarded?
A: Yes, the estimated requirements include the quantities for Afghanistan, Saudi Arabia, Bahrain and Qatar.
- 14) **Q:** Many items listed are essentially the same and currently come from various manufacturers. Will they be consolidated?
A: Yes.
- 15) **Q:** If a manufacturer discontinues an item(s) to be procured during the term of the three year contract, will the vendor be in violation of the bid? What is the penalty (if any)?
A: Deletions of items will be accomplished in accordance with 52.216-9006, Addition/Deletions of Items, which is contained in the solicitation.
- 16) **Q:** What if the Government requires a new item to be produced during the three year contract and the winner of this contract cannot supply it? What is the penalty (if any)?
A: Additions of items will be accomplished in accordance with 52.216-9006, Addition/Deletion of Items, which is contained in the solicitation.
- 17) **Q:** Currently, only item descriptions are listed on the solicitation. Is the Government going to provide product specifications on these items listed in the bid? Will the USDA Grade requirements be specified by item?
A: Product specifications will not be provided. USDA Grade requirements will be specified in the individual item descriptions if they apply.

- 18) **Q:** Does the Government require any special labels on the products listed in the schedule of supplies? If yes, what are the labeling requirements?
A: Commercial labels are required.
- 19) **Q:** How will any dispute with the ordering PV be handled by DLA; e.g. timeliness of invoice payments?
A: Same as the current practice – they are handled between the vendor and the OCONUS Prime Vendor.
- 20) **Q:** Will the awardee be expected to deal with the necessary export/vet paperwork needed to deliver its goods OCONUS?
A: Yes.
- 21) **Q:** May we receive NSNs for the items listed in the Excel file (schedule of items)?
A: Generic LSNs will be established for the schedule of items.
- 22) **Q:** Procurement lead times are not addressed in the solicitation.
A: Lead times are addressed in this amendment. Please see page
- 23) **Q:** Fill rates are not discussed in the solicitation.
A: Fill rates are covered by the OCONUS Prime Vendor contracts and are the responsibility of the OCONUS Prime Vendors.
- 24) **Q:** We recommend that surge and sustainment requirements be defined in the contract.
A: Surge and sustainment requirements are covered by the OCONUS Prime Vendor contracts and are the responsibility of the OCONUS Prime Vendors.
- 25) **Q:** Will the OCONUS PVs be allowed to purchase similar items from another source if the items are cheaper?
A: The OCONUS PVs must purchase all chicken items listed in the schedule of supplies from the awardee(s) of the contract(s) resulting from this solicitation.
- 26) **Q:** Does 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns, apply to Lot 2?
A: Yes.
- 27) **Q:** For Lot 1, is any preference given to different forms of small business?
A: No.

- 28) **Q:** Should pricing submitted for this solicitation include the cost of pallets?
A: Yes. Anything required by the solicitation and is normal practice for F.O.B. Origin as far as pallets, bracing, blocking, loading, etc. should be included in your price.
- 29) **Q:** Should product pricing submitted for this solicitation include the cost of labor and materials to customize pallets and supplemental labels by PV request?
A: No. The Prime Vendor shall pay for any labor and materials not required by the contract.
- 30) **Q:** Should product pricing submitted for this solicitation include the cost of providing military customers and/or PVs product samples of items contracted under this solicitation?
A: No. Marketing to military customers/Prime Vendors will not be necessary.
- 31) **Q:** Is DTS point of pick up the place of production? Who will cover additional transportation costs?
A: Yes. Any additional costs are the responsibility of the OCONUS Prime Vendor.
- 32) **Q:** Will DTS pick up non- full pallets for shipments when you have multiple destinations?
A: Non-full pallets are acceptable as long as the van is fully utilized. Multiple destinations for any particular van are not contemplated.
- 33) **Q:** If there is an increase in cost, will the Prime Vendor adjust their distribution fees?
A: Prime Vendor distribution fees are covered under the terms and conditions of their individual contracts.
- 34) **Q:** There were concerns raised about Lot (2) and manufacturer's ability to Source Load items being produced in more than five places.
A: There is nothing in the solicitation which prohibits an offeror from producing at multiple facilities.
- 35) **Q:** What are the shelf-life requirements?
A: See page 22.
- 36) **Q:** Is it possible to put in NAMPs since there are no specs?
A: NAMPs will be included with the revised item descriptions.
- 37) **Q:** Will the awardee be subject to the DLA Worldwide Audit program?
A: No.
- 38) **Q:** Can the solicitation be extended in definitively?
A: No. The solicitation has been extended (see page 1) but it cannot be extended indefinitely.
- 39) **Q:** Would you consider expanding Lot (2) to Small Businesses?
A: Our market research has indicated that Lot 2 is not suitable for a Small Business Set-Aside.

- 40) **Q:** In Lot (1), where you have nothing but chicken wings, will create a problem with transportation. Look at the chicken wings demand.
A: Our market research has indicated that there is sufficient demand for chicken wings that would not impede transportation.
- 41) **Q:** Have you consider a manufacturer not being able to provide all of the items on the list?
A: Our market research has indicated that there are manufacturers who are able to provide all items.
- 42) **Q:** Most companies do not do Cornish Hens; do we have to subcontract for that item? (Two large can provide that item/ others will have to subcontract).
A: The Cornish Hens are deleted from the solicitation.
- 43) **Q:** Will additional NAPA Bill Back apply?
A: No.
- 44) **Q:** Have you consider using the average EPA? (The average of the three months instead of one point in time).
A: The EPA clause has been revised.
- 45) **Q:** Will current MPA poultry providers be given a transition period to zero out their existing inventory of products being produced for OCONUS prime vendors?
A: As DLA Troop Support does not have contracts or ordering agreements in place with any guarantees with current MPA holders, a transition period to zero out existing inventory is not necessary. MPA holders will be notified in advance as to when their MPA for chicken is cancelled.
- 46) **Q:** For a manufacturer to be cost efficient and to be able to pass those savings along to DLA Troop Support, it is imperative to consolidate SKUs. For instance, instead of carrying three SKUs of RTC B/S breast fillets, there should be one item in a specific size range. Make the description 4-5 oz or 5.0 oz +/- 0.5 oz...or, something similar.
A: The item descriptions have been revised to consolidate similar items and allow for size ranges on a per item basis.
- 47) **Q:** Manufacturers will not bid on low volume SKUs. In fact, the low volume SKUs should be removed from catalogs. From a manufacturing standpoint, it is neither efficient nor cost effective to run low volume SKUs...for both manufacturers to produce or for prime vendors to inventory. It will add production and inventory costs and ultimately drive up the cost of the product.
A: The list of items has been revised to consolidate similar items. In turn, the estimated quantities have increased for the consolidated items. This should eliminate most low volume items.
- 48) **Q:** It would be difficult for a manufacturer to create a product that it currently does not produce. It costs approximately \$60,000 to create a new SKU. That cost is particularly prohibitive if that product is not a high-volume mover.

A: The list of items has been revised and has eliminated brand specific descriptions. All items should now be generic items that most chicken processors should be able to produce.

49) **Q:** With the volatility in grain prices, the PPI is not a good tool to manage or monitor price increases, and the quarterly timeframe is too restrictive given the feed grain volatility. Most, if not all, National Accounts contracts include a grain rider that includes corn, and often soybean meal. The grain rider can work both ways...if corn spikes, then prices will increase by X.X%. Similarly, if corn prices drop significantly, the price could decrease by Y.Y%. Grain prices can be accessed at the CME website.

A: If an alternate to using the PPI is proposed by a vendor, the vendor must submit specifics about the alternate, including the name of the index, the link to the website to the specific index and a full written justification as to why the alternate is more appropriate than the PPI index. The information given in the question is not sufficient to justify considering an alternate.

50) **Q:** Mention was made of possibly holding a reverse auction if DLA-TS determines that received bids were unacceptable. That's highly unfair to participants. If the decision has been made to continue with the bid process, the outcome of the bid and subsequent contract award should be honored. If it is deemed the bid process did not produce the desired results, then future solicitation(s) should be conducted in the reverse auction format.

A: Solicitation SPM300-13-R-0014 is not an Invitation for Bids (IFB); it is a Request for Proposals (RFP). RFPs allow for negotiations. A reverse auction is a price negotiation tool. The decision to hold a reverse auction is not based on unacceptable proposals being received. It is based on a need to hold price negotiations with all offerors with proposals that have been determined to be within the competitive range in order to obtain the best prices for the Government.

51) **Q:** It will be extremely difficult for manufacturers to submit a bid proposal until catalogs/SKUs are consolidated and accurate SKU volumes are provided.

A: The solicitation will not be closed until accurate, consolidated item descriptions and estimated ordering quantities are provided.

52) **Q:** Will DLA represent the manufacturer at their Prime Vendor audits as the specification owner under this contract?

A: The awardee(s) the contract resulting from this solicitation will not be required to attend Prime Vendor audits.

53) **Q:** If the manufacturer supplies the Prime Vendor with products in the amount of time specified for a delivery order in this solicitation is the manufacturer then held harmless for Prime Vendor not in stock situations?

A: Yes.

54) **Q:** Solicitation SPM300-13-R-0014, Page 16, clause 52.216-9901, (a)(1) – Does this clause preclude a manufacturer from putting a risk premium, to accommodate for short term but large commodity price changes, into the product price to account for the “Adjustment period” which is defined as three months?

A: Including a risk premium is at the discretion of the offeror. However, it may make an offeror's price less competitive.

- 55) **Q:** Please define FOB origin under this contract and clarify who pays for freight charges incurred after a finished product has left the plant of manufacture.
A: FOB Origin means free on board at origin; *i.e.*, the seller or consignor places the goods on the conveyance. Unless the contract provides otherwise, the buyer or consignee is responsible for the cost of shipping and risk of loss. The awardee(s) of the contract are not responsible for the freight charges after the finished product has left plant of manufacture. If the Prime Vendor uses a consolidator, they will be responsible for freight charges. If the Prime Vendor uses DTS, the Government is responsible for freight charges.
- 56) **Q:** Are products supplied under this contract allowed to contain meat derived from organs?
A: No.
- 57) **Q:** Are products supplied under this contract allowed to contain mechanically separated chicken (MSC)?
A: No.
- 58) **Q:** Are products supplied under this contract allowed to contain emulsified filler materials?
A: No.
- 59) **Q:** Are products supplied under this contract allowed to contain meat from spent hens?
A: No.
- 60) **Q:** Are products supplied under this contract allowed to contain raw material that was frozen after evisceration and stored for several months prior to being incorporated into a new finished product with a new shelf life? For example, breast trim meat is frozen and placed into inventory. Then it is thawed and utilized several months later in a chopped and formed item.
A: Raw material may be frozen for no more than 60 days.
- 61) **Q:** Are products supplied under this contract allowed to contain fillers, such as soy protein, when used to extend product more than 1%?
A: No.
- 62) **Q:** Are products supplied under this contract allowed to contain additional percentages of skin?
A: No.
- 63) **Q:** Are products supplied under this contract allowed to contain MSG?
A: No.
- 64) **Q:** Are products supplied under this contract allowed to contain high solution percentages when the product description provided does not specify?
A: Only items that state "X% max sol" or "marin" may contain solution. For items that state "X% max sol", the solution cannot exceed the stated level. For poultry items that state "marin", solution cannot exceed 3% for bone-in items or 8% for boneless items.
- 65) **Q:** Are products supplied under this contract allowed to contain higher breading percentages, specifically beyond 32% of the product weight?
A: For items identified as breaded, breading percentages cannot exceed 30%.

- 66) **Q:** Are products supplied under this contract allowed to contain random sized portions when the product description provided does not specify?
A: No, portion weights are provided.
- 67) **Q:** Should products supplied under this contract be the largest pack size possible to allow for further savings at the point of distribution?
A: All items are to meet the case weights identified in the item description.
- 68) **Q:** Are manufacturers required to provide any sustainability efforts against the solicitation listing of products?
A: Sustainability efforts are not required.
- 69) **Q:** Are products supplied under this contract allowed to contain ingredients that would increase sodium or fat content in order to provide a lower price point?
A: No.
- 70) **Q:** Are products supplied under this contract allowed to contain oils that result in higher levels of trans-fat?
A: No.
- 71) **Q:** Are manufacturers required to certify in writing they have back-up facility plan in place to ensure consistent supply in the event of fire, flood or other event falling under Force Majeure?
A: No, this is not a requirement of the solicitation.
- 72) **Q:** Are manufacturers required to certify in writing they have back-up facility plan in place to ensure consistent supply in the event of military surge?
A: No, this is not a requirement of the solicitation. Surge and sustainment is the responsibility of the Prime Vendor.
- 73) **Q:** If a service headquarters or military base is not satisfied with the product they are receiving, even though it meets DLA product descriptions as defined in this contract, will DLA hold the manufacturer and Prime Vendor harmless against returns and reimbursements?
A: Yes.
- 74) **Q:** After an award is made, what is the procedure for adding and deleting products to the original contracted item set?
A: Please refer to clause 52.216-9006, Additions/Deletions of Items (AUG 2005).
- 75) **Q:** Can OCONUS Prime Vendors choose to not purchase their poultry requirements from the awardees of this solicitation?
A: No.
- 76) **Q:** Can the contract winner choose to sell all products under cash in advance terms with DLA's contracted Prime Vendor?
A: Payment terms are to be agreed upon between the awardee(s) of the contract(s) resulting from this solicitation and the OCONUS Prime Vendors.

77) **Q:** Are you allowed to bid this solicitation if your company is involved in a bankruptcy proceeding?

A: A bankruptcy proceeding will not preclude a company from submitted an offer on this solicitation. However, it would be a factor in determining a company responsible and eligible for an award.

78) **Q:** As it pertains to Lot 1, can the small business supply to the government another manufacturer's products, which they produce on a routine basis, or must the small business supply their own items which are separate and distinct in the product identity?

A: For Lot 1, the small business can supply the product of another company as long as that company is also a small business.

SECTION 2- SOLICITATION CHANGES

- 1) Reference Caution Notice on pages 4-5 of the solicitation; item 2 is hereby deleted and replaced with the following:

The following clauses/provisions apply **Lot 1** only:

52.219-6, Notice of Total Small Business Set-Aside (Nov 2011)

52.219-14, Limitations on Subcontracting (Nov 2011)

252.225-7001, Buy American Act and Balance of Payments Program (Dec 2012)

252.225-7000, Buy American Statute and Balance of Payments Program Certificate (Jun 2012)

The following clauses/provisions apply to **Lot 2** only:

52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011)

52.218-8, Utilization of Small Business Concerns (Jan 2011)

52.219-9, Small Business Subcontracting Plan (Jan 2011)

52.219-26, Liquidated Damages-Subcontracting Plan (Jan 1999)

252.219-7003, Small Business Subcontracting Plan (Jan 2011)

252.225-7001, Trade Agreements (Dec 2012)

252.225-7000, Trade Agreements Certificate (Jan 2005)

- 2) Reference Caution Notice on page 5 of the solicitation, under item 5; the clause listed in the third bullet is hereby corrected to read 252.212-7001 instead of 252.212-7002.

3) Reference Caution Notice on page 5 of the solicitation; item 6 is hereby added as follows:

6. Estimated Dollar Values:

Annual Estimated Dollar Value Lot 1: \$31 million

Annual Estimated Dollar Value Lot 2: \$90 million

3-Year Total Estimated Dollar Value Lot 1: \$93 million

3-Year Total Estimated Dollar Value Lot 2: \$270 million

4) Reference page 26 of the solicitation: 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (AUG 2012) is hereby deleted in its entirety and replaced with the following:

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

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

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

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

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

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

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

X (1) **52.203-6**, Restrictions on Subcontractor Sales to the Government (SEP 2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

X (2) **52.203-13**, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

___ (3) **52.203-15**, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

X (4) **52.204-10**, Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) **52.204-11**, American Recovery and Reinvestment Act—Reporting Requirements (JUL 2010) (Pub. L. 111-5).

- (6) **52.209-6**, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010) (31 U.S.C. 6101 note).
- (7) **52.209-9**, Updates of Publicly Available Information Regarding Responsibility Matters (FEB 2012) (41 U.S.C. 2313).
- (8) **52.209-10**, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Public Law 111-117, section 743 of Division D of Public Law 111-8, and section 745 of Division D of Public Law 110-161).
- (9) **52.219-3**, Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) (15 U.S.C. 657a).
- (10) **52.219-4**, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (11) **[Reserved]**
- (12) **52.219-6**, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).
 - (ii) **Alternate I** (NOV 2011) of 52.219-6.
 - (iii) **Alternate II** (NOV 2011) of 52.219-6
- (13)(i) **52.219-7**, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
 - (ii) **Alternate I** (OCT 1995) of 52.219-7
 - (iii) **Alternate II** (MAR 2004) of 52.219-7
- (14) **52.219-8**, Utilization of Small Business Concerns (JAN 2011) (15 U.S.C. 637 (d)(2) and (3)).
- (15)(i) **52.219-9**, Small Business Subcontracting Plan (JAN 2011) (15 U.S.C. 637 (d)(4)).
 - (ii) **Alternate I** (OCT 2001) of 52.219-9
 - (iii) **Alternate II** (OCT 2001) of 52.219-9
 - (iv) **Alternate III** (JUL 2010) of 52.219-9
- (16) **52.219-13**, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).
- (17) **52.219-14**, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- (18) **52.219-16**, Liquidated Damages—Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (19)(i) **52.219-23**, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - (ii) **Alternate I** (JUN 2003) of 52.219-23.
- (20) **52.219-25**, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (DEC 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (21) **52.219-26**, Small Disadvantaged Business Participation Program—

- Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (22) **52.219-27**, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- X (23) **52.219-28**, Post Award Small Business Program Representation (APR 2012) (15 U.S.C. 632(a)(2)).
- ___ (24) **52.219-29**, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (APR 2012)(15 U.S.C. 637(m)).
- ___ (25) **52.219-30**, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (APR 2012) (15 U.S.C. 637(m)).
- X (26) **52.222-3**, Convict Labor (JUN 2003) (E.O. 11755).
- X (27) **52.222-19**, Child Labor—Cooperation with Authorities and Remedies (JUL 2010) (E.O. 13126).
- X (28) **52.222-21**, Prohibition of Segregated Facilities (FEB 1999).
- X (29) **52.222-26**, Equal Opportunity (MAR 2007) (E.O. 11246).
- X (30) **52.222-35**, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- X (31) **52.222-36**, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).
- X (32) **52.222-37**, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- ___ (33) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- ___ (34) **52.222-54**, Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- ___ (35)(i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ___ (ii) **Alternate I** (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- ___ (36) **52.223-15**, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).
- ___ (37)(i) **52.223-16**, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).
- ___ (ii) **Alternate I** (DEC 2007) of 52.223-16.
- X (38) **52.223-18**, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).
- ___ (39) **52.225-1**, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).
- ___ (40)(i) **52.225-3**, Buy American Act –Free Trade Agreements – Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19U.S.C. 2112 note, 19 U.S.C.

3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42 and 112-43).

- ___ (ii) **Alternate I** (MAR 2012) of 52.225-3.
- ___ (iii) **Alternate II** (MAR 2012) of 52.225-3.
- ___ (iv) **Alternate III** (NOV 2012) of 52.225-3.
- ___ (41) **52.225-5**, Trade Agreements (NOV 2012) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- X** (42) **52.225-13**, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (43) **52.226-4**, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).
- ___ (44) **52.226-5**, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).
- ___ (45) **52.232-29**, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ___ (46) **52.232-30**, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 225(f), 10 U.S.C. 2307(f)).
- ___ (47) **52.232-33**, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- ___ (48) **52.232-34**, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- ___ (49) **52.232-36**, Payment by Third Party (FEB 2010) (31 U.S.C. 3332).
- ___ (50) **52.239-1**, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a)
- ___ (51)(i) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).
- ___ (ii) **Alternate I** (Apr 2003) of 52.247-64.

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

- ___ (1) **52.222-41**, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
- ___ (2) **52.222-42**, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (3) **52.222-43**, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (SEP 2009) 29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (4) **52.222-44**, Fair Labor Standards Act and Service Contract Act – Price Adjustment (SEP 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

- ___ (5) **52.222-51**, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or repair of Certain Equipment—Requirements (NOV 2007) (41 U.S.C. 351, *et seq.*).
- ___ (6) **52.222-53**, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (FEB 2009) (41 U.S.C. 351, *et seq.*).
- ___ (7) **52.222-17**, Nondisplacement of Qualified Workers (JAN 2013) (E.O. 13495).
- ___ (8) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247).
- ___ (9) **52.237-11**, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

(d) *Comptroller General Examination of Record.*

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

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

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

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

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

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

(ii) **52.219-8**, Utilization of Small Business Concerns (DEC 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract

(except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(End of clause)

- 5) Reference page 30 of the solicitation: 252.212-7001 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUN 2012) is hereby deleted in its entirety and replaced with the following:

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

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

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

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

- (1) **252.203-7000**, Requirements Relating to Compensation of Former DoD Officials (SEP 2011) (Section 847 of Pub. L. 110-181).
- (2) **252.203-7003**, Agency Office of the Inspector General (APR 2012)(Section 6101 of Pub. L. 110-252, 41 U.S.C. 3509 note).
- (3) **252.205-7000**, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- (4) **252.219-7003**, Small Business Subcontracting Plan (DoD Contracts) (JUN 2012) (15 U.S.C. 637).
- (5) **252.219-7004**, Small Business Subcontracting Plan (Test Program) (JAN 2011) (15 U.S.C. 637 note).
- (6)(i) **252.225-7001**, Buy American and Balance of Payments Program (DEC 2012) (41 U.S.C. chapter 83, E.O. 10582).
- (ii) Alternate I (OCT 2011) of 252.225-7001
- (7) **252.225-7008**, Restriction on Acquisition of Specialty Metals (JUL 2009) 10 U.S.C. 2533b).
- (8) **252.225-7009**, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUN 2012) 10 U.S.C. 2533b).
- (9) **252.225-7012**, Preference for Certain Domestic Commodities (**FEB 2013**) (10 U.S.C. 2533a).
- (10) **252.225-7015**, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

- (11) ___ **252.225-7016**, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).
- (12) ___ **252.225-7017**, Photovoltaic Devices (DEC 2012) (Section 846 of Pub. L. 111-383).
- (13)(i) **X** **252.225-7021**, Trade Agreements (DEC 2012) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
 - (ii) ___ **Alternate I** (OCT 2011) of 252.225-7021
 - (iii) ___ **Alternate II** (OCT 2011) of 252.225-7021
- (14) ___ **252.225-7027**, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C.2779).
- (15) ___ **252.225-7028**, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- (16)(i)___ **252.225-7036**, Buy American --Free Trade Agreements--Balance of Payment Program (DEC 2012) (41 U.S.C. chapter 83 and 19 U.S.C. 3301 note).
 - (ii) ___ **Alternate I** (JUN 2012) of 252.225-7036
 - (iii) ___ **Alternate II** (NOV 2012) of 252.225-7036
 - (iv) ___ **Alternate III** (JUN 2012) of 252.225-7036
 - (v) ___ **Alternate IV** (NOV 2012) of 252.225-7036
 - (vi) ___ **Alternate V** (NOV 2012) of 252.225-7036
- (17) ___ **252.225-7038**, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (18) ___ **252.225-7039**, Contractors Performing Private Security Functions (JUN 2012) (Section 862 of Pub. L. 110-181, as amended by section 853 of Pub. L. 110-417 and sections 831 and 832 of Pub. L. 111-383).
- (19) **X** **252.226-7001**, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- (20) ___ **252.227-7013**, Right in Technical Data – Noncommercial Items (FEB 2012) if applicable, (see 227.7103-6(a)).
- (21) ___ **252.227-7015**, Technical Data -- Commercial Items (DEC 2011) (10 U.S.C. 2320).
- (22) ___ **252.227-7037**, Validation of Restrictive Markings on Technical Data (JUN 2012), if applicable (see 227.7102-4(c)).
- (23) ___ **252.232-7003**, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012) (10 U.S.C. 2227).
- (24) ___ **252.237-7010**, Prohibition on Interrogation of Detainees by Contractor Personnel (NOV 2010) (Section 1038 of Public Law 111-84).
- (25) ___ **252.237-7019**, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).
- (26) ___ **252.243-7002**, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- (27) ___ **252.246-7004**, Safety of Facilities, Infrastructure, and Equipment for Military

- Operations (OCT 2010) (Section 807 of Public Law 111-84).
- (28) ___ **252.247-7003**, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (SEP 2010) (Section 884 of Public Law 110-417).
- (29)(i) **X** **252.247-7023** Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- (ii) ___ **Alternate I** (MAR 2000) of 252.247-7023.
- (iii) ___ **Alternate II** (MAR 2000) of 252.247-7023
- (iv) ___ **Alternate III** (MAY 2002) of 252.247-7023
- (30) ___ **252.247-7024**, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).
- (31) ___ **252.247-7027**, Riding Gang Member Requirements (OCT 2011) (Section 3504 of Pub. L. 110-417).

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

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

(End of clause)

- 6) The solicitation contains conflicting information regarding invoicing and payment. The language on page 35 of the solicitation (Statement of Work, section II. C.) takes precedence over the language on pages 7-9 of the solicitation (52.212-4 (g) and (h)).
- 7) Reference page 13 of the solicitation: 52.204-99 System for Award Management (AUG 2012) Deviation, is hereby deleted.
- 8) Reference page 15 of the solicitation: 52.216-9007 Contract and Delivery Order Limitations (NOV 2011) is hereby revised as follows:

(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 1 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 Lot 1: \$156 million Lot 2: \$444 million.

(c) Guaranteed minimum.

(d) 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 _____.

10% of annual estimated dollar value * (Percentage) multiplied by 3.

*Annual Estimated Dollar Value, Lot 1: \$31 Million
Annual Estimated Dollar Value, Lot 2: \$90 Million

(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

(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 ©. 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) _____ is (are) the non-setaside portion.

(End of clause)

9) Reference page 17 of subject solicitation, 52.216-9901, Economic Price Adjustment – Department of Labor Price Index (December 2011 – Subsistence Tailored); section (b) (3) is hereby revised to read as follows: “Adjusting price index” shall always be the average of the three most recently published indices available on the day in which the adjusting contract modification becomes effective.

10) 52.204-7, Central Contractor Registration (DEC 2012) and Alternate I (DEC 2012), are hereby incorporated into the solicitation by reference.

11) 52.204-13, Central Contractor Registration (DEC 2012) is hereby incorporated into the solicitation by reference.

12) The following clause is hereby incorporated into the solicitation:

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.

(End of clause)

13) Reference Page 35 of the solicitation, Statement of Work; under section, IV., Contract Requirements, item C is hereby deleted.

14) Reference Page 35 of the solicitation, Statement of Work; under section, IV., Contract Requirements, item F is hereby deleted and replaced with the following:

F. In accordance with commercial practices, the use of GTIN (Global Trade Item Number), provided by GS1 US, is mandatory. All reports and contract documents (to include invoices) will include the stock number and GTIN to insure item identification.

- 15) Reference Page 36 of the solicitation, Statement of Work; the following is added after section IV:

V. PRODUCT QUALITY

A. Shelf-life:

All products delivered to OCONUS customers shall be as fresh as possible and will within the manufacturer's original shelf life (i.e., Best if Used by Date, Expiration Date, or other markings). All products shall be identified with readable "open coded" "Best When Used by Date," "Sell by Date," date of production, date of processing similar marking indicating the end of the guaranteed freshness date.

Products required by the DLA Troop Support Item Description to be frozen must be delivered frozen to the DLA Troop Support customer unless approved by the Contracting Officer. NOTE: a product designated by DLA Troop Support as "Frozen" shall never be frozen using a slow-frozen process.

All items must have no less than two-thirds (2/3) of the manufacturer's stated shelf life remaining at the time of delivery to the OCONUS Prime Vendor.

- ### **B. Commercial standards should be used to maintain temperatures appropriate for individual items.**

VI. PACKAGING AND MARKING

A. PACKAGING, PACKING, AND LABELING

1. All packaging and packing shall be in accordance with best commercial practices. Labeling shall be in accordance with best commercial practices. Labeling shall be in accordance with the Federal Food, Drug and Cosmetic Act and regulations promulgated thereunder.
2. Items shall be snugly packed in shipping containers that fully comply with the National Motor Freight Classification and Uniform Freight Classification Code, as applicable.
3. All chicken will be vacuum packed when practicable. In all instances the packaging must protect the product from freezer burn and contamination.

4. 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.
5. Chill and freeze products must be shipped in refrigerated (Reefer) Vans and appropriately separated per temperature requirements.
6. Labeling also be in accordance with the OCONUS PV labeling requirements as OCONUS contracts require additional information such as:

Case Marking/Labeling – NAVY CUSTOMERS

Shipping cases shall be marked or labeled on one end or side panel with the following information:

NSN/LSN

FIC (Navy Food Identification Code) – If the Item HAS a FIC Code

Item Nomenclature

Quantity

Unit Pack

Unit of Issue

Case Weight

Case Cube

Date of Pack

Product Expiration Date

Lot Number

B. PALLETIZATION

1. All contractor shipments must be palletized in accordance with good commercial practices. The contractor is responsible for the purchase of all pallets, which must be American sized pallets (48 x 40 inches). Where practical, pallet exchange programs will be implemented by customers. 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 contractor.
2. 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.

16) Reference page 41, 52.212-2 is hereby deleted and replaced with the following:

52.212-2 -- Evaluation -- Commercial Items (Jan 1999)

(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 factors considered. The following factors shall be used to evaluate offers:

_____ See Addendum Below _____

(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 FAR 52.212-2

Revise paragraph (a) to read as follows:

(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 factors considered. Low Price Technically Acceptable (LPTA) procedures will be used to evaluate offers. The following factors shall be used to evaluate offers:

1. Technical Acceptability – The offeror takes no exceptions to the terms and conditions for each Lot in the solicitation. 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.

2. Pricing – Pricing is required for all items found in the Schedule of Items for each Lot. The Government will perform a price analysis on all items found in the Schedule of Items for each Lot. The estimated quantities in the Schedule of Items for each Lot 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 price for each Lot.

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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 (1) award per Lot.

- 17) Reference page 50 of the solicitation; under Addendum, the statements beginning with Attachment to 52.212-3(The Contracting Officer SHALL...) and ending with (...”ProvisionClause Usage:.) are hereby deleted.
- 18) Reference page 53 of the solicitation, clause 52.216-1, Type of Contract; the contract type is hereby changed from FIXED PRICE to FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT”.
- 19) Attachment 1 – Schedule of Supplies is hereby deleted and replaced with the Attachment 1 – Schedule of Supplies (Amendment 0003).
- 20) Attachment 2 – Clarification of Labeling Terms for Chicken Products, is hereby added to the solicitation.