



DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD, SUITE 2533
FORT BELVOIR, VIRGINIA 22060-6221

IN REPLY
REFER TO J-33615-381
PROCLTR 01- 04

MAR 19 2001

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Changes Clause for Commercial Items Acquisitions (DLAD 12.301(f)(90) and (91);
12.302(b)(3)(91); 52.212-9000, Changes-Military Readiness)

The purpose of this PROCLTR is to disseminate a new DLAD clause and prescription regarding the changes clause included in paragraph (c) of FAR 52.212-4, Contract Terms and Conditions – Commercial Items. The attached DLAD clause shall be used with FAR 52.212-4 in contracts negotiated under Part 12. This clause provides for bilateral agreement on contract terms and conditions during normal operations, but allows the contracting officer to issue unilateral changes to the method of shipment, packing, and place of delivery during contingency operations or humanitarian and peacekeeping missions, when time may not be available to negotiate such agreements in advance.

This PROCLTR is effective immediately and expires upon incorporation of the attached coverage into the DLAD. The points of contact for this PROCLTR are either Ms. Stephanie Pennello at (703) 767-1355 or DSN 427-1355 or Ms. Anne Burleigh at (703) 767-1358 or DSN 427-1358. They may also be reached via email at stephanie_pennello@hq.dla.mil, or anne_burleigh@hq.dla.mil, respectively.

WILLIAM J. KENNY
Executive Director
Logistics Policy and Acquisition Management

Attachment



* * * * *

PART 12

ACQUISITION OF COMMERCIAL ITEMS

12.301(f)

(f) 'The DLA SPE has approved supplementation of the provisions and clauses in FAR Part 12 to require --

190) Use of the clause 52.217-9006, Limitations on Surge and Sustainment (S&S) Investments, as prescribed in 17.9308(a), Solicitation and Contract Clauses.

(91) Use of the clause 52.212-9000, Changes - Military Readiness, as prescribed in 12.302(b) (3) (91).

* * * * *

12.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(a) * * *

(b) (3) * * *

(90) * * *

*(91) Use clause 52.212-9000, Changes - Military Readiness, with FAR Clause 52.212-4, Contract **Terms and Conditions - Commercial Items**, in all contracts negotiated under Part 12. This clause provides for bilateral agreement on contract terms and conditions during normal operations, but allows unilateral changes to the method of shipment, packing, and place of delivery during contingency operations or humanitarian or peacekeeping operations.*

* * * * *

PART 52

SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

TABLE OF CONTENTS

SUBPART 52.1 INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

- 52.101 Using Part 52.
- 52.102 Incorporating provisions and clauses.

SUBPART 52.2 - TEXTS OF PROVISIONS AND CLAUSES

- 52.200 Scope of subpart.
- 52.208-9000 Price adjustment on Federal Prison Industries, Inc. (FPI) contracts/orders.
- 52.211-9000 Government Surplus material.
- 52.211 3001 Market acceptance.
- 52.211-9002 Priority rating.
- 52.211-9002 Conditions for evaluation of offers of surplus material.
- 52.211-9003 Priority rating for various long-term contracts.
- 52.212-9000 **Changes - Military Readiness.**
- 52.213-9000 Quantity break.
- 52.213-9001 Evaluation factor for source inspection.
- 52.213-9002 Indefinite Delivery Purchase Order (IDPO) Agreement.
- 52.213-9003 Indefinite Delivery Purchase Order (IDPO) Contract.
- 52.213-9004 Offeror representations, certifications, and fill-in information * electronic commerce
- 52.214-9001 Schedule -firm fixed price & fixed price with economic price adjustment.
- 52.214-9002 Trade discounts.
- 52.214-9003 Right to apply f.o.b. origin offer.
- 52.214-9004 Subcontracting to other industrial preparedness planned producers.
- 52.215-9001 Evaluation factor for preaward survey.
- 52.215-9002 Socioeconomic Proposal.
- 52.215-9003 Socioeconomic Support Evaluation.
- 52.215-9004 Javits-Wagner-O'Day Act entity proposal.
- 52.215-9005 Javits-Wagner-O'Day Act entity support evaluation.
- 52.215-9006 Javits-Wagner-O'Day Act entity support contractor reporting.
- 52.217-9000 Data pricing, evaluation, and award.
- 52.217-9001 Option to extend the term of the contract - separate firm fixed price & fixed price with economic price adjustment portions.
- 52.217-9002 Conditions for evaluation and acceptance of offers for part numbered items.
- 52.217-9003 Manufacturing or production information.

52.217-9004 Reopener Clause - Cost of Specified Direct Materials/Other Direct Cost Item.

52.217-9005 Reopener Clause - Pending Indirect Rates Proposal.

52.217-9006 Limitations on Surge and Sustainment (S&S) Investments.

52.219-9001 [Reserved]

52.219-9002 DLA Mentoring Business Agreements (MBA) Program.

52.219-9003 DLA Mentoring Business Agreements (MBA) Performance.

52.219-9004 Small Business Program Representations.

52.222-9000 Davis-Bacon Act - price adjustment.

52.223-9000 Material safety data sheets and hazard warning labels.

52.225-9000 Reserved.

52.225-9001 FMS shipping instructions.

52.225-9002 Reserved.

52.229-9000 Kentucky sales and use tax exemption.

52.233-9000 Agency protests.

52.246-9000 Certificate of quality compliance.

52.246-9001 Manufacturing process controls and in-process inspections.

52.2469003 Measuring and test equipment.

52.246-9004 Product verification testing.

52.247-9000 Guaranteed maximum shipping weights or dimensions.

52.247-9001 Port handling and ocean costs in bid evaluation.

52.247-9003 Reserved.

52.247-9004 Reserved.

52.247-9005 Reserved.

52.249-9000 Administrative costs of procurement after default.

* * * * *

DLAD 52.212-9000 changes - Military Readiness

As prescribed in 12.302(b) (3) (91)), insert the following clause:

CHANGES - MILITARY READINESS (MAR 2001) - DLAD

The commercial changes clause at FAR 52.212-4(c) is applicable to this contract in lieu of the changes clause at FAR 52.243-1. However, in the event of a Contingency Operation or a Humanitarian OR Peace Keeping Operation, as defined below, the contracting officer may, by written order, change 1) the method of shipment or packing, and 2) the place of delivery. If any such change causes an increase in the cost of, or the time required for performance, the contracting officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The contractor must assert its right to an adjustment within 30 days from the date of receipt of the modification.

"Contingency operation" means a military operation that-

- (i) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an

enemy of the United States or against an opposing military force: or

- (ii) Results in the call or order to, or retention on, active duty of members of the uniformed services under 10 V.S.C. 688, 12301 (a), 12302, 12304, 12305, ~~or~~ 12406, chapter 15 of V.S.C., or any other provision of law during a war or during an national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

"Humanitarian or peacekeeping operation" means a military operation in support of the provision of humanitarian or foreign disaster assistance ~~or~~ in support of peacekeeping operation under Chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, ~~or~~ stationing. (10 U.S.C. 2302 (8) and 41 U.S.C. 259(d)(2) (B)).

(End of Clause)

* * * * *