



DEFENSE LOGISTICS AGENCY
Disposition Services

INVITATION FOR BID (IFB)
Number 15-0288

EX-HAWES (FFG 53)
EX-STEPHAN W GROVES (FFG 29)
EX-GRAND RAPIDS (PG 98)
EX-BARRY (DD 933)

**SHIP DISMANTLING,
DEMILITARIZATION AND RECYCLING**

STEP TWO OF TWO-STEP SOLICITATION

August 10, 2015

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EX-HAWES (FFG 53)
EX-STEHHAN W GROVES (FFG 29)
EX-GRAND RAPIDS (PG 98)
EX-BARRY (DD 933)

SHIP DISMANTLING,
DEMILITARIZATION AND RECYCLING

INVITATION FOR BID
Number 15-0288

STEP TWO OF TWO-STEP BIDDING PROCESS

This Invitation For Bid (IFB) is issued by DLA Disposition Services to initiate Step Two of a two-step sealed bid. The only bids the Sales Contracting Officer (SCO) may consider for award of a contract are those received from bidders that have submitted an acceptable technical proposal during Step One of this solicitation under RFTP 15-0288. In addition, bidders are required to visit all vessels in this IFB, and failure to visit all vessels is grounds for finding the bidder non-responsive. No items/inventory may be harvested from any vessel intact and sold without the express written approval of the Sales Contracting Officer. Mutilation waiver for apparent, safe for sale, usable items (i.e. galleys, grills, non-military items, etc.) may be considered.

The successful bidder's technical proposal may be incorporated into any contract awarded in response to this IFB. ***In all other respects, the provisions of this IFB shall govern the contract contemplated hereby without regard to assumptions, plans, forecasts, conditions or any other matters set forth in any prospective bidder's technical proposal submitted in Step One.***

Forms for submitting a bid are provided on the DLA Disposition Services web site, <http://http://www.dispositionservices.dla.mil/sales/typesale.shtml>, click on Property for Sale to Public and then Sales. Your completed Bid Forms and bid deposit must be delivered to and received by DLA DISPOSITION SERVICE'S SCO before the bid opening at **9:00 A.M. EDT on Tuesday, October 13, 2015** at the mailing address below. The bids must be signed, and include the following statement: "I agree to be bound by all the terms and conditions of this Invitation for Bid." Address your Bid Forms and Bid Deposit to:

Mr. Ronald R Williams
Sales Contracting Officer
DLA Disposition Services J-422
74 North Washington Avenue
Battle Creek, Michigan 49037-3092
Fax: (269) 961-7568

GENERAL STATEMENTS OF CONTRACT

Certain contents and provisions of this IFB, including Appendices, Attachments and Schedules, are described in general. The following General Statements of Contract are not intended to be complete and do not take precedence over the terms and conditions of this contract. The requirements for all matters discussed in the General Statements are more fully defined in the Terms and Conditions Section of this IFB.

This IFB relates to scrap property to be derived from stricken vessels that the Government has determined to be surplus to the needs of the Department of Defense and the Federal Government. Scrap property is defined with respect to a particular item, as a designation assigned by or with the approval of DLA Disposition Services personnel meaning that the item has value for its material content only. The product being offered is defined as:

Item one: One Lot consisting of Scrap material (Estimated 13,822 light weight tons (LWT) to be derived from the recycling of:

- **EX-HAWES (FFG 53): Estimated Weight 3,153 LWT – Philadelphia PA**
- **EX-STEHHAN W GROVES (FFG 29): Estimated Weight 3,153 LWT – Philadelphia PA**
- **EX-GRAND RAPIDS (PG 98): Estimated Weight 254 LWT – Panama City FL**
- **EX-BARRY (DD 933): Estimated Weight 7,271 LWT – Navy Yard Washington DC**

This sale is for the preparation and tow for each of the vessels listed above which are located at the NAVSEA Inactive Ships Onsite Maintenance Offices, located in Philadelphia, PA , and the Navy Yard, Washington, DC, and the Naval Surface Warfare Center Panama, FL., to the Buyer's facility in accordance with the U.S. Navy Tow Manual (www.navsea.navy.mil/teamships/InactiveShips/pdf/towman.pdf), complete dismantling of the vessel in the **United States**, removal and disposal of hazardous materials/wastes in accordance with applicable Federal, State, and local laws and regulations, and processing and sale of scrap and reusable equipment/material. Ownership of the vessel remains with the United States Government. The sale shall be a sealed bid. The Buyer shall retain the proceeds of the sale of scrap and reusable equipment/material to offset its costs of performance. The estimated proceeds from the sale of the scrap and reusable equipment/material shall be factored into the bid offered to the Government. The hull and all portions of the structure of the vessel must be mutilated by reduction to scrap. Any and all weapons systems and communications equipment remaining on the vessel must be demilitarized by complete destruction.

The successful bidder commits to purchase property issued under this sale for a not-to-exceed eighteen month (18 months) performance period commencing from the date of contract award. The submitted bid sheet binds the bidder to the conditions of the contract. Once the DRMS 1427 Statement of Award is provided to the successful bidder the bidder is under contract and contract performance starts. No signature on the DRMS 1427 is required by the bidder to start the performance period.

Offerors **MUST** inspect all vessels, described above, and rely solely on their own inspections in determining the location of, and the method and extent of hazardous material removal and disposal required under applicable laws and regulations. The Government explicitly does not warrant that the data provided represents a complete and accurate depiction of the location and extent of all hazardous materials.

Bids must be submitted as one price for all four vessels. The winning bid will be determined by the bidder offering the highest bid price. The successful bidder agrees to pay the Government in a billing assessment for each vessel until the full bid price has been paid to the Government. The payments are made at the 20%, 40%, 60%, and 80% of the estimated dismantling completion assessments for each ship. For example, a ship 20% dismantled will be charged at 25% of the individual ships estimated weight, calculated against the bid price. One hundred percent of the payments will be assessed at the 80% completion point of each ship undergoing dismantling. Early payments are not allowed under the billing process, as there is no system generated subbill to post the payment against. Percentages of completions will be recorded for each ship, and when the 20%, 40%, 60% and 80% of dismantling is reported, summary billing will provide a bill against a percentage of the buyers bid. See Article One, Section 7 Billing, for an explanation against an arbitrary bid amount. Each sealed bid must include a bid deposit of ten percent (10%) of bid price at the time of bid submission. The Buyer is also required to provide a financial guarantee bond/guaranteed line of credit in the amount of \$3,000,000.00, made payable to DLA Disposition services, within 15 days of award by the Sales Contracting Officer.

Prior to award of this contract, the Buyer will be required to process a Trade Security Control (TSC) assessment by providing the Sales Contracting Officer a properly completed End-Use Certificate (EUC) in the form of a DLA Form 1822 (copy available on the DLA Disposition Services web site, <http://http://www.dispositionservices.dla.mil/sales/typesale.shtml>, click on Property for Sale to Public and then Sales. The TSC Assessment investigation verifies the entity as claimed, that the entity is doing business at the name and location claimed, and that there are no disqualifying factors present (i.e., convictions for illegal export of military technology, debarment by a Government activity, etc.). The TSC Assessment can take up to six weeks, and can slow the award process. To expedite the process completed End Use Certificate forms shall be submitted with each bid. The EUC should be accompanied by a current government/state photo ID, as stated in the instructions for the form. If the bid is on behalf of a company, corporation, LLC, a list of all company officials/officers associated with the recycling contract should accompany the EUC.

Vessels issued for scrap under this sale will require complete demilitarization/mutilation. The buyer may request a mutilation waiver for all apparent usable items (i.e. galleys, grills, non-military items, etc.). Items must be validated by the Sales Contracting Officer, or his/her designee, in writing as safe for sale and must be validated by the buyer as containing no regulated hazardous materials before being released or sold. DLA Disposition Services is prohibited from selling Demil B and Sensitive Demil Q items, and therefore will only approve Demil A and Demil Q-6 (Demil Q 6 to US citizens only) items for resale to third parties. Alternative use of the vessels will not be approved. Transfer or donation by the buyer of any items, such as ships hatches, scuttles, or other item requested from an organization to replace, repair, or modify their existing ship's equipment must be approved by the Sales Contracting Officer as safe to transfer/sell with a mutilation waiver.

Buyer agrees to fully cooperate with the Government when informed by DLA Disposition Services of any reviews or investigations by any DOD or Federal Government investigative service or agency. Buyer agrees to provide DLA Disposition Services with all requested information regarding the property or information relating to the customer purchasing the property. Buyer must make all sales records, property, and customer's records pertaining to such investigations available to DLA Disposition Services upon request. . The contract requires that the Buyer fulfill certain requirements related to national security, DLA Disposition Services customer service and compliance review.

In addition, the buyer is fully auditable, therefore, will remain cooperative with DLA Disposition Services audit requirements to include accounting statements, insurance coverage, and inventory control/asset tracking. Any and all of the buyer's records must be made available to DLA Disposition Services, to include providing DLA Disposition Services copies and/or allowing DLA Disposition Service to make copies of all records requested. Records will be made available in either electronic or hard copy form as required by DLA Disposition Services.

Vessels being stored by the Buyer at the Buyer's facility/facilities that have not been mutilated must be safeguarded to the satisfaction of the Government at all times. The Government reserves the right to conduct "no-notice" site inspections of the Buyer's facilities as needed.

The buyer must work effectively with DLA Disposition Services or its agent with respect to towing and complete mutilation of the vessel, Environmental remediation and DEMIL verification. The buyer must provide office space, to include common office furniture and internet access, for two persons who will maintain environmental and demilitarization oversight throughout the term of the contract.

The Government reserves the right to conduct a post-award conference as early as two weeks after award. The purpose of the conference is to ensure the Buyer fully understands the terms and conditions of this contract. The location of the conference will be held at the site of vessel recycling and the costs incurred by Buyer personnel attending shall be paid in full by the Buyer without reimbursement by DLA Disposition Services.

Prospective bidders should be aware of certain risk factors that could affect a bidder's assessment of this contract and the calculations supporting the resulting bid. DLA Disposition Services does not represent that it has identified any risk factors and bidders should consider this sale an "AS IS, WHERE IS" sale.

Described generally, applicable statutes and regulations grant DLA Disposition Services less flexibility to agree to amend a contract after award than prospective bidders may have experienced in other contractual settings. Prospective bidders should assume that the provisions of the contract cannot be significantly amended after award.

This IFB may be the subject of one or more protests to the U.S. General Accountability Office. Moreover, it is possible that, either pending or after award, one or more third parties that object to this contract could institute litigation involving both DLA Disposition Services and the Buyer. DLA Disposition Services cannot predict the likelihood or the possible grounds for such litigation. Nevertheless, this is a risk factor that should be assessed by a prospective bidder.

ITEM DESCRIPTION

The property is located at Philadelphia PA, Washington DC, and Panama City FL. The property consists of:

ITEM 1: One Lot consisting of scrap derived from the recycling of two ships in Philadelphia, PA, one ship in Navy Yard Washington DC, and one ship in Panama City Florida. All vessels are available for inspection by appointment, Monday through Friday, excluding holidays, between the hours of 0700-1500 local time. Appointments must be made at least five (5) days in advance. Vessel information as reported by the Navy to DLA Disposition Services is available

at www.navsea.navy.mil/teamships/inactiveships/Ship_Disposal. Declassified Booklets of General Plans, Damage Control Plates, Tank Conversion Tables, and Docking Plans, if existing, will be available for viewing at the Inactive Ships On-Site Maintenance Office, and will be released to the Buyer upon contract award.

The product being offered is defined as one Lot consisting of scrap derived from the following vessels:

FFG 7 Class Frigate, ex-HAWES (FFG 53), located on Pier F, NAVSEA Inactive ships On-Site Maintenance Office, Philadelphia, PA. Estimated Weight: 3,153 LWT.

FFG 7 Class Frigate, ex-STEHHAN W GROVES (FFG 29), located on Constitution Avenue Wharf, NAVSEA Inactive ships On-Site Maintenance Office, Philadelphia, PA. Estimated Weight: 3,153 LWT.

Asheville Class Gunboat, ex-GRAND RAPIDS (PG 98), located on Pier UB 5 at Naval Surface Warfare Center, Panama City, Florida. Estimated Weight: 245 LWT.

Forrest Sherman Class Destroyer, ex- BARRY (DD 933), located at Pier 2, Navy Yard, Washington DC. Estimated Weight: 7,271 LWT.

Additional Condition of Sale Requirements: Per agreement between the Naval Sea Systems Command and the Advisory Council on Historic Preservation, the Buyer will be required to remove the following items: NOTHING AT THIS TIME

Non-Conveyance: NOTHING AT THIS TIME

ADDITIONAL TERMS AND CONDITIONS OF SALE

The following Articles (not part of the Sale By Reference (SBR), July 2012) apply and constitute additional terms and conditions of this sale:

ARTICLE ONE

Bid Evaluation and Contract Award

Section 1 – Bidding Process – The bidding process will commence on the bid opening day and time specified by the Government. Bids **must** be in the possession of the sales contracting officer by **9:00 A.M. EDT on Tuesday October 13, 2015**. The Sales Contracting Officer (SCO) will open each sealed bid at the specified bid opening day and time. From the bids offered, a high bid will be determined for each item. Note: Buyers are bidding on the recycling of the four vessels there will be no weighing of the scrap produced.

Section 2 – Mandatory Inspection – All bidders are required to inspect the vessels in order to be considered for award. Bidders are strongly advised to review the pre-disposal documentation, including hazardous material inventories and surveys, which may be obtained at the time of vessel inspection. Bidders who do not inspect the ship during the inspection period, as verified by log entry, will be considered non-responsive and not eligible for award.

Section 3 – Bid Evaluation - Award will be made to the responsive, responsible bidder that offers the highest bid price for all vessels. The Government reserves the right to not award a contract if such contract is deemed not to be in the Government's best interest. The Bid price will be in US Dollars for all of item/lot 1.

Section 4 – Contract Award – The SCO will determine if each bid is responsive and responsible prior to award of the contract. The contract will be awarded to the highest responsive, responsible bidder. In the event of a termination of the original Buyer the SCO may award the contract to the next highest responsive, responsible bidder if bid acceptance period have not expired, and such award is otherwise determined to be in the Government's best interest, price and other factors considered. If the bid acceptance period of the next higher bidder is not sufficient to award the contract, the SCO may ask the next highest bidder if they wish to extend their bid to facilitate contract award. No change in bid price will be considered.

Section 5 – Pre-Award Survey - The Pre-Award survey is one of the factors used by the Government to ensure the Buyer's ability to satisfactorily perform the work in accordance with their technical proposal submitted in step-one of this solicitation. After solicitation opening/closing and prior to award, the Government may conduct a Pre-Award survey of one or more bidders who may become eligible for award after final evaluation. The Pre-Award survey may be conducted at the Buyer's facility(ies) and/or other location(s) as deemed necessary by the Government and may include a review of Buyer's facilities and equipment, financial capability or disclosure of a Buyer's financial condition, quality assurance, safety, and transportation. Bidders must cooperate in the Pre-Award process by assisting in arrangements and/or by providing requested information in a timely manner. Bidders are advised that accomplishment of a Pre-Award survey or furnishing documents to the Government in support of the Pre-Award survey is part of the evaluation of the responsibility process and is not to be construed as an indication that a bidder will receive award of a contract.

Section 6 – Post-Award Conference - The Government reserves the right to conduct a post-award conference as early as two weeks after award. The purpose of the conference is to ensure the Buyer fully understands the terms and conditions of this contract. The location and date of the conference will be determined by DLA Disposition Services and the costs incurred by Buyer personnel attending shall be paid in full by the Buyer.

Section 7 – Billing: The buyer will be billed based upon the progress reports provided by the on-site Government representative for each vessel. Billings will be generated monthly and will only occur when each vessel is 20%, 40%, 60%, and 80% dismantled. Billing will not occur until the 20%, 40%, 60%, or 80% thresholds have been met. Buyers will have 30 days to pay the subbills, based on the date the bills are generated, normally on the 25th of the month. The total vessel billings will be based on the percent of estimated weight each vessel's advertised estimated weight is to the entire lot. The table below shows the vessels with their estimated weights in LWT (2000 lbs) and the percentage of weight each one is to the total estimated weight of the sale.

Vessel	LWT	Percent of Total
FFG Hawes	3153	23%
FFG Groves	3153	23%
PG Grand Rapids	245	2%
DD Barry	7271	52%
Total LWT	13822	100.0%

Example Cost Structure and Billing. If the winning Bid price is an arbitrary \$100,000 then the cost per vessel will be as shown in the table below:

Vessel	LWT	Percent of Total	Cost per vessel	Percent Dismantled			
				Billed at 20%	Billed at 40%	Billed at 60%	Billed at 80%
FFG Hawes	3,153	23%	\$ 23,000	\$ 5,750	\$ 5,750	\$ 5,750	\$ 5,750
FFG Stephan L Groves	3,153	23%	\$ 23,000	\$ 5,750	\$ 5,750	\$ 5,750	\$ 5,750
PG Grand Rapids	245	2%	\$ 2,000	\$ 500	\$ 500	\$ 500	\$ 500
DD Barry	7,271	52%	\$ 52,000	\$ 13,000	\$ 13,000	\$ 13,000	\$ 13,000
Total	13,822	100%	\$ 100,000				

Buyers are bidding on the recycling of the four vessels there will be no weighing of the scrap produced from the recycling of the vessels. All weights are estimates. There will be no reconciliation to the Government or the buyer if the weights are more or less than the weights of the vessels described within. **Pre-payment/full payment of the amount due is not allowed, and must follow the billing structure.**

ARTICLE TWO
Parties to the Contract

Section 1 – Buyer Information - Within thirty (30) calendar days of the date of contract award, the Buyer shall provide DLA Disposition Services the following information:

- (A) Designation of key personnel changes, if any, and a list of those designated to send and receive correspondence and act on behalf of the contract holder for contract performance.
- (B) Buyer shall provide the SCO notification of any changes to the above within ten (10) calendar days of the change.

Section 2 – Transfer and Hypothecation

- (A) **General Prohibition** - Except as specifically provided herein or specifically approved by DLA Disposition Services in writing, the Buyer may not directly or indirectly sell, transfer, assign, pledge, offer as collateral or otherwise hypothecate all or any part of its rights or obligations under the contract.
- (B) **Attempted Transfer** - Any attempted transfer in violation of the provisions of this Article shall be null and void, and shall constitute a material breach of this contract.

Section 3 – Contract of Sale

- (A) **Relationship of Parties** - This contract is an agreement for the sale of the property by

DLA Disposition Services as seller to Buyer as the buyer. Buyer and DLA Disposition Services expressly disavow the creation of any other relationship, including without limitation principal-agent, master-servant, employer-employee, general or limited partnership, or joint venture, between DLA Disposition Services and the Buyer.

(B) Parties to Contract - The parties to this contract are DLA Disposition Services and the Buyer. The exclusive representative of DLA Disposition Services for all purposes under this contract is the SCO, and all notices, demands, requests, consents, approvals, declarations, reports and other communications to DLA Disposition Services from Buyer shall be deemed ineffective unless addressed to the SCO. Communications from the Buyer to anyone other than the SCO shall not be deemed received by DLA Disposition Services.

Section 4 – Authority of Sales Contracting Officer (SCO) - On behalf of DLA Disposition Services, the SCO has the authority to represent DLA Disposition Services and to commit DLA Disposition Services to take such actions as permitted or required and to extend or waive timing requirements or deadlines as may reasonably be required under the performance of this contract.

ARTICLE THREE **Contract Financial Retention**

Section 1 – Bid Deposit - Each bid must be accompanied by a refundable bid deposit in the form of a guaranteed instrument (cashier's or certified check) in the amount of ten percent (10%) of the bid price payable to U.S. Treasury. The bid deposit will be returned if the buyer is not awarded the contract. If awarded, the bid deposit will be retained as an escrow payment, and can be applied by the buyer to the purchase price at final billing.

Section 2 – Payment – Buyer will be billed based on progress reports at the end of every month of the recycling of each vessel. Buyers will be billed for the advertised lot of vessels regardless of volume of non-saleable material, Liquid Loads, environmental remediation requirements, etc. Buyer shall provide DLA Disposition Services a payment via guaranteed instrument, cashier/certified check, wire transfer or Electronic Funds Transfer (EFT). DLA Disposition Services shall return any available balance of the payment deposit, without interest, to Buyer. Buyers will be provided a summary billing statement that is payable within 30 days of billing, based on the percentages of completion of each vessel.

Section 3 – Failure to Make Timely Payment – Should buyer fail to pay to DLA Disposition Services the full amount owed as reflected on the subbill on or before the date that such payment is due, DLA Disposition Services may, in its sole discretion, (i) apply that portion of the payment deposit that is necessary to pay the amount owed, and (ii) notify Buyer that such failure constitutes a material breach that the buyer must cure within ten (10) calendar days of notice thereof by paying to DLA Disposition Services an amount equal to one-hundred twenty percent (120%) of the subject amount owed, which payment shall be applied by DLA Disposition Services to replenish and increase the amount of the payment deposit. The Buyer shall also be assessed interest on the payment based on the current rate as determined by the Secretary of Treasury. The interest will be added to the total summary billing charges for final reconciliation of charges.

Section 4 – Risk of Loss – Buyer is responsible for paying for all items. Buyer shall bear the risk of loss for all other property where title has transferred to the Buyer and Buyer has lost or damaged the property.

Section 5 – Performance Guarantee Bond -- Within fifteen (15) calendar days of notification of the SCO, Buyer shall provide Disposition Services a financial performance guarantee bond/line of credit instrument in favor of DLA DISPOSITION SERVICES in the amount of three million dollars (\$3,000,000.00). The purpose of the Financial Performance Guarantee Bond shall be to provide a source of payment to DLA DISPOSITION SERVICES in an amount reasonably sufficient to satisfy the financial obligations of Buyer or for damages arising out of a material breach by Buyer. The Financial Performance Guarantee Bond shall be issued by such surety and in such form that are acceptable to DLA DISPOSITION SERVICES. The Bond shall be carried for the duration of the contract, however, may be renewed on an annual basis, renewable at the sole option of the surety.

ARTICLE FOUR **Contract Performance**

Section 1 – Performance Period – Buyer is to completely dismantle, mutilate and recycle all items awarded, to include environmental remediation, within 18 (eighteen) months from the date of contract award.

Section 2 – Vessel Removal - The Buyer must remove ex-BARRY (DD 933) from the Navy Yard, Washington DC within 60 days of contract award. The ex-GRAND RAPIDS (PG 98) must be removed from Panama City Florida within 90 days of contract award. The remaining vessels must be removed in the order of the Buyer's choosing within 180 days, and 240 days of contract award, respectively. Removing the ships sooner is acceptable, but must be coordinated with NAVSEA 00C. The earliest possible removal of all ships is preferred. The removal and towing of ex-BARRY in Washington DC must be coordinated with NAVSEA 00C to ensure the buyer does not encounter excessive delays or a false start due to bridge repairs/construction.

Section 3 – Termination for Convenience of the Government – The Government may terminate performance of work under this contract in whole or, from time to time, in part if the SCO determines that a termination is in the Government's interest. The SCO shall terminate by delivering to the Buyer a Notice of Termination specifying the extent of termination and the effective date.

After receipt of a Notice of Termination, and except as directed by the SCO, the Buyer shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Unless otherwise directed by the SCO, place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities. Stop any pending sales and make no further sales to resale buyers.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Unless otherwise directed by the SCO, assign to the Government, as directed by the SCO, all right, title, and interest of the property whether in Buyer or subcontractor facilities. Whether property is in Buyer or subcontractor facilities, coordinate with the SCO the return of any property issued to the Buyer to the Government or move property to Buyer owned facilities for Government retrieval upon written direction from the SCO.
- (5) With approval or ratification to the extent required by the SCO, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts.

(6) Take any action that may be necessary, or that the SCO may direct, for the protection and preservation of the property related to this contract that is under title and/or in the possession of the Buyer or subcontractor and in which the Government has or may acquire an interest until surrendered to the Government or its agent. The Buyer and SCO shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be a dispute under the Disputes clause.

The Buyer shall submit a complete termination inventory schedule to include an estimate of remaining material by weight, no later than 30 calendar days from the effective date of termination, unless extended in writing by the SCO upon written request of the Buyer within this 30 calendar day period. The Government will review the inventory list within 14 calendar days and contact the Buyer with any discrepancies and notify the Buyer of items that the Buyer can retain title of.

If the Buyer has any cost it wishes the Government to consider prior to the Government assessing settlement costs, they must be submitted within 14 calendar days of final removal of returned surplus property to the Government. Any cost submitted by the Buyer must be determined to be allocable, allowable, and reasonable and supported with documentation to the degree required by the SCO. Unless extended in writing by the SCO, upon written request of the Buyer, the SCO shall determine the settlement proposal within 14 calendar days of receipt of any submission of final Buyer settlement costs. If the Buyer fails to submit their proposal for settlement cost within the time allowed, the SCO may determine, on the basis of information available, the amount, if any, due the Buyer or owed by the Buyer.

The Buyer has 14 calendar days to review the contract settlement proposal and request any additional information. Payment to be made by either party shall be made within 30 calendar days of Buyer receipt of the settlement proposal. Any amount due the Buyer may include a reasonable allowance for profit for work completed. If the Buyer fails to pay settlement cost within the specified time, the cost will be deducted from any deposit funds available from the performance of this contract. Any remaining funds from the deposit will be returned by the Government.

If the Buyer and the SCO fail to agree on the amount that may have been determined due to the Buyer by the Government due to the termination of the sales contract, the SCO shall pay the Buyer the amounts determined by the SCO within the specified time. Any amount due to be paid by the Buyer and not paid within the specified time period shall be charged interest based on the rate determined by the Secretary of Treasury.

The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

The Buyer shall have the right of appeal, under the Disputes clause, from any determination made by the SCO, except that if the Buyer failed to submit the termination settlement proposal or a request for equitable adjustment within the time provided.

In arriving at the amount due the Buyer under this clause, there shall be deducted;

- (1) Any claim which the Government has against the Buyer under this contract; and

(2) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Buyer or sold under the provisions of this clause and not recovered by or credited to the Government.

This clause has the same full effect, if this contract is terminated in partial.

Unless otherwise provided in this contract or by statute, the Buyer shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Buyer's costs and expenses under this contract. The Buyer shall make these records and documents available to the Government, at the Buyer's office, at all reasonable times, without any direct charge. If approved by the SCO, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

Section 4 – Default in Performance of Demilitarization, Mutilation, Recycling and/or Disposal: In the event the Purchaser fails to complete the Demilitarization, Mutilation, Recycling, and/or Disposal of the vessel (s) within the time provided by the terms of this contract, or fails to comply with Federal, State, and Local laws and/or regulation, or fails to prosecute the work with such diligence as will ensure the completion of the contract and fails to correct such deficiency within the period of time allowed by the notice required by Article 9 section 4 of this IFB, the Government may send the Purchaser a 15 day written notice of default (calculated from the date of mailing) and upon the Purchaser's failure to cure such default within the period (or such further period as the Contracting Officer may allow), the Government shall have the following remedies:

1. If considered to be in the best interest of the Government, the Government may physically repossess some or all the vessels previously removed under the contract for which title has not passed and the Purchaser shall lose all right, title and interest which he might otherwise have acquired in the vessel (s) removed by the buyer and repossessed by the Government. At Government's election, the purchaser shall also lose all right, title, and interest which he might otherwise have acquired in the vessel (s) awarded, but not removed, under the contract. The Government may resell the vessel (s) previously removed and unremoved by the buyer charging the purchaser with all cost incurred by the Government in repossessing, storing and reselling the property including any direct loss on account of the resale and any cost associated with the Purchaser's failure to comply with Federal, State and local laws and regulations, including but not limited to, the cost of fines imposed by Federal, State, and local authorities, and proper disposal and treatment. In addition, the Government shall be entitled to retain (or collect) 20 percent of the original contract price as liquidated damages to defray the indirect costs involved in effecting repossession and reselling the vessels. In no event will the Purchaser be refunded any monies due to the Government obtaining a greater price on resale, nor will an accounting of money be made until the resale is complete. The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.
2. In the event that the buyer fails to comply with or perform any of the terms and condition of this contract, the SCO may at his/her discretion, assess liquidated damages in the amount of \$1,000 per workday that the buyer is out of compliance. If after contract award, the Purchaser breaches the contract by failure to remove the property as required by the contract then the Government may send the Purchaser a 15-day written notice of default (calculated from the date of mailing), and upon Purchaser's failure to cure default with that period (or such further period as the contracting officer may allow), the Government may, at the Government's election, terminate

this contract in whole or in part and the Purchaser shall lose all right, title and interest which he might otherwise have acquired in and to such property awarded under this contract and the Government may exercise such rights and may pursue such remedies as are provide by law or under the contract. The Purchaser further agrees that in the event he fails to pay for the property or remove the same in accordance with the terms of the contract and within the prescribed period (s) of time, the “Government at its election and upon notice of default shall be entitled to retain (or collect) as liquidated damages a sum equal to 20 percent of the purchaser price of the item (or items) as to which the defaults has occurred. When the Government exercises this election it shall specifically apprise the Purchaser, either in its original notice of default (or in separate subsequent written notice), that upon the expiration of the period prescribe for curing the default, the formula amount will be retained (or collected) by the “Government as liquidated damages. The maximum sum which may be received by the Government as damages for failure of the Purchaser to pay for the property and remove the same shall be such formula amount.

ARTICLE FIVE **Towing Requirements**

Section 1 - Buyer Responsible for Towage. The Buyer will enter into a contract providing for the towage of the Obsolete Vessels from the current locations at NAVSEA facilities in the Navy Yard, Washington, DC, Panama City Florida, and Philadelphia, Pennsylvania, to the Buyer’s recycling facility for the sole purpose of dismantling of the Obsolete Vessels and recycling and remediating all hazardous materials, equipment and components on or attached to the Obsolete Vessels, including the superstructure and hull.

Section 2 - Selection of Tower. Whenever possible, towing contracts should be awarded to towing companies whose towing vessels are either: a) inspected the United States Coast Guard, b) classed by a Coast Guard recognized Classification Society, or c) have a safety management certification from an industry recognized certification program (such as that provided by International Standards Organization (ISO) 9000 series certification, or the American Waterways Operators (SWO) Responsible Carrier Program.) Where international tows are concerned, towing contracts shall be awarded to towing companies that comply with the International Safety Management (ISM) Code.

Section 3 - Coast Guard (USCG) Towing and Transfer Requirements. The Buyer is responsible for ensuring all United States Coast Guard (USCG) towing and transfer requirements including, but not limited to, towing preparations, notifications, inspections, insurance, emergency response and procedures are met for the Obsolete Vessel(s) upon departure from Bremerton, WA or Philadelphia, PA.

- (a) The Buyer remains responsible for the compliance with any and all applicable USCG towing requirements.
- (b) The Buyer is responsible for ensuring all United States Coast Guard (USCG) towing and transfer requirements including, but not limited to, towing preparations, notifications, inspections, insurance, emergency response and procedures are met for the Obsolete Vessel(s) upon departure.

Section 4 - Towing Plans. NOTE: MULTIPLE VESSELL TOWS WILL NOT BE ALLOWED. Towing plans and submittals must be in compliance with all applicable United States Federal requirements and the Navy Tow Manual. The Buyer is responsible to ensure all tow surveys, insurance

surveys, and any other inspections have commenced not later than 5 days after the contract start date so as to not delay the towing of the Obsolete Vessel or impact the operations.

Section 5 - Buyer Responsible for Surveys and Tow Preparations. The Buyer is responsible to ensure all tow surveys, insurance surveys, and any other inspections have commenced not later than 5 days after contract start date so as to not delay the towing of the Obsolete Vessel or impact the operation the tow origination point. **The Buyer must submit the tow package, in its entirety, 30 days before the intended tow date of a vessel to allow for processing and tow conference.**

(a) The Buyer is responsible for all tow preparations required by USCG and Independent and/or Insurance Surveyors. The Buyer shall coordinate all tow preparations and the vessel departure with NAVSEA Bremerton, WA and Philadelphia PA so that all work is performed within normal working hours and without interference to NAVSEA operations. The Buyer is responsible for procurement and coordination of all industrial activities necessary to complete the required tow preparations for the towing of the Obsolete Vessel.

(b) The Buyer is responsible for arranging and bearing the expense for all of the required Obsolete Vessel's tow preparations including but not limited to:

(1) Marine Surveyor. The Buyer is responsible for hiring a qualified Marine Surveyor to survey the Obsolete Vessel and provide requisite trip in tow preparations in accordance with applicable USCG requirements and accepted marine practice.

(2) Tow recommendation. The Buyer shall submit a copy of the Marine Surveyors initial trip in tow recommendation report within 5 days after the issuance of the official notice to proceed "NTP."

(3) Buyer's Insurance Underwriting Company surveyor. The hiring of the Buyer's Insurance Underwriting Company surveyor to accomplish the Insurance Company surveys related to insuring the Obsolete Vessel(s) for tow. The Buyer will coordinate all surveys and resulting tow preparation efforts so as to minimize the impact upon NAVSEA operations and support required. Obsolete Vessel(s) tow preparations shall begin only after all required surveys have been accomplished and one final listing for tow preparations has been published and the required meeting with the NAVSEA Supervisors has taken place.

(4) Emergency Oil Spill Response Plan. The Buyer shall be responsible for having an Emergency Oil Spill Response Plan or obtain the services of a Spill Management Company (SMC) for all phases of the towing evolution. This plan shall have available, during all Obsolete Vessel(s) towing operations, a Qualified Individual (QI) who shall be available 24 hours a day, 7 days a week to act on the Buyer's behalf to provide contingency planning and organized response in case of an oil spill during tow operations. The Buyer shall provide the Contracting Officer the name and contact information of the SMC and the QI not later than 10 days after contract start date. The Buyer's responsibility will start the moment the Buyer's tugs accept and have operational control of the Obsolete Vessel(s) for tow.

(5) Utilization of Industrial Equipment/Services. The Buyer shall be responsible for acquiring the necessary equipment and labor resources sufficient to accomplish the preparation of the Obsolete Vessel(s) for ocean tow independent of any assistance from NAVSEA Bremerton, WA and Philadelphia, PA. The Buyer shall identify the level of support desired from the Navy in the preparation

of the Obsolete Vessel(s) for tow. However the Buyer shall not presume the Navy will provide sufficient resources in a timely manner for the Buyer to prepare the Obsolete Vessel(s) for tow. Lack of support from the Navy in assisting the Buyer with tow preparations of the Obsolete Vessel(s) is not considered a sufficient reason for delaying the departure of the Obsolete Vessel(s).

Section 6 - Daily Situation Report (SITREP). The Buyer shall provide the Contracting Officer and Navy officials a twice daily situation report (Monday – Sunday) for each tow that will identify the date, report time, location of the tow (latitude and longitude), current and forecasted weather (48-72 hours) and sea conditions, estimated time of arrival at any interim location and the final tow location, a brief description of the tow situation and proposed action in the face of inclement weather. Describe any anticipated delays and the purpose of the delay, to include any lay time, down and/or repair time, fueling and/or provision time, and any other notes as appropriate. If abnormal conditions in the tow are noted (i.e. flashing lights for flooding sensors) the condition must be described, monitored, and reported until fully resolved.

Section 7 - Liquid Loading Plan. The Buyer shall provide a liquid loading plan that will cover the methodology to safely transfer any liquids on board the Obsolete Vessel(s) and or ballasting the Obsolete Vessel(s) to the required trim and stability resulting from an authorized Marine Surveyor's trip in tow survey. The liquid loading plan and the trip in tow survey shall be submitted to the Contracting Officer, with a copy to the NAVSEA QA Assurance Supervisor, prior to commencement of the transfer of liquids on the Obsolete Vessel(s) and or ballasting of the Obsolete Vessel(s) for trim and stability. The liquid loading plan shall address all aspects of liquid transfer on board the Obsolete Vessel(s) and or ballasting the Obsolete Vessel(s), in detail, including electrical power requirements, pumps, tank opening and closing plan, liquid transfer plan and emergency response actions. The liquid loading plan must be compliant with the trip in tow survey and shall include the appropriate safety requirements necessary to secure the Obsolete Vessel(s) at the end of each work shift. The transfer of all liquids on board the Obsolete Vessel(s), regardless of the source and the destination, shall be part of the liquid loading plan. Under no circumstances will liquids be discharged overboard from the Obsolete Vessel(s) without first consulting with NAVSEA Quality Assurance Supervisor and obtaining all required approvals.

Section 8 - Vessel General Permit. The Navy is exempt from the provisions of the National Pollution Discharge Elimination System (NPDES), Vessel General Permit requirements. Therefore, the Buyer is NOT responsible to ensure that the Obsolete Vessel(s) is in compliance with the National Pollution Discharge Elimination System (NPDES), Vessel General Permit, while under tow; and for all the inspections, record-keeping, and reporting requirements under the NPDES Vessel General Permit.

Section 9 - Towing Delays/Service Disruption. If, after acquiring tug service to move the Obsolete Vessel(s) from the Navy Yard, Washington DC, Panama City Florida, and Philadelphia, PA or at any time during the transit of the Obsolete Vessel(s) from the mooring location to the Buyer's recycling facility, the tug towing the Obsolete Vessel(s) is taken out of service for more than three consecutive calendar days the Buyer shall contract for additional towing services to continue to transit the Obsolete Vessel(s) to the Buyer's recycling facility. Any additional cost for procurement of other towing assets shall be at the expense of the Buyer. The Buyer shall immediately notify the Contracting Officer of the actions taken to minimize disruption of the transit of the Obsolete Vessel(s).

Section 10 - Afloat Monitoring Plan. Upon arrival at the Buyer's recycling facility the Obsolete Vessel(s) will be safely moored and continuously monitored by the Buyer while afloat and prior to being

moored in the dismantling slip and during the dismantling process if the Obsolete Vessel(s) remains afloat. The safe mooring of the Obsolete Vessel(s) shall include:

1. Provisions for heavy weather protection and containment equipment in the event of oil discharging from the Obsolete Vessel(s);
2. Local and remote audible and visual alarms in the event of flooding and on-site security watches to monitor for oil discharges, mooring security and Obsolete Vessel(s) trim and stability; and
3. The Buyer shall provide to the Contracting Officer an Obsolete Vessel(s) Afloat Monitoring Plan that addresses details of the above requirements including discharge, flooding and mooring response plans. The Plan must be comprehensive enough to provide summary information encompassing systematic mooring/monitoring operation for Obsolete Vessel(s) being dismantled. Each obsolete Vessel(s) shall have an individual afloat monitoring plan that shall be incorporated into the master Obsolete Vessel(s) Afloat Monitoring plan. The Obsolete Vessel(s) Afloat Monitoring Plan shall be submitted to the COTR within 10 days after contract award but no later than 3 days prior to the departure of the Obsolete Vessel(s) from the Navy Yard, Washington DC, Panama City Florida, or Philadelphia, PA.

ARTICLE SIX

Environmental and Safety Information Instructions and Terms and Conditions

Section 1 – Buyer’s Responsibility. The Buyer is advised that he, not the Government, is responsible for obtaining all hazardous property information regarding the location, quantity, and content of any other hazardous property present on the ship(s). It is the Buyer’s responsibility to ensure compliance with all Federal, State, or local laws or regulations pertaining to these ship(s). The Government makes no warranty, express or implied, regarding information provided relating to the possible presence of potentially regulated substances.

Section 2- Fuel and Oil Residuals: The Buyer is cautioned that fuel and oil residuals that are present on these vessel(s) may be a RCRA regulated waste. Pre-disposal documentation includes liquid load documentation which provides tank soundings and the estimated volume of fuel and oil remaining in these tanks after stripping to low suction.

Section 3 - Sodium Chromate: All tanks containing water which was added prior to 1990 for stability purposes while the ship was active or undergoing inactivation have been tested for sodium chromate concentrations. The pre-disposal documentation includes these results and identifies any water tanks that remain onboard with regulated concentrations of chromate.

Section 4 - Coatings: Ships may contain paint coatings that are PCB, lead, zinc oxide or chromate based. Due to the age of the ships, all coatings must be assumed to be PCB, lead, zinc oxide and/or zinc chromate based. The buyer must implement controls required by OSHA and other regulations concerning worker safety and environmental compliance.

Section 5 - Asbestos:

- (A) Ships of this type may contain asbestos in the following applications but are not limited to:
- bulkhead and pipe insulation
 - bulkhead fire shield
 - uptake space insulation
 - exhaust duct insulation

- some electrical cable materials
- brake linings
- floor tiles and deck underlay
- steam, water and vent flange gaskets
- flexitalic gaskets
- garlock seals
- shaft packing
- valve packing
- pipe hanger inserts
- weld shop protectors and bum covers
- any other type of thermal insulating material

(B) The access door(s) to compartments containing asbestos insulation have been labeled to indicate that asbestos is present and whether the asbestos insulation is in a friable or non-friable condition. The pre-disposal documentation includes an Asbestos Survey Report which is a compartment listing. The compartment listing does not represent or characterize the total quantity of asbestos containing materials (ACM) throughout the ship. Offerors are cautioned that ACM may also be located underneath non-asbestos containing material. The compartment listing provides notification that ACM is present and whether it is in a friable or non-friable condition. Asbestos is a major health hazard as it enters the air as fibers or dust through operations such as ripout and removal. Compliance with OSHA (29 CFR, Parts 1910 and 1915), EPA (40 CFR, Part 61.02) and other agencies' regulations is required to ensure worker safety and proper disposal of asbestos containing materials. Access to the area shall be restricted to persons whose work requires their presence. Posted asbestos warning signs are not intended to substitute for asbestos danger signs required during asbestos remediation work. **THE GOVERNMENT EXPRESSLY DOES NOT WARRANT OR REPRESENT THAT COMPARTMENTS NOT POSTED WITH ASBESTOS WARNING LABELS DO NOT CONTAIN ASBESTOS.**

(C) The Buyer shall be responsible for the removal and disposal of all asbestos containing material in accordance with applicable Federal, State, and local laws and regulations. Further, each offeror shall rely on his own inspection in determining the method and extent of asbestos containing material removal required under applicable laws and regulations. **THE GOVERNMENT EXPLICITLY DOES NOT WARRANT THAT THE ITEMS IDENTIFIED IN THE ASBESTOS SURVEY REPORT ARE THE ONLY ITEMS WHICH CONTAIN ASBESTOS IN REGULATED QUANTITIES**

Section 6 - PCB Items:

(A) A polychlorinated biphenyl (PCB) inventory of all electrical and electronic equipment that contain or are suspected to contain PCB transformers and large capacitors has been accomplished and is provided with the predisposal documentation. PCB labels are attached to the equipment for easy identification and each equipment is assigned a serialized number on the inventory for tracking purposes. This inventory represents the Navy's knowledge of the quantity of PCB transformers and large capacitors on board. **THE GOVERNMENT EXPLICITLY DOES NOT WARRANT THAT THE ITEMS IDENTIFIED IN THE PCB INVENTORY OR ITEMS POSTED ARE THE ONLY ITEMS WHICH CONTAIN PCBs IN REGULATED QUANTITIES.**

(B) A PCB sampling and laboratory analysis survey has been accomplished of potentially PCB solid materials on the ship and is provided with the predisposal documentation. PCBs in concentrations

regulated by Federal, State, and local laws and regulations may exist on board the ship. The following applications may be found to contain regulated concentrations of solid PCBs:

- Ventilation duct flange gaskets, felt and rubber;
- Electrical cable insulation and other non-metallic components of cable;
- Fluorescent light ballast starters and potting;
- Bulkhead and pipe insulation;
- Foam rubber/plastic anti-sweat insulation used on hull surfaces and cold water piping;
- Cork hull anti-sweat insulation;
- Other rubber items such as pipe hanger rubber blocks, snubbers, bumpers, shock and vibration mounts, pads, Spools, hatch gaskets, O-rings, packing and grommets, etc.;
- Felt gasket and faying material;
- Adhesive tapes and double-backed adhesive tapes;
- Aluminized paints;
- Any oil-based paints;
- Any oils and greases.

All regulated PCB items must be removed and disposed of in accordance with applicable Federal, State, and local regulations. **THE GOVERNMENT EXPLICITLY DOES NOT WARRANT THAT THE PCB ITEMS IDENTIFIED IN THE SURVEY REPORT ARE THE ONLY REGULATED PCB ITEMS ON BOARD, NOR THAT THE SURVEY REPORT IS REPRESENTATIVE OF THE QUANTITY OF PCB CONCENTRATIONS IN ALL LOCATIONS OR MATERIALS ON BOARD.**

(C) The Buyer shall be responsible for identifying, handling, and disposing of all items containing PCB contamination in quantities regulated under applicable Federal, State, and local laws and regulations. All such identification, handling and disposal shall be done in accordance with applicable Federal, State, and local laws and regulations.

Section 7 - Occupational Safety and Health Administration (OSHA) Regulations:

At a minimum, dismantling and scrapping shall be in accordance with OSHA regulations at 29 CFR Parts 1910 and 1915.

Section 8 - Environmental Protection: All bidders are advised that they shall comply with all applicable Federal, State, and local laws, ordinances, regulations, etc., with respect to human safety and the environment during the processing, use or disposal of any material under this contract.

Section 9 - Regulated Substances: PCB, asbestos, or other hazardous or toxic items or components not identified herein may be present on the ship(s). Strict adherence to Federal environmental statutes, U.S. Environmental Protection Agency (EPA) regulations, State and local environmental laws and regulations are required for this item. The buyer is solely responsible to ascertain the extent to which Federal environmental laws and other State and local statutes and regulations may affect it and comply therewith.

Section 10 - Resource Conservation and Recovery Act Notice: EPA Hazardous Waste Regulations, 40 CFR Part 260 et seq. These cradle-to-grave regulations, which have civil and environmental penalties for non-compliance, detail the responsibilities of generators, transporters, treaters, storers, and disposers of hazardous waste. While the subject material is not subject to these regulations in its present form, subsequent actions taken with regard to the material may cause a hazardous waste to come into

existence. The Buyer is solely responsible to ascertain the extent to which these regulations affect it and comply therewith.

Section 11 – Hazardous Property: The Government cautions that the subject item, material or substances, or component, part, constituent or ingredient thereof may be corrosive, reactive, ignitable, or exhibit other hazardous or toxic properties. The Government assumes no liability for any damage to the property of the Purchaser, any person or public property, or for the personal injuries, illness, disabilities or death to the Purchaser, Purchaser's employees, or any other person subject to the Purchaser's control or any other person including members of the general public, arising from or incident to the purchase, use, dismantlement, scrapping, processing, disposition, or any subsequent operation performed upon, exposure to our contact with any component, part, constituent or ingredient of this item, or substance, or material whether intentional or accidental. The Purchaser agrees to hold harmless and indemnify the Government for any and all costs and expenses incurred incident to any claim, suit, demand, judgment, action, debt, liability costs, and attorney's fees or any other request for monies or any other type of relief arising from or incident to the purchase, use, dismantlement, scrapping, processing, disposition, subsequent operation performed upon, exposure to or contact with any component, part constituent or ingredient of this item material or substance, whether intentional or accidental.

Section 12 – Manifesting: In the event that any item or components remaining on board the vessel, whether or not identified in the Invitation For Bids, and is subject to EPA Regulations, the Purchaser is cautioned that it is solely responsible to ascertain the extent to which these regulations affect it and comply therewith. However, as minimum, said item(s) or component(s) must be manifested with a transporter having an EPA identification number. Purchaser must complete all required manifest documents prior to each hazardous waste removal. Copies of the complete manifest must be provided to the Sales Contracting Officer.

Section 13 – Permits: The Purchaser shall be responsible for obtaining any necessary licenses and permits, and for the complying with all federal, State, and local laws and regulations in connection with the prosecution of the work. The required permits and licenses include those required to transport and dispose of hazardous and toxic wastes regulated by RCRA and TSCA. This responsibility requirement will be a matter of inquire during the contracting officers pre-award evaluation of the offeror's capability to satisfactorily perform the contract. It will also be a continuing matter of inquiry by the contracting officer during the Purchaser's performance of the sale contract.

Section 14 -- MANAGEMENT AND DISPOSAL OF HAZARDOUS WASTE (NOV 1996)

1) GENERAL

- a) The Buyer shall comply with the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 10 U.S.C. 7311 and all other applicable Federal, State and local laws, codes, ordinances and regulations for the management and disposal of hazardous waste.
- b) Nothing contained in this special contract requirement shall relieve the Buyer from complying with applicable Federal, State, and local Laws, codes, ordinances, and regulations, including obtaining licenses and permits, giving notices and submitting reports, in connection with hazardous waste management and disposal in the performance of this contract. Nothing contained herein shall serve to alter either party's liability or responsibility under CERCLA.
- c) Materials contained in ship systems are not waste until after removal from the system.

2) GENERATOR IDENTIFICATION NUMBERS

- a) Documentation related to hazardous waste generated solely by the physical actions of ship's force or Navy employees on board the vessel shall only bear a generator identification number issued to the Navy pursuant to applicable law.
- b) Documentation related to hazardous waste generated solely by the physical actions of Buyer personnel shall only bear a generator identification number issued to the Buyer pursuant to applicable law. Regardless of the presence of other materials in or on the shipboard systems or structures which may have qualified a waste stream as hazardous, where the Buyer performs work on a system or structure using materials (whether or not the use of such materials was specified by the Navy) which by themselves would cause the waste from such work to be a hazardous waste, documentation related to such waste shall only bear a generator identification number issued to the Buyer.
- c) Documentation related to hazardous waste generated by the combined physical actions of Navy, DLA, and Buyer personnel shall bear a generator identification number issued to the Buyer pursuant to applicable law and shall also cite in the remarks block a generator identification number issued to the Navy/DLA pursuant to applicable law.
- d) Notwithstanding paragraphs (a) - (c) above, hazardous wastes are considered to be co-generated in cases where: (a) the Buyer merely drains a system and such drainage creates hazardous waste or (b) the Buyer performs work on a system or structure using materials which by themselves would not cause the waste from such work to be hazardous waste but such work nonetheless creates a hazardous waste. Documentation related to such co-generated waste shall bear a generator identification number in accordance with the provisions of paragraph (c) above.
- e) In the event of a failure by the parties to agree to the assignment of a generator identification number to any hazardous waste as set forth in paragraphs (a) through (d) above, the Government may direct which party or parties shall provide generator identification numbers for the waste and such number(s) shall be used on all required documentation. Any disagreement with this direction shall be a dispute within the meaning of clause of this contract entitled "DISPUTES" (FAR 52.233-1). However, the Buyer shall not stop any work but shall continue with performance of all work under this contract as specified in the "DISPUTES" clause.
- f) Hazardous Waste Manifests For wastes described in (b), (c), and (d) above (and (e) as applicable), the Buyer shall sign the generator certification on the Uniform Hazardous Waste Manifest whenever use of the Manifest is required for disposal. The Buyer shall obtain concurrence with the categorization of wastes under paragraphs (c) and (d) above before completion of the manifest. Manifests prepared pursuant to paragraph (a) above shall be presented to the SCO for completion after the hazardous waste has been identified.
- g) For purposes of paragraphs (b) and (c) herein, if the Buyer, while performing work at a Government facility, cannot obtain a separate generator identification number from the State in which the availability will be performed, the Buyer shall notify the SCO within 3 business days of receipt of written notification by the State. After obtaining SCO approval, the Buyer shall use the designated site generator identification number and insert in the remarks block the buyer generator identification number issued for the site where his main facilities are located. For purposes of paragraph (a) herein, if the work is being performed at a contractor facility and the

Government cannot obtain a separate generator identification number for the State, the Government shall use the Contractor site generator identification number and shall cite in the remarks block a Navy/DLA generator identification number. In both instances described above, the Buyer shall prepare the Uniform Hazardous Waste Manifest described in paragraph (f) above and present it to SCO for completion.

ARTICLE SEVEN

Title Transfer

Section 1 - Title Transfer of Property. Title to all vessels will be retained by the US Government. Title to the scrap, parts and/or components, that have had mutilation waivers and available for removal, shall vest to the Purchaser.

ARTICLE EIGHT

Demilitarization Codes/Trade Security Control (TSC)/SCRAP Requirements

Section 1 – Demilitarization Codes: Described very generally, a demilitarization code is a single alpha character assigned to an item. For the purposes of this IFB, the following definitions are provided:

DEMIL Code D – United States Munitions List (USML) Items. Demilitarization required. Destroy item and components to prevent restoration or repair to a useable condition. The hull of all vessels and any weapons system and electronic equipment remaining are DEMIL D and therefore destruction is required.

Many of the items or parts in the product pool are subject to Trade Security Controls (TSC) assessment/clearance based on their demilitarization code assignment and their offensive/defensive capabilities. The entire vessel and its contents shall be considered DEMIL Code D, which requires complete destruction/mutilation. Buyer should be aware that all components of the ship must be completely destroyed. Particular attention should be placed on explaining in the RTFP the method for demilitarization of electronic components and circuit cards found throughout the ships. The only exceptions to total mutilation are as set forth in Section 3 of this Article.

Section 2 – Buyer’s Trade Security Control (TSC) Requirements - Prior to award of this contract, the Buyer will be required to obtain a TSC assessment/clearance by providing the Sales Contracting Officer a properly completed End-Use Certificate (EUC) in the form of a DLA Form 1822 (copy available on the DLA Disposition Services web site, <http://http://www.dispositionservices.dla.mil/sales/typesale.shtml>, click on Property for Sale to Public and then Sales. The clearance may need to be renewed during the performance period of this contract and/or at the request of the Government. The clearance investigation determines that the entity is who it claims to be, doing business at the name and location claimed, and that there are no disqualifying factors present (i.e., convictions for illegal export of military technology, debarment by a Government activity, etc.).

Section 3- Electronic Assemblies and Circuit Cards- Items require complete destruction with Government oversight. Electronic assemblies and circuit cards are Demil required or controlled and must be completely mutilated to prevent reconstitution of any functional device, no matter what the assemblies or circuit cards are designed for. Demil must be accomplished in an environmentally

responsible method that will not contaminate the area of demilitarization operations with residue from these operations. An R2 or eStewards certified facility must be used for electronic waste and recycling. Mutilation waivers will not be considered for components unless they are part of an assembly that is deemed safe to sell and the buyer submits written waivers.

Section 4 – Mutilation Waivers: Vessels issued for scrap under this sale will require complete demilitarization/mutilation. All components, parts, attachments, and accessories to each of the vessels must be Demiled or mutilated to prevent reconstitution as an item. No items/inventory may be harvested from any vessel intact and sold without the express written approval of the Sales Contracting Officer. Mutilation waiver for apparent, safe for sale, usable items (i.e. galleys, grills, non-military items, etc.) may be considered if:

1. The buyer has certified to the SCO in writing the item is free of regulated hazardous materials before being released or sold.
2. The buyer forwards a picture and any data (data plate, serial number, part number) to the SCO.
3. And the Items are validated by the Sales Contracting Officer, or his/her designee, in writing as safe for sale.

DLA Disposition Services is prohibited from selling Demil B and Sensitive Demil Q items and therefore will only approve Demil A and Demil Q-6 (Demil Q 6 to US citizens only) items for resale to third parties. Alternative use of the vessels will not be approved. Transfer or donation by the buyer of ships hatches, scuttles, and/or any other item requested from an organization to replace, repair, or modify their existing US Naval ship's equipment must be approved by the Sales Contracting Officer as safe to transfer/sell.

Section 5– Scrap Warranty:

1. This/These vessel (s) will be scrapped by demilitarizing in compliance with the demilitarization requirements specified in the item description as applicable and by final dismantlement and mutilation of the hull and superstructure in such a manner that no considerable part of the vessel is left intact or undisturbed to the extent that it can be reconstructed or readily identified as an existing portion of the original hull or superstructure. This will include the removal from the vessel (s) (without replacement) of all hull, inner bottom, bulkhead, deck and deck house material, as well as all floors, longitudinal, webs, girders and other framing. The term "hull" means the framework for a vessel, including the keels, together with all decks, deck houses, tanks, the inside and outside plating and all bulkhead, but exclusive of masts, yardarm, rigging, machinery, outfitting and equipment.
2. The Purchaser further agrees that the Purchaser of his/her designee will complete the required scrapping described above in the United States or its territories, and that the vessel will not be used or transferred by the Purchaser except for the purposes of scrapping as described above.
3. The purchaser further agrees and certifies that all scrapping operation will be completed by the Purchaser or his designee within 18 months of contract award. Should the purchaser fail to execute within the time frame the purchaser is subject to the provisions regarding default contained in Article Four of this Invitation For Bid.
4. The Purchaser further agrees and certifies upon completion of the scrapping operation, the purchaser will furnish to the contracting officer a certificate to the effect that all scrap by this provision has been accomplished and all Federal, State, and Local environmental

laws and regulation have been complied with. Demil must be accomplished in an environmentally responsible method that will not contaminate the area of demilitarization operations with residue from these operations. The Contracting officer or his successor may extend the above completion dated of the scrapping operation when he determines, in writing, that the delay in completion is due to causes beyond the control and without the fault of negligence of the purchaser.

ARTICLE NINE

Government Required Reports

Section 1 - Baseline/Pre-Arrival/Arrival: The Buyer shall deliver the following reports to the Sales Contracting Officer (SCO) within the time frame indicated:

(A) Not later than four (4) days after the Obsolete Vessel(s) arrival at the Buyer's recycling facility:

- Copies of all notifications made, as required, to Federal, State and local regulatory agencies.
- A report of the location and inventory of all hazardous materials/wastes on-site at the Buyer's recycling facility at the time of the Obsolete Vessel(s) arrival (to prevent comingling with other vessel wastes).
- An inspection report of the condition of the facility at the beginning of the project including copies of the most recent Buyer furnished ground and water sampling results, if available.

(B) Not later than ten (10) days after the Obsolete Vessel(s) arrival at the Buyer's recycling facility at the beginning of the project:

- Verification of the on arrival survey of all tank contents and approximate quantities contained and compared to the Government furnished baseline estimates with an accompanying tank diagram shall constitute verification. Inaccessible tanks shall be identified in the report.

Section 2 – Towing Reports: Every 12 hours by 09:00am and 09:00pm EST. The Buyer shall provide the Contracting Officer and Navy officials a twice daily situation report (Monday – Sunday) for each tow that will identify the date, report time, location of the tow (latitude and longitude), current and forecasted weather (48-72 hours) and sea conditions, estimated time of arrival at any interim location and the final tow location, a brief description of the tow situation and proposed action in the face of inclement weather. Describe any anticipated delays and the purpose of the delay, to include any lay time, down and/or repair time, fueling and/or provision time, and any other notes as appropriate. If abnormal conditions in the tow are noted (flashing lights for flooding sensors) the condition must be described, monitored, and reported until fully resolved.

Section 3 – Overall Reports: Buyer is required to provide DLA Disposition Services a weekly report reflecting a complete list of all items outlined in section 3.5 (Performance Schedule and Milestones) of the submitted RFTP. In addition to the information outlined in section 3.5 of the submitted RFTP, the following information must be included:

- **Environmental Remediation Report to include:**
 - a. Amount of HM/HW material removed from each vessel

- b. Material transported to storage facility or TSDF from each vessel
 - c. Amount of HM/HW material in storage awaiting transportation from each vessel run
 - d. Any spills or incidents involving HM/HW
- **Emergencies.** Any medical emergency, fire emergency requiring notification of fire department, or any regulatory visit to the mutilation site.
 - **Progress reports:** If the purchaser’s progress report or reports from the Sales Contracting Officer indicate that the purchaser is falling behind the progress schedule, the Sales Contracting Officer may require the Purchaser to take such immediate steps as may be necessary to improve the Purchaser’s progress and to submit for the Sales Contracting Officers’ approval such supplemental schedule as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained, all without additional cost to the Government. Failure of the Purchaser to comply with the requirements of this article shall be grounds for a determination by the contracting officer that the purchaser is not prosecuting the work with such diligence as will insure the completion of the Purchaser’s obligations to the Government under this contract within the term\time specified. Upon such determination, the Sales Contracting Officer may, upon at least 15 days written notice, calculated from the date of mailing, take action in accordance with Article 4, Section 4.

ARTICLE TEN
Contract Operational Requirements

Section 1 - DLA Disposition Services Inspection of Property – Buyer is required to allow DLA Disposition Services or a DLA Disposition Services sponsored agency to perform physical spot checks of vessels being recycled during business hours.

Section 2– Duties of Care and Loyalty –

(A) **Duty of Care** – Buyer shall not cause or permit any action or omission in the course of performing the contract that damages DLA Disposition Services and constitutes gross negligence, recklessness, or intentional harm. Performance under this contract must be in compliance with all local, state and federal laws and regulations. Accordingly, it is the responsibility of the Buyer to ensure all such laws and regulations are adhered.

(B) **Duty of Loyalty** – Buyer shall carry out the responsibilities under the contract with honesty, good faith and fairness towards DLA Disposition Services.

ARTICLE ELEVEN
Material Breach

Section 1 – Notice of Material Breach - In the event of a material breach or default of the respective duties in the performance of this contract, the Buyer or DLA Disposition Services, the party asserting such material breach, shall serve notice upon the party that committed or is alleged in the notice to have committed such material breach.

Section 2 – Response to Notice - Except as otherwise provided, the breaching party may cure the material breach within fifteen (15) calendar days of such notice referred to as the cure period or within

such longer cure period as the notice may provide unless, within the cure period, the non-breaching party withdraws the notice in writing or extends the cure period in writing.

Section 3 – Termination - Termination shall be effective upon notice by the non-breaching party to the breaching party served upon or after the date of such decision. Unless otherwise provided, Buyer and DLA Disposition Services shall continue to perform their respective duties under the contract during the cure period.

Section 4 – Intentional Breach - An asserted material breach comprised of an intentional breach of the duty of loyalty or the duty of care may not be cured unless DLA Disposition Services, in its sole discretion, specifies a cure period in the notice. Termination shall be effective upon the later of the date of service of such notice or the expiration of the cure period.

Section 5 – DLA Disposition Services Remedies for Material Breach by Buyer – If the breaching party is the Buyer, DLA Disposition Services may take any one, any combination or all of the following actions to satisfy its claim for any nonpayment or other damages:

- (i) Apply the payment deposit;
- (ii) Present a claim for indemnity against Buyer;
- (iii) Present a claim upon the Fidelity bond or any other applicable insurance or surety Policy/line of credit;
- (iv) Seek appointment of a receiver or trustee for Buyer;
- (v) Seek monetary damages, restitution or any other legal or equitable remedy to which it is entitled; and
- (vi) Assert any other right, claim, or remedy available pursuant to the Contracts Disputes Act.

Section 6 – Indemnification of DLA Disposition Services by Buyer - Buyer will comply fully with the provisions of this contract. If the breaching party is the Buyer, the Buyer shall indemnify and hold DLA Disposition Services harmless for all damages arising.

Section 7 – Indemnification of Buyer by DLA Disposition Services - If the breaching party is DLA Disposition Services, then DLA Disposition Services shall indemnify and hold Buyer harmless for its damages.

ARTICLE TWELVE

Contract Compliance, Audits and Reviews

Section 1 – Compliance with Applicable Law and Regulations – Buyer shall comply with the requirements of all applicable Federal, state, and local laws, regulations, ordinances, directives and instructions connected with the performance of this contract, including without limitation such requirements pertaining to environmental matters, trade security control and occupational safety.

Section 2 – Licenses and Permits – Buyer shall obtain any necessary licenses and permits, and comply with all federal, state, and local laws and regulations in connection with the prosecution of the work. This responsibility requirement will be a matter of inquiry during the SCO's pre-award evaluation of the bidder's capability to perform the contract satisfactorily. It will also be a continuing matter of inquiry by the SCO during the performance of the contract.

Section 3 – Prohibited Activities – Buyer shall not undertake the following activities without written permission from the SCO, which permission may be granted or withheld by DLA Disposition Services in the exercise of its sole discretion:

(A) Enter into a partnership, joint venture or other arrangement where the purpose or effect is to engage indirectly in a transaction that would be prohibited by the provisions of this contract if undertaken by the Buyer directly; or

(B) Enter into contracts or other arrangements that would assign all or substantially all responsibility for and control of performance of the contract to another party or parties, without the prior written approval of DLA Disposition Services which will consider such request in accordance with the Assignment of Claims Act of 1940, as amended, 41 U.S.C. sec. 15, and the Government's best interest. In the event of any improper assignment without the written approval of DLA Disposition Services, this contract shall be terminated at the option of the Government in the exercise of its sole discretion; or

(C) File a voluntary petition seeking liquidation, reorganization, arrangement or readjustment, in any form, of its debts under Title 11 of the United States Code (or corresponding provisions of future law) or any other federal or state insolvency law; file an answer consenting to or acquiescing in any such petition; make any assignment for the benefit of Buyer's creditors; or admit in writing Buyer's inability to pay its debts as they mature, without the prior written consent of DLA Disposition Services.

Section 4 – Buyer Cooperation in DOD Investigations/Audits – Buyer agrees to fully cooperate with the Government when informed by DLA Disposition Services of an ongoing investigation by any DOD or Federal Government investigation service or agency or during DLA Disposition Services Compliance Reviews or Audits. Buyer must make all sales records pertaining to such investigations available to DLA at the earliest available opportunity but no later than three (5) business days of the request. Requests for information should be provided in electronic format when possible. Buyer personnel with knowledge of the particular subject matter must be available to cooperate with any Government investigation.

Section 5 – Buyer's Responsibility for Independent Audit at Government's Request – DLA Disposition Services may request the Buyer seek a review and analysis to be conducted by an independent audit firm agreed upon by the Government. The audit may be requested in regard to every aspect of contract performance or could be limited to a specific concern. The cost of such audit will be paid for by DLA Disposition Services.

Section 6 – Records Maintenance – Buyer shall make all books, records, documents, and other supporting evidence available to satisfy contract administration and audit requirements by any Government agency identified by the sales contracting officer. Records must be made available for six (6) years after the contract is completed, or for such period of time as Buyer, for its own purposes, retains its books, records, documents, and other supporting evidence, whichever is longer. Buyer shall maintain all records accurately and in a manner that will allow clear and accurate auditing. The Government reserves the right to request and inspect these documents as it deems necessary. In the event that Buyer fails to maintain or provide any of these documents to the Government, the Government may in its sole discretion seek and cause termination.

Section 7 – Inspection of Records and Workplace by Government - The Government has the right to audit the records and inventory in order to review Buyer's operations. The audit may consist of a complete or random sample examination.

Section 8 – Purpose and Content of Compliance Audits, Investigations, Reviews and Further Reviews – DLA Disposition Services shall have the right to conduct Compliance Reviews and/or Investigations of Buyer. DLA Disposition Services may actually conduct the compliance reviews and/or Investigations, or use other Government agencies or private firms, as the SCO deems appropriate. DLA Disposition Services shall also have the right to conduct Further Reviews as provided herein. The purpose of such Compliance Reviews, Investigations, or Further Reviews is to determine, after the fact, the extent of Buyer’s compliance with the terms and provisions of the contract and applicable laws and regulations.

Section 9 – Methods and Procedures for Compliance Reviews and Investigations

(A) **Method** – Compliance Reviews, Investigations, and Further Reviews may include, without limitation, examination of records, and, if necessary, personal interviews of persons who may have knowledge of facts regarding Buyer’s compliance with the provisions of this contract, including employees or of any supplier or resale buyer.

(B) **Procedures** – A Compliance Review/Investigation shall be conducted at any time during normal business hours and on any business day. Buyer shall permit inspection of any physical location used by the Buyer, including, without limitation, the inventory (including the records relating thereto), examination of the records, making copies and abstracts, and discussions of the affairs, finances and accounts of Buyer with any employee, subcontracting attorney or certified public accountant of Buyer. Buyer will produce any records identified by DLA as necessary to support the review process and DLA may maintain copies of all documentation/electronic files that support the review being conducted. DLA shall use its best efforts to assure that Compliance Reviews/Investigations are conducted in a manner that does not unduly burden or unreasonably impinge upon the efficient operation of the affairs of Buyer.

(C) **Scope** – The scope of Compliance Reviews/Investigations shall be as necessary to confirm Buyer’s compliance with the provisions of the contract.

Section 10 – Further Reviews – If a Compliance Review determines there is a reasonable basis to believe that a default or breach of this contract has occurred, DLA, upon written notice to Buyer, may conduct any such further investigation that it deems appropriate under the circumstances, using such outside consultants, including attorneys, as it deems necessary or advisable. Buyer shall permit such persons, as are designated by DLA, to visit and inspect any physical location used by the Buyer, including, without limitation, the inventory (including the records), and to examine the records, make copies and abstracts, and discussion of the affairs, finances and accounts of Buyer. Notwithstanding the foregoing, if Buyer gives notice to DLA stating that a Further Review is not justified, DLA shall delay the commencement of any such Further Review for a period of fourteen (14) calendar days after the delivery of its notice thereof to permit Buyer to seek a determination of the appropriateness of the Further Review.

Section 11 – Compliance Notification - After completing the Compliance Review and/or Further Review, DLA Disposition Services shall notify Buyer in writing of any breach or default identified during the Compliance Review and/or Further Review.

Section 12 – Costs of Oversight - DLA Disposition Services shall pay all fees, costs and expenses DLA Disposition Services incurred in connection with its Compliance Reviews and Further Reviews.

ARTICLE THIRTEEN

Disputes

Section 1 – Disputes – Any contract awarded as a result of this sale is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

Section 2 – Claims – The term, “Claim” as used in this Article is defined as a written demand or a written assertion by one of the contracting parties seeking the payment of money, adjustment, or interpretation of the contract terms, or other relief arising under or relating to this contract. A claim by the Buyer shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the SCO for a written decision. A claim by the Government against the Buyer shall be subject to a written decision by the SCO. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Contract Disputes Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, may be converted to a claim pursuant to the Contract Disputes Act.

Section 3 – Decisions - For Buyer claims, the SCO must render a decision within 60 calendar days of the request or must notify the Buyer of the date by which the decision will be made. The SCO’s decision shall be final unless the Buyer appeals or files a suit as provided in the Act. The Buyer shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the SCO.

Section 4 – Alternative Dispute Resolution (ADR) – The parties agree to use their best efforts to resolve any disputes that may arise without litigation. If unassisted negotiations are unsuccessful, the parties will use Alternative Dispute Resolution (ADR) techniques in an attempt to resolve the dispute. If the ADR is not successful, the parties retain their existing rights. If the Buyer refuses an offer for ADR, the Buyer shall inform the SCO in writing, of the Buyer’s specific reasons for rejecting the offer. 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.

ARTICLE FOURTEEN

Insurance and Bond Requirements

Section 1 – Insurance and Bond Contract Requirements – Buyer shall obtain and maintain the following insurance and bond requirements throughout the performance and wind-down period:

Section 2 – Modification of Special Circumstance Conditions

(A) Sale by Reference (SBR) Part 5 - Additional Special Circumstance Conditions – Miscellaneous (DLA Disposition Services Form 86, Oct 93), Article D, Liability and Insurance, paragraphs (a)(2) and (a)(3,) is modified as follows:

(1) Bodily Injury Insurance in an amount of not less than two hundred fifty thousand dollars (\$250,000.00) any one individual and one million dollars (\$1,000,000) any one accident or occurrence.

(2) Property Damage Liability Insurance in the amount of two hundred fifty thousand dollars (\$250,000.00) (which shall include any and all property whether or not in the care, custody or control of Buyer). The annual coverage shall be not less than one million dollars (\$1,000,000).

Section 3 – Further Modifications

(A) Sale by Reference Part 5, Article D, paragraph (a) is also amended as follows:

(1) All risk coverage for fire and other property perils for all property owned by Buyer with aggregate coverage of five million dollars (\$5,000,000.00).

(2) Umbrella liability coverage up to two million dollars (\$2,000,000.00).

(3) Fidelity or blanket bond coverage in the amount of at least five million dollars (\$5,000,000.00). Buyer shall obtain and maintain such coverage with a responsible surety company with respect to all of Buyer's employees, officers and directors to protect Buyer against losses, including, without limitation, those arising from theft, embezzlement, fraud, or misplacement of funds, money, or documents. The issuer, policy terms and forms and amounts of coverage, including applicable deductibles, shall be satisfactory to DLA Disposition Services, and the policy shall include a provision that the issuer shall notify DLA Disposition Services in writing within five (5) business days of the cancellation or termination of any such coverage or of any modification of such coverage. Buyer shall notify DLA Disposition Services in writing within five (5) business days after filing a claim under such coverage.

(4) Comprehensive general liability, automobile liability, umbrella liability, Worker's compensation and other insurance coverage as may be required by law. At its option, Buyer may obtain and maintain such additional insurance, including directors and officers coverage and errors and omissions coverage, as Buyer deems appropriate.

Section 4 – Evidence of Insurance - Within thirty (30) calendar days from the date of award, Buyer shall provide DLA Disposition Services copies of policies, certificates of insurance or other proof evidencing the coverage required. Buyer must obtain the minimum coverage specified unless DLA Disposition Services approves a variance from such minimum coverage. In the event that a specified coverage or limit is or in the future becomes commercially impractical, such approval shall not be unreasonably withheld.

Section 5 – Performance Guarantee Bond - See Article 3 Section 3 on page 11.

ARTICLE FIFTEEN
Miscellaneous Provisions

Section 1 – Binding Effect - Subject to the restrictions on transfers and encumbrances set forth, this contract shall insure to the benefit of and be binding upon DLA Disposition Services and the Buyer and their respective legal representatives, successors and assigns. Whenever this contract refers to any party, such reference shall be deemed to include a reference to the legal representatives, successors and assigns of such party.

Section 2 – Notices - All notices, demands, requests, consents, approvals, declarations, reports and other communications required with regard to this contract shall be in writing except as otherwise provided and addressed to the Sales Contracting Officer (SCO).

Section 3 – Severability - If any provision of this contract or the application to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this contract and the application of such provisions to other persons or circumstances shall not be affected and the intent of this contract shall be enforced to the greatest extent permitted by law, DLA Disposition Services may in the exercise of its sole discretion cause termination by notice served within thirty (30) calendar days of

the date upon which such judgment becomes final, such termination to be effective five (5) calendar days after the date of service of such notice.

Section 4 – Headings - The headings appearing in this contract are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of any article or section of this contract.

Section 5 – Waiver - No consent or waiver, expressed or implied, by any party to or of any breach or default by any other party in the performance by such other party of its obligations under this contract shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such other party under this contract. Failure on the part of any party to complain of any act or failure to act by any of the other parties or to declare any of the other parties in default, regardless of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

Section 6 – Force Majeure - The parties shall be excused for the period of any delay in the performance of any obligations under this contract when prevented from performing such obligations by cause or causes beyond their reasonable control, including, without limitation, civil commotion, war, invasion, rebellion, hostilities, military or usurped power, sabotage, pestilence, riots, fire or other casualty or acts of God.

Section 7 – Use of DLA Disposition Services Name; Public Communications - Buyer shall not use the name of DLA Disposition Services, DLA or DOD or its logos for any marketing or other purposes without the express prior written consent of DLA Disposition Services, which consent may be withheld for any reason whatsoever and is subject to the sole discretion of DLA Disposition Services. Buyer shall not publicly denigrate the surplus property disposition program of the Department of Defense or the conduct thereof by DLA Disposition Services.

Section 8 – Tense and Gender - Unless the context clearly indicates otherwise, the singular shall include the plural and vice versa. Whenever the masculine, feminine or neuter gender is used inappropriately in this contract, this contract shall be read as if the appropriate gender had been used.

Section 9 – Entire Agreement; Modification - This contract, and the materials incorporated herein by reference, constitute the entire agreement between the parties regarding the matters contained in this contract. If there is any inconsistency between the terms of this contract and those of any Appendix, Schedule or Exhibit, the terms of this contract shall govern. There are no promises or other agreements, oral or written, express or implied, between the parties other than as set forth in this contract. No change or modification of, or waiver or compromise under, this contract shall be valid unless it is in writing and signed by a duly authorized representative of the party against which it is to be enforced. Buyer understands and agrees to submit a written request for contract modification to the SCO prior to effecting any change from that stated in its technical proposal (including any subcontractors identified therein), and/or sale of Government property-item bid page, whether occurring before or after the release of the property. Buyer further agrees not to effect such changes without first receiving the written approval of the SCO.

Section 10 – Computation of Time - In computing any period of time prescribed or allowed by this contract, the day of the act, event, or default from which the designated period of time begins to run

shall not be included. The last day of the period so computed shall be included unless it is not a business day, in which event the period runs until the end of the next business day.

Section 11 – Electronic Communication - DLA Disposition Services and Buyer shall cooperate to facilitate delivery of Delivery Orders, Statement of Accounts, and other required reports to the extent reasonably practical by electronic transmission, such as by electronic mail or file transfer, rather than by delivery of a physical removable magnetic or optical storage medium.

ADDITIONAL TERMS AND CONDITIONS OF SALE

The DLA Disposition Services pamphlet entitled, “Sale by Reference - Instructions, Terms and Conditions Applicable to Department of Defense Personal Property Offered for Sale by DLA Disposition Services, July 2012” (hereinafter, Sale by Reference; a copy of the Sale by Reference is available on the DLA Disposition Services web site, <http://www.dispositionservices.dla.mil/sales/typesale.shtml>, click on Property for Sale to Public and then Sales), is hereby incorporated by reference and become a part of this IFB and any resulting contract except for the following:

- Part 2: 31
- Part 3: Articles B, E:
- Part 4: All
- Part 5: Articles A, G, H, I, J, K, L
- Part 6: Articles B, C, I
- Part 7: Articles A, B, G, H, I P, T, U, Y
- Part 8: All

ADDITIONAL CONTRACT ADVISEMENTS

Prospective bidders should note that work performed on Government premises, such as at field locations and other delivery points, may be subject to the provisions of Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973 (convict labor), and/or the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) and regulations of the Secretary of Labor there under (overtime compensation).

Resource Conservation and Recovery Act Notice: EPA Hazardous Waste Regulations, 40 CFR Part 260 et seq. published at 45 Federal Register 33063-33285, May 19, 1980, became effective on November 19, 1980. These cradle-to-grave regulations detail the responsibilities of generators, transporters, treaters, storers, and disposers of hazardous waste. Civil and criminal penalties are available for noncompliance. DLA DISPOSITION SERVICES can make no representations as to when and under what circumstances state, federal or local environmental regulations may be applicable to property transferred to and held by the Buyer.

DEFINITIONS

Alternative Dispute Resolution (ADR): Any procedure (for example, mediation, conciliation, facilitation, fact-finding, etc.), or any other method to which the parties agree for resolving issues in controversy, except the term does not include unassisted negotiations.

Business Day: Any day that is not a Saturday, Sunday or a Federal Government observed holiday. Federal holidays presently include New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

Day: A business calendar day.

DLA Disposition Services: The organization vested with operational command and administration of the disposal solutions for Department of Defense (DOD) surplus property.

Demilitarization Code: A single character alpha code assigned by the Item Manager identifying the degree of demilitarization necessary prior to accomplishing final disposition of an item.

Direct Cost: A cost identified specifically within a contract.

DOD: Department of Defense.

Hazardous Material (HM): Any material that is capable of posing an unreasonable risk to health, safety, and property during transportation in the United States. Overseas, HM is defined in the applicable Final Governing Standards or Overseas Environmental Baseline Guidance Document, and/or host nation laws and regulations.

Hazardous Waste (HW): Any property regulated under the Resource Conservation and Recovery Act (RCRA) or state regulation as a hazardous waste.

Invitation For Bid (IFB): An offer for bid submission.

Performance Period: Timeframe of the contract, to include any options offered.

Reasonable Cost: A cost is reasonable if, in its nature and amount, does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by the Buyer. If an initial review of the facts results in a challenge of a specific cost by the Sales Contracting Officer, the burden of proof shall be upon the Buyer to establish that such costs is reasonable.

Sales Contract: An agreement between two parties that bind both parties and transfers title of specified property.

Sales Contracting Officer (SCO): A duly appointed individual granted the authority to sell surplus and foreign excess personal property by various prescribed methods of sale.

Scrap Property: A designation assigned by or with the approval of DLA Disposition Services personnel meaning the items has no value in excess of that of the item's basic material content.

Usable Property: A designation assigned by or with the approval of DLA Disposition Services personnel meaning that the item has value in excess of that of the item's material content.