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August 6, 2020

AMENDMENT NO. 001 (TANTALUM CARBIDE POWDER)  
TO  
BASIC ORDERING AGREEMENT SOLICITATION FOR  
STOCKPILE MATERIALS  
UNDER  
DLA-STOCKPILE MATERIALS-001-(BOA)

The above referenced solicitation DLA-Stockpile Materials-001-(BOA), issued **July 3, 2017**, is hereby amended to offer tantalum carbide powder for sale under the BOA Solicitation. This amendment applies to the solicitation only for the offering of tantalum carbide powder, as follows:

1. The link for the online sales site used throughout the BOA Solicitation is updated to read:

<https://businessportal.dla.mil/irj/portal>

2. Section **A.1., Introduction (JUN 17)** is revised for tantalum carbide powder to add the following as paragraphs **d.** and **e.**:

Section **A.1. (Tantalum Carbide Powder) Introduction (JUL 20)**, paragraphs **d.** and **e.**:

- d.** Quoters are advised that, in accordance with 10 U.S.C. § 2533c, tantalum metals and alloys are defined as a “covered material” and shall not be sold to a “covered nation” or to a third party that is acting as a broker or agent for a covered nation or entity in a covered nation. A “covered nation” is defined in 10 U.S.C. § 2533c as the Democratic People’s Republic of North Korea; the People’s Republic of China; the Russian Federation; and the Islamic Republic of Iran. The items of tantalum carbide powder offered for sale meet the definition of a “covered material” and are subject to the restrictions of 10 U.S.C. § 2533c. A copy of 10 U.S.C. § 2533c is available at:

<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title10-section2533c&num=0&edition=prelim>

- e.** Quoters shall certify their compliance with the requirements of 10 U.S.C. § 2533c in Item No. **17**, below, of this Solicitation Amendment.

3. Section **A.4., Material Description (JUN 17)** is amended to add the following as paragraph **c.**, for tantalum carbide powder:

Section **A.4 (Tantalum Carbide Powder) Material Description (JUL 20)**

- c.** The tantalum carbide powder offered for sale was acquired in 1963 from Wah Chang, Corp. and Kennametal, Inc. The material is packaged in polyethylene liners inserted in 5-quart small drums. Six small drums are packed in a polyethylene-lined cleated-wood box. Each lot consists of three (3) wooden boxes. The small drum weights are 50 pounds net for Kennametal, Inc. brand and 75 pounds net for Wah Chang, Corp. brand material. The tantalum carbide powder was sampled by Alex Stewart Assayers and analyzed by ATI Wah Chang Analytical Services in 2009. The analysis results for the material and a

photograph showing an example of the packaging will be posted on the DLA Strategic Materials website at:

<https://www.dla.mil/HQ/Acquisition/StrategicMaterials/Sales/Tantalum-Carbide/>

All items of tantalum carbide powder offered for sale are hazardous materials (“Flammable solid, inorganic, n.o.s. (Tantalum carbide)”), and therefore have certain restrictions with regard to shipping. See Section **F.1.a. (Tantalum Carbide Powder)** of this Amendment.

4. Section **A.6., Inspection (JUN 17)** is amended to add the following for tantalum carbide powder:

**Section A.6. (Tantalum Carbide Powder) Inspection (JUL 20)**

**No inspection or sampling of the tantalum carbide powder material will be permitted.**

5. Section **C.4. Offer Price (JUN 17)** is amended to add the following for tantalum carbide powder:

**Section C.4. (Tantalum Carbide Powder) Offer Price (JUL 20)**

Quotes shall be expressed as a fixed U.S. dollar and cent value per pound of contained tantalum.

6. Section **C.5. Price Adjustments for Specific Materials (JUN 17)** does not apply to tantalum carbide powder and is deleted in its entirety.
7. Section **C.11. Tie Quote Procedures (JUN 17)** is amended to add the following for tantalum carbide powder:

**Section C.11. (Tantalum Carbide Powder) Tie Quote Procedures (JUL 20)**

In the event that Quotes of an equal unit price are received for a single line item, lots will be drawn to determine the successful Quoter for award of the material.

8. Section **E.2. Storage Charges (JUN 17)**, paragraph **b.**, is deleted and revised specifically for tantalum carbide powder, as follows:

**Section E.2. (Tantalum Carbide Powder) Storage Charges (JUL 20)**

- b.** The storage charge is the greater of the following: (1) **\$0.005 per pound bulk weight** (if a fraction of a pound remains, the charge will be for a full pound) per 30 day period regardless of whether the material remains in storage a period of 30 days or less than 30 days; *or* (2) commercial storage charges, if applicable.

9. Section **F.1. Request for Shipment (JUN 17)**, paragraph **a.**, is deleted and revised specifically for tantalum carbide powder, as follows:

**Section F.1.a. (Tantalum Carbide Powder)**

- a.** Delivery of tantalum carbide powder is F.O.B. carrier’s conveyance.

1. Transportation: In the transportation of this material, it is the responsibility of the Contractor to comply with all relevant Federal, State, and Local laws, including the Department of Transportation (DoT) Hazardous Materials Regulations (49 CFR 170-189), where appropriate.
2. **NOTE: The tantalum carbide powder offered for sale is currently packaged in polyethylene liners inside small drums inside polyethylene-lined padded wooden boxes. None of the packaging is UN approved. No repackaging of the material is permissible at the Depot. All items of tantalum carbide powder offered for sale are hazardous materials (“Flammable solid, inorganic, n.o.s. (Tantalum carbide)”). It is the responsibility of the Contractor to ensure that they meet DoT transportation requirements for Flammable solid, inorganic, n.o.s. (Tantalum carbide) transport via methods such as the use of sift-proof closed vehicle transport in accordance with 49 CFR 173.**

**10. Section F.1. Request for Shipment (JUN 17)**, paragraph f., is revised to state that requests for shipment of tantalum carbide powder shall be for a minimum of one line item.

**11. Section F.3. Weighing (JUN 17)** is deleted in its entirety and the following inserted for tantalum carbide powder:

**Section F.3. (Tantalum Carbide Powder) Weighing (APR 02)**

- a. No outweighing of material will be performed by the Government. The Government’s weights of record shall govern and will be used for payment purposes. The Contractor may elect to have a representative present to witness the outloading.
- b. Weight certificates shall be provided at the expense of the Government.
- c. In the event that any broken containers are detected at time of shipment, these will be overpackaged by the Government at the Government’s expense prior to outloading. If no loss is discernible, the weight of record with the Government shall govern for that item and shall be final for payment.

**12. Section F.4. Weight Discrepancy (JUN 17)** applies to tantalum carbide powder and the text of this clause is included below:

**Section F.4. (Tantalum Carbide Powder) Weight Discrepancy (JAN 95)**

- a. If the Contractor’s weights for the material delivered vary from the Government’s certified weights by more than one-half of one percent, the Contractor may give notice of such difference to the Contracting Officer within **two (2)** working days (exclusive of Saturdays, Sundays, and Government holidays) after receipt of the material at destination, requesting that the material be reweighed. In that case, the Contractor shall segregate the shipment in question and hold it intact pending reweighing. The entire shipment shall be reweighed by the Contractor at its expense, in the presence of and in the manner approved by a Government representative, using scales approved by the Government representative. If the weight varies from the Government’s certified weight by greater than one-fourth of one percent, plus or minus, that weight shall govern for payment purposes. If the weight

determined by reweighing does not vary from the Government's certified weight by greater than one-fourth of one percent, plus or minus, the Government's certified weight shall be final for payment purposes.

- b.** No adjustment shall be considered or made in accordance with the above paragraph unless notice is given by the Contractor to the Contracting Officer within the time specified above and all other requirements of the paragraph are complied with.

**13. Section F.6. Adjustment for Variation in Quantity or Weight (JUN 17)** is revised to add a percentage of **5%** for tantalum carbide powder.

**14. Section G.15. (Tantalum Carbide Powder) Notice Regarding Covered Material Items (JUL 20)** is added to the BOA Solicitation for tantalum carbide powder items under this Amendment:

**Section G.15., (Tantalum Carbide Powder) Notice Regarding Covered Material Items (JUL 20)**

- a.** The use, disposition, export and re-export of purchased property is subject to all applicable U.S. laws and regulations, including, but not limited to, the Arms Export Control Act (22 U.S.C. § 2751 *et seq.*); Export Control Reform Act of 2018 (50 U.S.C. § 4801 *et seq.*); International Traffic in Arms Regulations (22 C.F.R. § 120 *et seq.*); Export Administration Regulations (15 C.F.R. § 730 *et seq.*); Foreign Asset Control Regulations (31 C.F.R. § 500 *et seq.*) and the Espionage Act (18 U.S.C. § 793 *et seq.*); which, among other things, prohibit:
  - 1. The making of false statements and concealment of any material information regarding the use or disposition, export or re-export of the property; and
  - 2. Any use, disposition, export or re-export of the property not permitted by applicable statute and regulation.
- b.** Purchaser understands that transfer of Covered Material subject to restrictions found in 10 U.S.C. § 2533c could impact national security. The submission of false or misleading information and/or concealment of any material facts regarding the use, disposition or export of this property may constitute a violation of provisions of 18 U.S.C. § 554, 18 U.S.C. §§ 793-1001, 19 U.S.C. § 1595, 22 U.S.C. § 401, 22 U.S.C. §§ 2778-2779, 50 U.S.C. § 1705, 50 U.S.C. App. §§ 2410-2411, 50 U.S.C. App. § 1-44 and other laws. U.S. laws and DOD policy describe sanctions for violations that include, but are not limited to, the denial of U.S. export privileges, debarment from future U.S. Government contracts, fines and criminal penalties.
- c.** For the transfer of Covered Material subject solely to restrictions found in 10 U.S.C. § 2533c, purchasers are advised to ensure they comply with all federal law and regulations concerning the export of covered materials.
- d.** In the event the Covered Material subject to restrictions found in 10 U.S.C. § 2533c is sold or transferred to another party, the information in this Amendment No. 001 (Tantalum Carbide Powder) and any resultant contract regarding the above laws, regulations and DoD

policy must be passed to the subsequent purchaser or receiver. Copies of Records of Resale or transfer must be forwarded to the Contracting Officer within 5 days of the sale.

- e. The Purchaser agrees to cooperate with all authorized Government representatives to verify the existence, condition, and location of the Covered Material subject to restrictions found in 10 U.S.C. § 2533c and agrees to obtain the cooperation of any other receiver for this same purpose.

**15. Section G.16. (Tantalum Carbide Powder) Disposition and Use of Property (JUL 20)** is added to the BOA Solicitation for tantalum carbide powder items under this Amendment:

**Section G.16., (Tantalum Carbide Powder) Disposition and Use of Property (JUL 20)**

- a. The Purchaser represents that at no time shall the destination of the property be a Covered Nation, as defined in 10 U.S.C. § 2533c(d)(2).
- b. Changes to the Purchaser's certification for Covered Material subject to restrictions found in 10 U.S.C. § 2533c require written notification to and the prior written approval of the Contracting Officer.
- c. The Purchaser agrees to furnish any and all information requested by the United States regarding the actual disposition of the property awarded to the Purchaser within 10 calendar days of the date of the request.

**16. The reference to Section I.10. Special Certifications (JUN 17)** is deleted. Quoters shall certify their compliance with the requirements of 10 U.S.C. § 2533c in Item No. 17, below.

**17. The Quoter certifies affirmatively, by checking this box ☐, and by accepting this Amendment No. 001 (Tantalum Carbide Powder) below, that for any tantalum carbide powder awarded to it under this Amendment to Solicitation DLA-Stockpile Materials-001-(BOA), the Quoter shall comply with the requirements of 10 U.S.C. § 2533c for covered materials and covered nations.**

**18. Except as provided herein, all other terms and conditions of DLA-Stockpile Materials-001-(BOA) remain unchanged and in full force and effect. The Quoter must acknowledge receipt of this Amendment by checking the box below. By acknowledging this Amendment, the Quoter accepts the terms and conditions of BOA Solicitation DLA-Stockpile Materials-001-(BOA), as amended by this Amendment No. 001 (Tantalum Carbide Powder) and the Acceptance Letter.**

User  
Certified:

☐

(By checking this box, you are certifying that you accept the contents of the certification and that all input is correct.)