

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER 1000117500	PAGE 1 OF 51	
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER SPE8EC-21-R-0004	6. SOLICITATION ISSUE DATE 2021 JUN 16		
7. FOR SOLICITATION INFORMATION CALL:	a. NAME Robert F Spadaro Jr PEPCAAF		b. TELEPHONE NUMBER (No Collect calls) Phone: 215-737-0981		8. OFFER DUE DATE/ LOCAL TIME 2025 JUL 16 03:00 PM EST	
	9. ISSUED BY DLA TROOP SUPPORT CONSTRUCTION & EQUIPMENT (HEPP) 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA	CODE SPE8EC	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: _____ % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB NAICS: 333924 <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8 (A) SIZE STANDARD: 570			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS "NET 30"		<input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		13b. RATING	
15. DELIVER TO SEE SCHEDULE	CODE	16. ADMINISTERED BY CODE				
17a. CONTRACTOR/OFFEROR TELEPHONE NO.	CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY CODE			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER			18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	See Schedule <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>					
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA			<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA			<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>ONE</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED			<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (Type or Print)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or Print)		31c. DATE SIGNED	

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT (<i>Location</i>)	
		42c. DATE REC'D (<i>YY/MM/DD</i>)	42d. TOTAL CONTAINERS

Continuation of Blocks from SF 1449

1. Block 8
Offer Due Date/Local Time: July 16, 2021 @ 3:00 PM (EST)

2. Block 9

****Submit ONE hardcopy of proposal to Business Opportunities Office and submit ONE electronic copy to HEPPLTCs@dla.mil ****

(1) HARDCOPY

- › Address and Submit “mailed” offers to:
 Defense Logistics Agency
 Troop Support
 Post Office Box 56667
 Philadelphia, PA 19111-6667
 Solicitation Number: **SPE8EC-21-R-0004**
 Initial Opening/Closing Date and Time: **July 16, 2021 @ 3:00 PM (EST)**
 Final Opening/Closing Date and Time: **July 16, 2025 @ 3:00 PM (EST)**

- › Address and Deliver “hand carried” offers, *including delivery by commercial carrier, to:*
 DLA Troop Support
 Business Opportunities Office
 Bldg. 36, 2nd Floor, Room 2035
 700 Robbins Avenue
 Philadelphia, PA 19111-5092
 Solicitation Number: **SPE8EC-21-R-0004**
 Initial Opening/Closing Date and Time: **July 16, 2021 @ 3:00 PM (EST)**
 Final Opening/Closing Date and Time: **July 16, 2025 @ 3:00 PM (EST)**

(1) ELECTRONIC (EMAILED) COPY

- › Submit “Emailed” copies to: HEPPLTCs@dla.mil

Notes:

1. All hand carried offers are to be delivered to the Business Opportunities Office between 8:00 a.m. and 5:00 p.m., Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103. Offerors using a commercial carrier service must ensure that the carrier service “hand carries” the package to the Business Opportunities Office specified above for hand carried offers prior to the scheduled opening/closing time. Package must be plainly marked ON THE OUTSIDE OF THE COMMERCIAL CARRIER’S ENVELOPE with the solicitation number, date, and time set forth for receipt of offers as indicated in Block 8 of the Standard Form 1449.
2. Examples of “hand carried” offers include: In-person delivery by contractor, Fed Ex, Airborne, UPS, DHL, Emery, other commercial carrier, USPS Express Mail, and USPS Certified Mail.
3. Individuals will not be able to enter the base without an Escort. When you arrive at front gate please call the BOO office at 215-737-9044 or 215-737-8511 to request an Escort to Bldg 36 to submit your proposal.

- › Transmit “**facsimile**” offers - Offers submitted to any other facsimile number shall not be considered for award.

3. Block 12
› Discount Terms – “NET 30” will apply to all awarded contracts

4. Block 17a
› Offeror’s assigned Unique Entity Identifier Number (**formerly your DUNS number**): _____
(If you do not have a Unique Entity Identifier number, contact the individual identified in Block 7a of the SF 1449 or see 52.212-1, Instructions to Offerors—Commercial Items (paragraph j) for information on establishing a unique entity identifier.)

› Offeror’s assigned Contractor and Government Entity (CAGE) Code: _____

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

5. Continuation of Blocks 19-22:

Schedule of Supplies and Services

The intent of this solicitation is to issue Multiple Indefinite Delivery/Requirements Contracts for Commercial-type Construction Equipment used by the U.S. Military and other Federal Government Agencies within the Contiguous United States, Alaska, Hawaii, the outlying areas and throughout Europe, Africa and the Pacific. Awards will be made to responsible offerors who take no exception to the terms and conditions of the solicitation and whose prices are determined to be fair and reasonable. This method of contracting is intended to provide broad, flexible, efficient, long term contracts to provide maximum coverage for Construction Equipment along with comprehensive equipment support. Contracts will be awarded to individual contractors for their product line of Construction Equipment.

Product lines can include but not be limited to:

- >wheel loaders, track loaders, wheeled tractors man lifts, backhoe loaders
- >integrated tool carriers, construction loaders, multi-terrain loaders
- >articulated dump trucks, skid steer loaders, motorized road graders, motor graders
- >track-type tractors, dozers, crawlers, crawler-mounted excavators, wheeled excavators
- >compact construction equipment, wheeled tractor/scrapers, concrete mixers, vibratory asphalt pavers, asphalt paving equipment, landfill/soil compactors, asphalt & pneumatic compactors, rollers, cold planners, rotary mixers, compactors, trenchers

Each item shall be new and the manufacturer's current commercial product. Each product offered shall include all standard components that are offered to the commercial market. Equipment shall be in operating condition, which includes but is not limited to having all fluid levels filled to normal operating ranges, when delivered to the destination. One paper and/or electronic set of commercial manuals consisting of operator's instructions, service and repair manuals, and a complete parts list shall be over-packed with each item.

Product lines will also include incidental service and support features for each model. The incidental service and support can include but is not limited to operator training, operator certification training, service plans, spare parts support, video packages, extended warranty agreements, and any additional value-added incidental services and support features that the manufacturer or their certified representative offers. This incidental service and support may only be ordered at the time the new equipment is ordered as part of the new equipment order. The services and support features cannot be ordered as stand-alone items under any resulting contract.

Incidental service and support will be solicited as part of the Request for Quotation/ Delivery Order process, as required.

PLEASE SUBMIT A 'CD' WITH YOUR PRICING SPREADSHEETS AS WELL AS YOUR COMMERCIAL CATALOGUES, IN ADDITION TO THE HARD COPY REQUIREMENTS STIPULATED BELOW.

CAUTION NOTICE

Items Requiring Special Attention

Although the specific details of the following information may be included within, the following list of items is intended to summarize key aspects of this solicitation and resulting contract.

This procurement is a negotiated acquisition issued on an unrestricted basis. The Government intends to award Multiple Fixed Price Indefinite Delivery/Requirements Contracts for the purpose of acquiring commercial Construction Equipment.

Offerors must submit a proposal in accordance with the requirements of the solicitation.

For specific details regarding submission of proposals, see provision FAR 52.212-1 Instructions to offerors - Commercial Items. Offeror's proposals will be evaluated based on all of the solicitation requirements, including the evaluation criteria listed in provision FAR 52.212-2, Evaluation – Commercial Items.

After the initial contracts are awarded, all subsequent Construction Equipment customer requirements will be competed amongst all contract holders and each contract holder will be afforded a fair opportunity to submit offers on the requirements except for items covered by a Limited Source Justification.

The required delivery schedule is between 30/365 days. The required delivery schedule will be referenced in each Request for Quotations (RFQs).

The resulting contract will be for a term of five-years (no options).

The unit prices for the basic contract items will be awarded on an FOB Origin basis. However, the FOB point is Destination for individual Request for Quotations (RFQs). Contract awardees will be required to quote FOB Destination at the time of each individual RFQs. All customer requirements will be satisfied on an FOB Destination basis. For items shipped overseas (OCONUS), where the RFQ does *not* request "door-to-door" delivery, the FOB point will be the point of loading closest to the port of embarkation. The cognizant DCMA office is responsible for designating the port of loading (on non "door-to-door" deliveries). For RFQs requiring "door-to-door" delivery, the FOB point is the ultimate end user's destination. Delivery to this final destination should be quoted accordingly.

DLA Troop Support will award only one contract per manufacturer's product(s) or product line.

The solicitation will be open continuously with early consideration for offers received by the initial closing date. Offers received by the initial closing date will be the only offers included in the initial evaluation process. New offers may be submitted at any time after the initial closing date but prior to the final closing date. The final closing date will be four (4) years after the initial closing date. Only proposals for manufacturer's product(s) or product lines that are not on a contract resulting from this solicitation will be evaluated after the initial closing date. All subsequent proposals for duplicate manufacturer's products/product lines will be sent back to the prospective offerors unevaluated. Proposals received after the initial closing date will be evaluated after all proposals that were received prior to the initial closing date have been awarded or determined not technically acceptable.

At the time contracts from this solicitation are awarded, there will still be existing contracts from solicitation SPE8EC-17-R-0005. Because the resulting awards will be requirements contracts, there can only be one contract for each manufacturer's product line. Therefore, manufacturer's products that are still on contract from the previous solicitation will not be awarded on this solicitation until the contract from the previous solicitation expires or is terminated for convenience or cause.

DLA Troop Support intends to utilize Government Standard Source Inspection and Acceptance Procedures and/or Destination Inspection/Acceptance. Destination Inspection will be the "standard", with Source Inspection being the "exception". Source Inspection will be required for the following instances: Foreign Military Sales (FMS), First Article Test (FAT) requirements, deliveries to the Port for OCONUS (non "door-to-door" requirements), etc. Note that FAR 52.246-2, Inspection of Supplies – Fixed Price (AUG 1996) is hereby included in this solicitation and any resulting contract as is FAR 52.212-4 Contract Terms and conditions – Commercial Items (OCT 2018) paragraph (a) Inspection/Acceptance. The applicable clause will be determined by the Contracting Officer upon the issuance of each Request for Quotation and resulting Delivery Order. In the absence of either clause, FAR 52.212-4 Contract Terms and Conditions – Commercial Items (OCT 2018) paragraph (a) Inspection/Acceptance applies.

All delivery orders issued under the resulting contracts will be written/placed only by DLA Troop Support who will be the ordering office.

FAR Clause 52.216-2, Economic Price Adjustment - Standard Supplies is incorporated in full text. The clause provides for an aggregate increase not to exceed 20 percent of the original contract unit price. This provision will be in effect for the first two years of the resulting contracts. After two years, the contracts will be modified to provide for an aggregate Economic Price Adjustment ceiling for subsequent years. The economic price adjustments will be made only to the base list prices and not to the discount percentages.

Only two (2) Economic Price Adjustments are permitted per year.

Items may be added to the contract as they are added to the awardees' commercial catalog. Items that become obsolete or discontinued from the commercial catalog may be deleted. Addition of items will require submittal of (2) commercial invoices per model being added. Addition of greater than 6 models will require submittal of a "sampling of invoices" (similar to invoice requirements stipulated below).

Offerors must complete the representation contained in DFARS 252.247-7022, Representation of Extent of Transportation by Sea referenced in the solicitation. DFARS 252.247-7023, Transportation of Supplies by Sea is referenced in the solicitation and will also be included in all contracts resulting from this solicitation.

Offerors must submit a complete proposal including commercial catalog prices for all items and commercial catalog prices for all machine attachments and related equipment. The proposal should also include discounts to be offered on the proposed commercial catalog prices. In addition, offerors must supply pricing support data relating to the proposed products which includes: commercial invoices for items sold commercially, pricing and or discount structure pertaining to commercial customers/dealers, and other supporting documentation that can be used to determine price reasonableness.

This solicitation requires offerors to submit the following:

- 1.) Commercial Price Lists and Discounts
- 2.) Commercial Catalogs (descriptive literature)
- 3.) Commercial Invoices

Note - Refer to 52.212-1 for the full list of submission requirements.

Commercial Price Lists and Discounts: Offerors are required to submit pricing and discounts for each model offered, and to include discounts, if any, for commercially available price listed equipment attachments and optional features for each proposed model (See Attachment 1).

Commercial Catalogs: Offerors must submit commercial catalogs and/or other commercially offered descriptive literature that will be used to determine commerciality of all models, attachments and optional features.

Commercial Invoices: Offerors must submit commercial invoices that will verify commercial sales and discounts offered to the commercial market.

OEM's Letter of Commitment: DLA Troop Support will award one contract per the Original Equipment Manufacturer's (OEM) product(s) or product line. Dealers and suppliers, other than the OEM, that wish to be considered for an award must submit an original letter of commitment from the OEM specifically addressing the products or product line, the offeror and this solicitation. The OEM's letter of commitment must confirm that the offeror is "the OEM's sole representative for the contract". The OEM's letter of commitment must include assurance "to provide the offeror a guaranteed, uninterrupted source of supply sufficient to satisfy the Government's requirements for the contract period". The offeror must submit the letter of commitment with the proposal. Failure to provide the guarantees mentioned above will result in your elimination from consideration for award.

Manufacturer's letters of commitment for the same products or product line from more than one offeror will render all offerors for that manufacturer's product(s) or product line unacceptable and therefore excluded for award.

This procurement is being solicited on an unrestricted basis. Awards will be made to responsible offerors who take no exception to the terms and conditions of the solicitation, meet all solicitation requirements and whose prices are determined fair and reasonable. The evaluation criteria for award are contained in FAR clause 52.212-2 Evaluation - Commercial Items.

The following procedures will be used in issuing delivery orders:

A fair notice of intent to make a purchase, including an item description of the equipment to be delivered and the basis upon which the contracting officer will make the selection, will be issued to all contractors who currently hold Construction Equipment contracts on contracts resulting from both solicitation SPE8EC-17-R-0005 and this solicitation except for items covered by a Limited Source Justification. The Request for Quotations (RFQs)/E-mail notification will clearly identify the customer's requirements, and include reference to the specific equipment requirements and, if necessary, will clearly identify the best value delivery order placement criteria to be used for the specific purchase. This will afford all contractors responding to the notice a fair opportunity to submit an offer and have that offer fairly considered. Note that DLA's customer will be responsible for determining whether or not an item is technically acceptable. Upon receipt of the offer(s), a delivery order will be issued by the DLA Troop Support Contracting Officer based on the delivery order placement criteria specified in the contract. DLA Troop Support is the designated ordering office. No other government activities may place delivery orders against this contract.

All delivery orders will be awarded based on Lowest Price Technically Acceptable (LPTA) unless otherwise specified.

Unless otherwise specified in the Request for Quotations/Delivery Order process, preservation, packaging, and packing shall be of sufficient nature as to preclude damage to the equipment under normal shipping and handling conditions. In accordance with ASTM D 3951 (Standard Practice for Commercial Packaging) and MIL-STD 147 such packaging should conform to industry commercial and military practices and be consistent with applicable carrier regulations. Shipping containers shall be in compliance with National Motor Freight Classification and Uniform Freight Classification. OCONUS shipping must conform to International Air Transport Association regulations and the specific delivery order packaging directions.

The contractor shall be responsible for packaging and over packing the equipment in commercial material of the type, size and kind commonly used for the purpose and so constructed as to ensure acceptance and safe delivery to destination. A packing list/slip containing the following information, as a minimum: Contractor's name, delivery order number, date of order, itemized list of equipment / attachments/ supplies included in the shipment, manufacturers name, part number, quantity shipped, delivery site, secondary delivery site, if necessary, and any special instructions, shall be enclosed with each shipped order. The line number used in the order will be duplicated on the packing slip.

Any deviation from commercial practice will be specified in the RFQs as required.

Offerors must provide a list of any hazardous material to be delivered under this contract and submit a Material Safety Data Sheet for items meeting specific criteria (See FAR 52.223-3 incorporated by referenced and the Hazard Communication Standard Notice).

Large Business concerns must submit a Subcontracting Plan with its offer. For further information on subcontracting plans, please visit: <https://www.esrs.gov>.

It is anticipated that there will be Construction Equipment contracts in place as a result of a prior solicitation (SPE8EC-17-R-0005) when this solicitation closes. The priority will be to award the new contracts as expeditiously as possible. However, due to the existing contracts in place as a result of the prior solicitation and the expected award of new contracts as a result of this solicitation, this solicitation permits overlap when competing Request for Quotations (RFQs). This solicitation will allow for RFQs to accommodate quotations and the resulting contract delivery orders to be made under contracts from either solicitation in order to enhance competition to the fullest extent. It should be noted that not more than one contract for a manufacturer's product(s) or product line is permissible.

Contractors will be required to submit contract retention plans as referenced in FAR 52.212-5(d) and FAR 4.703 no later than forty-five days after the effective contract award date. The contract retention plans must be in accordance with FAR 4.703.

CAUTION – Contractor Code of Business Ethics (Jun 2020)

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

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

Contract Clauses

FAR 52.212-4 Contract Terms and Conditions – Commercial Items (Oct 2018)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights-

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include-

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer-Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C.3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.-*

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C.3903) and prompt payment regulations at 5 CFR Part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall-

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the-

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit

the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) [Reserved]

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal

instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

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

Addendum to FAR 52.212-4:

NOTE: "Inspection/Acceptance shall be in accordance with FAR 52.246-2, Inspection of Supplies – Fixed Price (Aug 1996) or FAR 52.212-4 Contract Terms and conditions – Commercial Items (Oct 2018) paragraph (a) Inspection/Acceptance."

The applicable clause will be determined by the Contracting Officer upon the issuance of each Delivery Order (DO).

In the absence of either clause, FAR 52.212-4 Contract Terms and conditions – Commercial Items (OCT 2018) paragraph (a) Inspection/Acceptance applies.

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

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

The following paragraph is added to FAR 52.212-4 (t) System for Award Management:

(a) Definitions.

"System for Award Management (SAM) database" means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes.

"Commercial and Government Entity (CAGE) Code" means—

- (1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or Government entity; or
- (2) An identifier assigned by a member of the North Atlantic Treaty Organization or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

"Unique Entity Identifier" means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See www.sam.gov for the designated entity for establishing unique entity identifiers.

"Registered in the System for Award Management database" means that—

- (1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Contractor and Government Entity (CAGE) code, as well as date required by the Federal Funding Accountability and Transparency Act of 2006, into the SAM database;
- (2) The Offeror has completed the Core Data, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;
- (3) The Government has validated all mandatory data fields to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service. The Offeror will be required to provide consent for TIN validation to the Government as part of the SAM registration process.
- (4) The Government has marked the record "Active".

FAR 52.211-14 Notice of Priority Rating for National Defense Use, Emergency Preparedness, and Energy Use Program (APR 2008)

Any contract awarded as a result of this solicitation will be DX rated order; DO rated order certified for national defense, emergency preparedness, and energy program use under the Defense Priorities and Allocations System (DPAS) (15 CFR700), and the Contractor will be required to follow all of the requirements of this regulation.

L06 Agency Protests (Dec 2016)

Interested parties may file an agency level protest with the contracting officer or may request an independent review by the chief of the contracting office (CCO). Independent review by the CCO is an alternative to consideration by the contracting officer and is not available as an appellate review of a contracting officer decision on a protest previously filed with the contracting officer. Absent a clear indication of the intent to file an agency level protest with the CCO for independent review, protests will be presumed to be protests to the contracting officer.

52.252-1 Solicitation Provisions Incorporated by Reference (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

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

The following additional provisions are incorporated by reference:

<u>PROVISION NUMBER</u>	<u>TITLE/DATE</u>
FAR 52.204-7	System for Award Management (OCT 2018)
FAR 52.225-25	Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran - Representation and Certification (Jun 2020)
DFARS 252.204-7008	Compliance with Safeguarding Covered Defense Information Controls (OCT 2016)

FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

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

The following additional clauses are incorporated by reference:

<u>CLAUSE NUMBER</u>	<u>TITLE/DATE</u>
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (JAN 1997)
FAR 52.225-18	Place Of Manufacture (Aug 2018)

FAR 52.227-1	Authorization and Consent (June 2020)
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)
FAR 52.232-17	Interest (MAY 2014)
FAR 52.242-13	Bankruptcy (JUL 1995)
FAR 52.242-15	Stop Work Order (AUG 1989)
FAR 52.246-15	Certificate of Conformance (APR 1984)
FAR 52.246-16	Responsibility for Supplies (APR 1984)
FAR 52.247-34	F.O.B. Destination (NOV 1991)
FAR 52.247-37	F.O.B. Vessel, Port of Shipment (APR 1984)
FAR 52.247-48	F.O.B. Destination – Evidence of Shipment (FEB 1999)
FAR 52.247-52	Clearance and Documentation Requirements -- Shipments to DoD Air or Water Terminal Transshipment Points (FEB 2006)
DFARS 252.203-7002	Requirement to Inform Employees of Whistleblower Rights (SEP 2013)
DFARS 252.204-7003	Control of Government Personnel Work Product (APR 1992)
DFARS 252.204-7004	LEVEL I Antiterrorism Awareness Training for Contractors (Feb 2019)
DFARS 252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Country That is a State Sponsor of Terrorism (May 2019)
DFARS 252.223-7001	Hazard Warning Labels (DEC 1991)
DFARS 252.225-7002	Qualifying Country Sources as Subcontractors (Dec 2017)
DFARS 252.225-7052	Restriction On The Acquisition Of Certain Magnets, Tantalum, And Tungsten (Oct 2020)
DFARS 252.225-7973	Prohibition On Procurement Of Foreign-Made Unmanned Aircraft Systems – Representation (May 2020)
DFARS 252.225-7974	Representation Regarding Business Operations With The Maduro Regime (Feb 2020)
DFAR 252.232-7006	Wide Area Workflow Payment Instructions (Dec 2018)
DFARS 252.232-7010	Levies on Contract Payments (DEC 2006)
DFARS 252.246-7000	Material Inspection and Receiving Report (MAR 2008)
DFARS 252.247-7028	Application for U.S. Government Shipping Documentation/Instructions (JUN 2012)

Addendum to FAR 52.212-4 continued, the following additional clauses are incorporated in full text.

FAR 52.211-16 Variation in Quantity (APR 1984)

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

(b) The permissible variation shall be limited to:

0 % increase 0% decrease

This increase or decrease shall apply to total quantity of each line item per delivery order.

FAR 52.216-2 -- Economic Price Adjustment -- Standard Supplies (JAN 1997)

(a) The Contractor warrants that the unit price stated in the Schedule for *[offeror insert Schedule line item number or state "ALL"]* is not in excess of the Contractor's applicable established price in effect on the contract date for like quantities of the same item. The term "unit price" excludes any part of the price directly resulting from requirements for preservation, packaging, or packing beyond standard commercial practice. The term "established price" means a price that --

(1) Is an established catalog or market price for a commercial item sold in substantial quantities to the general public; and

(2) Is the net price after applying any standard trade discounts offered by the Contractor.

(b) The Contractor shall promptly notify the Contracting Officer of the amount and effective date of each decrease in any applicable established price. Each corresponding contract unit price shall be decreased by the same percentage that the established price is decreased. The decrease shall apply to those items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly.

(c) If the Contractor's applicable established price is increased after the contract date, the corresponding contract unit price shall be increased, upon the Contractor's written request to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly, subject to the following limitations:

(1) The aggregate of the increases in any contract unit price under this clause shall not exceed 20 percent of the original contract unit price.

(2) The increased contract unit price shall be effective --

(i) On the effective date of the increase in the applicable established price if the Contracting Officer receives the Contractor's written request within 10 days thereafter; or

(ii) If the written request is received later, on the date the Contracting Officer receives the request.

(3) The increased contract unit price shall not apply to quantities scheduled under the contract for delivery before the effective date of the increased contract unit price, unless failure to deliver before that date results from causes beyond the control and without the fault or negligence of the Contractor, within the meaning of the Default clause.

(4) No modification increasing a contract unit price shall be executed under this paragraph (c) until the Contracting Officer verifies the increase in the applicable established price.

(5) Within 30 days after receipt of the Contractor's written request, the Contracting Officer may cancel, without liability to either party, any undelivered portion of the contract items affected by the requested increase.

(d) During the time allowed for the cancellation provided for in subparagraph (c)(5) of this clause, and thereafter if there is no cancellation, the Contractor shall continue deliveries according to the contract delivery schedule, and the Government shall pay for such deliveries at the contract unit price, increased to the extent provided by paragraph (c) of this clause.

FAR 52.216-19 -- Order Limitations (OCT 1995)

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

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

(1) Any order for a single item in excess of \$100M;

(2) Any order for a combination of items in excess of \$100M; or

(3) A series of orders from the same ordering office within five (5) days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within thirty (30) days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

FAR 52.216-21 – Requirements (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 365 days.

DFARS 252.216-7006 Ordering (Sept 2019)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from the effective date of award/contract through a date corresponding to 5 calendar year (s) after the effective date of the award/contract.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c)(1) If issued electronically, the order is considered "issued" when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered "issued" when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

Time of Delivery – Ordering Office

Material ordered under the terms of this Contract shall be delivered within 30 to 365 days after the date of the order. Notwithstanding any other provisions or clauses of this Contract, no deliveries shall be made prior to issuance of the delivery order on Department of Defense (DD) Form 1155.

Addition/Deletion of Items in Contract

The Government reserves the right, with agreement from the contractor, to add to this contract any new or replacement items at offeror's current price (i.e. latest catalog price minus negotiated discount). If any item included in this contract becomes obsolete, discontinued, or cancelled as a commercial catalog item by the contractor, the contractor will provide to the Government 30 days advance written notice of such. New/replacement items will be added to the contract only after prices are determined to be fair and reasonable by the contracting officer. All additions/deletions will be accomplished by modification to the contract. This clause is intended to keep the offerors catalog current at all times as it is the Government's intent to offer the contractors' entire product line at any given time.

Additional Items- Furnish one commercial catalog page/pages including the price list and applicable discount, for the new items. Pages should reflect the effective date. Also, submit at least two (2) commercial invoices for each new item. In addition, submit the production location and time of delivery as applicable. Product/spec sheets should be submitted for each addition. If price, place of performance and delivery are unchanged from the original, a statement to that effect is all that is required. The additional items will be added by inserting the offeror's new catalog pages, option pages, spec sheets and discount sheets to the existing commercial catalog.

Deletions- The reason for deletion should be stated in writing and supported by company documentation, should the Contracting Officer deem such support necessary. The contractor agrees to honor any delivery orders issued during such thirty-day period. If the contractor adds a catalog item as a suitable replacement item such notice is to be provided to the Contracting Officer along with the replacement catalog pages, option pages, and discount sheets for insertion into the catalog. The Government will accordingly delete any such item from this contract after receiving the required notice. The Government reserves the right to reject any subsequent offer of a substantially equal or same item at a higher price during the same contract period if in the opinion of the Contracting Officer, the price for the item replacing the deleted item is considered unreasonable as compared to that of the deleted item.

Note: The government reserves the right to request additional commercial invoices at any time (prior to and after contract award), including prior to the addition of any new item(s).

RP001: DLA Packaging Requirements for Procurement

(1) Additional Packaging and Marking Requirements:

(a) Prohibited cushioning and wrapping materials: Use of asbestos, excelsior, newspaper, shredded paper (all types, including wax paper and computer paper), and similar hygroscopic or non-neutral materials and all types of loose-fill materials, including polystyrene, is prohibited for application such as cushioning, fill, stuffing, and dunnage. In addition, the use of yellow wrapping or packaging material is prohibited except where used for the containment of radioactive material.

(b) MIL-STD-129 establishes requirements for contractors that ship packaged material to the Government to provide both linear bar codes and two-dimensional (2D) symbols on shipping labels. Shipping labels with 2D symbols are referred to as Military Shipping Labels (MSL) and are required on all CONUS and OCONUS shipments with the following exceptions:

(1) Subsistence items procured through full-line food distributors (prime contractors), "market ready" type items shipped within the Continental United States (CONUS) to customers within CONUS;

(2) Any item for which ownership remains with the contractor until the item is placed in designated locations at the customer location prior to issuance to the customer. Government control begins upon placement of the item by the contractor into the designated location or issuance from the designated location by contractor personnel (i.e., the contractor is required to stock bins at the customer location and/or issue parts from a contractor controlled parts room).

(3) Bulk petroleum, oil and lubricant products delivered by pipeline; or tank car, tanker and tank trailer for which the container has a capacity greater than 450 L (119 gallons) as a receptacle for a liquid; a maximum net mass greater than 400 kg (882 pounds) and a capacity greater than 450123 L (119 gallons) as a receptacle for a solid; or a water capacity greater than 454 kg (1000124 pounds) as a receptacle for a gas.

(4) Medical items procured through Customer Direct suppliers or prime contractors that do not enter the Defense Transportation System.128

(5) Delivery orders when the basic contract has not been modified to require MIL-STD-129.

(c) MIL-STD-129 provides numerous illustrations of what should be bar-coded and the recommended placement of the bar code. Further information is available on the DLA Packaging Web Site at:

<http://www.dla.mil/LandandMaritime/Offers/Services/TechnicalSupport/Logistics/Packaging.aspx> .

(2) Requirements for Treatment of Wood Packaging Material (WPM)

(a) Assets packed in or on wood pallets, skids, load boards, pallet collars, wood boxes, reels, dunnage, crates, frames, and cleats must comply with the Heat Treatment (HT) or Heat Treatment/Kiln Dried (HT/KD) (continuous at 56 degrees Centigrade for 30 minutes) standard in 09/19/2016 5

DoD Manual 4140.65-M "Compliance for Defense Packaging: Phytosanitary Requirements for Wood Packaging Material (WPM)". WPM must be stamped or branded with the appropriate certification markings as detailed in DOD 4140.65-M and be certified by an accredited American Lumber Standards Committee (ALSC)-recognized agency. The WPM certification markings must be easily visible, especially in pallet loads, to inspectors.

(3) Palletization shall be in accordance with **MD00100452, REVISION C, DATED 09/2016** found at

<http://www.dla.mil/LandandMaritime/Offers/Services/TechnicalSupport/Logistics/Packaging/Palletization.aspx>

C03 Contractor Retention of Supply Chain Traceability Documentation (JAN 2020)

(1) By submitting a quotation or offer, the contractor agrees that, when the contractor is not the manufacturer of the item, it is confirming that it currently has or will obtain before delivery and shall retain documented evidence (supply chain traceability documentation) that the item is from the approved manufacturer and conforms to the technical requirements. The retention period is five years after final payment under this contract.

(2) At a minimum, the supply chain traceability documentation for the item shall include: basic item description, part number and/or national stock number, manufacturing source, manufacturing source's commercial and government entity code (e.g. CAGE code), and clear identification of the name and location of all supply chain intermediaries between the manufacturer to the contractor to item(s) acceptance by the Government. The documentation should also include, where available, the manufacturer's batch identification for the item(s), such as date codes, lot codes, or serial numbers.

(3) Examples of acceptable supply chain traceability documentation can be found at:

<http://www.dla.mil/LandandMaritime/Business/Selling/Counterfeit-Detection-Avoidance-Program/>

(4) The contractor shall immediately make available documentation upon request of the contracting officer. The contracting officer determines the acceptability and sufficiency of documentation. If the contractor fails to retain or provide the documentation or the

contracting officer finds the documentation to be unacceptable, corrective action may be taken including, but not limited to, cancellation of undelivered orders or rejection of delivered supplies.

Requirements for Treatment of Wood Packaging Material (WPM)

(a) This clause only applies when wood packaging material will be used to make shipments under this contract and/or when wood packaging material is being acquired under this contract.

(b) Definition.

Wood packaging material (WPM) means wood pallets, skids, load boards, pallet collars, wooden boxes, reels, dunnage, crates, frame and cleats. The definition excludes materials that have undergone a manufacturing process, such as corrugated fiberboard, plywood, particleboard, veneer, and oriented strand board (OSD).

(c) All Wood Packaging Material (WPM) used to make shipments under DoD contracts and/or acquired by DoD must meet requirements of International Standards for Phytosanitary Measures (ISPM) 15, "Guidelines for Regulating Wood Packaging Materials in International Trade." DoD shipments inside and outside of the United States must meet ISPM 15 whenever WPM is used to ship DoD cargo.

(1) All WPM shall comply with the official quality control program for heat treatment (HT) or kiln dried heat treatment (KD HT) in accordance with American Lumber Standard Committee, Incorporated (ALSC) Wood Packaging Material Program and WPM Enforcement Regulations (see <http://www.alsc.org/>).

(2) All WPM shall include certification/quality markings in accordance with the ALSC standard. Markings shall be placed in an unobstructed area that will be readily visible to inspectors. Pallet markings shall be applied to the stringer or block on diagonally opposite sides of the pallet and be contrasting and clearly visible. All containers shall be marked on a side other than the top or bottom, contrasting and clearly visible. All dunnage used in configuring and/or securing the load shall also comply with ISPM 15 and be marked with an ASLC approved DUNNAGE stamp.

(d) Failure to comply with the requirements of this restriction may result in refusal, destruction, or treatment of materials at the point of entry. The Agency reserves the right to recoup from the Contractor any remediation costs incurred by the Government.

Hazard Communication Standard Notice:

Effective June 1, 2015, Federal Standard No. 313-E, Material Safety Data, Transportation Data and Disposal Data for Hazardous Materials Furnished to Government Activities, established the requirement for preparation and submission of Safety Data Sheets (SDS) in lieu of Material Safety Data Sheets (MSDS) by suppliers who provide hazardous materials to government activities. The Occupational Safety and Health Administration (OSHA) has modified its Hazard Communication Standard (HCS) to conform to the United Nations Globally Harmonized System of Classification and Labeling of Chemicals. As a result of this change, Federal Standard No. 313-E was revised to require Safety Data Sheets for classifying chemicals and communicating the applicable information on labels.

In accordance with the revised standard after June 1, 2015:

1. Offerors/Contractors are required to submit, to the contracting officer for review and approval prior to award, safety data sheets consistent with the requirements found at 29 C.F.R. 1910.1200 for any hazardous materials or items containing hazardous materials that are to be delivered to the Government.
2. Offerors/Contractors are required to submit, to the contracting officer for review and approval prior to award, hazardous warning labels in accordance with 29 C.F.R. 1910.1200 for hazardous materials delivered to the Government.
3. Finally, offerors/contractors are required as part of the new FEDSTD 313E to train their employees on the new safety data sheets, hazardous warning labels, and requirements of 29 C.F.R. 1910.1200.

For more information on SDS, offerors/contractors should refer to the OSHA website, available at: <https://www.osha.gov/dsg/hazcom/ghs-final-rule.html>

For information on 29 C.F.R. 1910.1200, offerors/contractors should refer to the below link: <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.36>

FAR 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (Jan 2021)

- (a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:
- (1) **52.203-19**, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
 - (2) **52.204-23**, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).
 - (3) **52.204-25**, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).
 - (4) **52.209-10**, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).
 - (5) **52.233-3**, Protest After Award (Aug 1996) (31 U.S.C. 3553).
 - (6) **52.233-4**, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

- (1) **52.203-6**, Restrictions on Subcontractor Sales to the Government (June 2020), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).
- (2) **52.203-13**, Contractor Code of Business Ethics and Conduct (Jun 2020) (41 U.S.C. 3509)).
- (3) **52.203-15**, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
- (4) **52.204-10**, Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).
- (5) [Reserved].
- (6) **52.204-14**, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (7) **52.204-15**, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
- (8) **52.209-6**, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Jun 2020) (31 U.S.C. 6101 note).
- (9) **52.209-9**, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).
- (10) [Reserved].
- (11) (i) **52.219-3**, Notice of HUBZone Set-Aside or Sole-Source Award (Mar 2020) (15 U.S.C. 657a).
 (ii) Alternate I (Mar 2020) of 52.219-3.
- (12) (i) **52.219-4**, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Mar 2020) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
 (ii) Alternate I (Mar 2020) of 52.219-4.
- (13) [Reserved]
- (14) (i) **52.219-6**, Notice of Total Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
 (ii) Alternate I (Mar 2020) of 52.219-6.
- (15) (i) **52.219-7**, Notice of Partial Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
 (ii) Alternate I (Mar 2020) of 52.219-7.
- (16) **52.219-8**, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).
- (17) (i) **52.219-9**, Small Business Subcontracting Plan (Jun 2020) (15 U.S.C. 637(d)(4)).
 (ii) Alternate I (Nov 2016) of 52.219-9.
 (iii) Alternate II (Nov 2016) of 52.219-9.
 (iv) Alternate III (Jun 2020) of 52.219-9.
 (v) Alternate IV (Jun 2020) of 52.219-9
- (18) (i) **52.219-13**, Notice of Set-Aside of Orders (Mar 2020) (15 U.S.C. 644(r)).
 (ii) Alternate I (Mar 2020) of 52.219-13.
- (19) **52.219-14**, Limitations on Subcontracting (Mar 2020) (15 U.S.C. 637(a)(14)).
- (20) **52.219-16**, Liquidated Damages-Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (21) **52.219-27**, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Mar 2020) (15 U.S.C. 657f).
- (22) (i) **52.219-28**, Post Award Small Business Program Rerepresentation (Nov 2020) (15 U.S.C. 632(a)(2)).
 (ii) Alternate I (MAR 2020) of 52.219-28.
- (23) **52.219-29**, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Mar 2020) (15 U.S.C. 637(m)).
- (24) **52.219-30**, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Mar2020) (15 U.S.C. 637(m)).
- (25) **52.219-32**, Orders Issued Directly Under Small Business Reserves (Mar 2020) (15 U.S.C. 644(r)).
- (26) **52.219-33**, Nonmanufacturer Rule (Mar 2020) (15U.S.C. 637(a)(17)).

- (27) **52.222-3**, Convict Labor (Jun 2003) (E.O.11755).
- (28) **52.222-19**, Child Labor-Cooperation with Authorities and Remedies (Jan2020) (E.O.13126).
- (29) **52.222-21**, Prohibition of Segregated Facilities (Apr 2015).
- (30) (i) **52.222-26**, Equal Opportunity (Sep 2016) (E.O.11246).
 (ii) Alternate I (Feb 1999) of 52.222-26.
- (31) (i) **52.222-35**, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
 (ii) Alternate I (Jul 2014) of 52.222-35.
- (32) (i) **52.222-36**, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).
 (ii) Alternate I (Jul 2014) of 52.222-36.
- (33) **52.222-37**, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
- (34) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- (35) (i) **52.222-50**, Combating Trafficking in Persons (Oct 2020) (22 U.S.C. chapter 78 and E.O. 13627).
 (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (36) **52.222-54**, Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- ___ (37) (i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
 (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ___ (38) **52.223-11**, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- ___ (39) **52.223-12**, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- ___ (40) (i) **52.223-13**, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
 (ii) Alternate I (Oct 2015) of 52.223-13.
- ___ (41) (i) **52.223-14**, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
 (ii) Alternate I (Jun2014) of 52.223-14.
- ___ (42) **52.223-15**, Energy Efficiency in Energy-Consuming Products (May 2020) (42 U.S.C. 8259b).
- ___ (43) (i) **52.223-16**, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514)
 (ii) Alternate I (Jun 2014) of 52.223-16.
- (44) **52.223-18**, Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (E.O. 13513).
- ___ (45) **52.223-20**, Aerosols (Jun 2016) (E.O. 13693)
- ___ (46) **52.223-21**, Foams (Jun2016) (E.O. 13693).
- ___ (47) (i) **52.224-3** Privacy Training (Jan 2017) (5 U.S.C. 552 a).
 (ii) Alternate I (Jan 2017) of 52.224-3.
- ___ (48) **52.225-1**, Buy American-Supplies (Jan2021) (41 U.S.C. chapter 83).
- ___ (49) (i) **52.225-3**, Buy American-Free Trade Agreements-Israeli Trade Act (Jan 2021)(41 U.S.C.chapter83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.
 (ii) Alternate I (Jan 2021) of 52.225-3.
 (iii) Alternate II (Jan 2021) of 52.225-3.
 (iv) Alternate III (Jan 2021) of 52.225-3.
- (50) **52.225-5**, Trade Agreements (Oct 2019) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
- (51) **52.225-13**, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (52) **52.225-26**, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302Note).
- ___ (53) **52.226-4**, Notice of Disaster or Emergency Area Set-Aside (Nov2007) (42 U.S.C. 5150).
- ___ (54) **52.226-5**, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) (42 U.S.C. 5150).
- ___ (55) **52.229-12**, Tax on Certain Foreign Procurements (Jun 2020).
- ___ (56) **52.232-29**, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).
- ___ (57) **52.232-30**, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).
- (58) **52.232-33**, Payment by Electronic Funds Transfer-System for Award Management (Oct2018) (31 U.S.C. 3332).
- ___ (59) **52.232-34**, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).
- ___ (60) **52.232-36**, Payment by Third Party (May 2014) (31 U.S.C. 3332).
- ___ (61) **52.239-1**, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- ___ (62) **52.242-5**, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13)).
- ___ (63) i) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

- ___ (ii) Alternate I (Apr 2003) of 52.247-64.
- ___ (iii) Alternate II (Feb 2006) of 52.247-64.

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

- ___ (1) **52.222-41**, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
- ___ (2) **52.222-42**, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
- ___ (3) **52.222-43**, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
- ___ (4) **52.222-44**, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).
- ___ (5) **52.222-51**, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).
- ___ (6) **52.222-53**, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).
- ___ (7) **52.222-55**, Minimum Wages Under Executive Order 13658 (Nov 2020).
- ___ (8) **52.222-62**, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706)
- ___ (9) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215-2, Audit and Records-Negotiation.

- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
- (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.
- (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

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

- (i) **52.203-13**, Contractor Code of Business Ethics and Conduct (Jun 2020) (41 U.S.C. 3509).
- (ii) **52.203-19**, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
- (iii) **52.204-23**, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).
- (iv) **52.204-25**, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).
- (v) **52.219-8**, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (vi) **52.222-21**, Prohibition of Segregated Facilities (Apr 2015).
- (vii) **52.222-26**, Equal Opportunity (Sep 2015) (E.O. 11246).
- (viii) **52.222-35**, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
- (ix) **52.222-36**, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).
- (x) **52.222-37**, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
- (xi) **52.222-40**, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40
- (xii) **52.222-41**, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
- (xiii) (A) **52.222-50**, Combating Trafficking in Persons (Oct 2020) (22 U.S.C. chapter 78 and E.O. 13627).
- (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (xiv) **52.222-51**, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).

- (xv) **52.222-53**, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).
 - (xvi) **52.222-54**, Employment Eligibility Verification (Oct 2015) (E.O. 12989).
 - (xvii) **52.222-55**, Minimum Wages Under Executive Order 13658 (Nov 2020).
 - (xviii) **52.222-62**, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).
 - (xix) (A) **52.224-3**, Privacy Training (Jan 2017) (5 U.S.C. 552a).
(B) Alternate I (Jan 2017) of 52.224-3.
 - (xx) **52.225-26**, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
 - (xxi) **52.226-6**, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
 - (xxii) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

STATEMENT OF WORK

DLA Troop Support intends to award contracts for the supply of Construction Equipment to the military services and federal agencies. Contracts will be awarded to individual contractors for their offered line of Construction Equipment.

Product lines can include but not be limited to:

- >wheel loaders, track loaders, wheeled tractors man lifts, backhoe loaders
- >integrated tool carriers, construction loaders, multi-terrain loaders
- >articulated dump trucks, skid steer loaders, motorized road graders, motor graders
- >track-type tractors, dozers, crawlers, crawler-mounted excavators, wheeled excavators
- >compact construction equipment, wheeled tractor/scrapers, concrete mixers, vibratory asphalt pavers, asphalt paving equipment, landfill/soil compactors, asphalt & pneumatic compactors, rollers, cold planners, rotary mixers, compactors, trenchers

Product lines will also include "incidental service and support" for each machine. This incidental service and support can include but should not be limited to operator training, operator certification training, service plans, spare parts support, video packages, extended warranty agreements, and any additional value-added incidental services that the manufacturer or his certified representative can offer in support of fleet maintenance and lifetime equipment support. This incidental service and support may only be ordered at the time the new equipment is ordered. This support cannot be ordered as a stand-alone item.

DLA Troop Support will award only one contract per manufacturer's product line. It is intended to issue multiple Requirements Contracts to responsible vendors that conform to the solicitation requirements contained within this document and whose prices are determined fair and reasonable. After the initial contracts are awarded, customer Construction Equipment requirements described by specifications, commercial item descriptions, or other commercial descriptions will be competed among all contract holders, and each contract holder will be afforded a fair opportunity to submit a quotation. In instances where only certain specified equipment will meet the customer's needs, or only one contract holder offers the required equipment, Limited Source Justifications will be executed, and only those contract holders offering the specified equipment will be solicited.

FAR 52.212-1 – Instructions to Offerors – Commercial Items (Jun 2020)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code(s) and small business size standard(s) for this acquisition appear elsewhere in the solicitation. However, the small business size standard for a

concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the [SF 1449](#), letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

(1) The solicitation number;

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at FAR [52.212-3](#) (see FAR [52.212-3](#)(b) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the [SF 1449](#), include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with [subpart 4.10](#) of the Federal Acquisition Regulation), or alternative commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) Late submissions, modifications, revisions, and withdrawals of offers.

1. Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)

2. Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

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

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

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for Bids)*. The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

3. Availability of requirements documents cited in the solicitation.

(1)

4. The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to-

GSA Federal Supply Service Specifications Section
Suite 8100 470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925
Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

5. ASSIST (<https://assist.dla.mil/online/start/>).

(ii) Quick Search (<http://quicksearch.dla.mil/>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by-

6. Using the ASSIST Shopping Wizard (<https://assist.dla.mil/wizard/index.cfm>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Unique entity identifier.* (Applies to all offers that exceed the micro-purchase threshold, and offers at or below the micro-purchase threshold if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see FAR [subpart 32.11](#)) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at www.sam.gov for establishing the unique entity identifier.

(k) [Reserved]

(l) *Debriefing.* If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

7. The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

Addendum to 52.212-1:

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

8. Paragraph (a), North American Industry Classification System (NAICS) code and small business size standard.

- a. Delete the paragraph (a) and replace with the following:

“(a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.”

2. Paragraph (b), Submission of Offers.

- a. Delete the 1st sentence and substitute the following:

“Submit signed and dated offers as specified on page 4 of this solicitation at Block 9 on or before the exact due date/local time as specified on page 4 at Block 8.”

In addition to submission of hardcopy proposals, you can also submit your proposal package electronically to HEPPLTCs@dla.mil. (Due to COVID19, we are currently on a maximum telework schedule).

Note: Facsimile offers are NOT authorized for this solicitation.

9. Paragraph (c), Period for Acceptance of Offers.

Change “30 calendar days” to read “150 calendar days.”

CONSTRUCTION EQUIPMENT INSTRUCTIONS TO OFFERORS

Offerors can propose on any/all segments of the Construction Equipment referenced. Pricing for each model offered shall include all standard commercially available equipment and attachments, price listed attachments and optional features for the model. Offerors must provide descriptive literature, specifications, along with any other information necessary to provide for the certification of the commerciality of all standard features and attachments, as well as optional features. Offerors shall ensure that each item complies with the latest Government regulations, emission standards etc. See clause 52.212-4(q), Other Compliances.

The equipment must be new, unused, and the manufacturer’s current commercial product. Each product proposed must be offered with all standard components that are listed in commercial product literature. Equipment shall be in operating condition, which may include but is not limited to having all fluid levels filled to normal operating ranges, when delivered to the destination. One paper and/or electronic set of commercial manuals consisting of operator’s instructions, service and repair manuals, and a complete parts list shall be over-packed with each item.

Proposals must also include Electronic (CD) copies of the following: a copy of the manufacturer’s commercial specification sheet for each model, a listing of optional features available for each model, one copy of the commercial price list for each model, and all attachments and features. The offeror shall include in each basic unit price all applicable federal, state, and local taxes, including Federal Excise Tax (FET), for Continental United States (CONUS) delivery.

Offerors must meet all criteria set forth in the solicitation and must meet the following solicitation requirements:

1.) Must meet the criteria for the Construction Equipment Product Line referenced in the Statement of Work of this solicitation.

2.) Commercial Catalog/Published Price Lists: copies (including **one electronic** copy -CD, no Jump-drives) of the current (dated or otherwise identified) commercial catalog with catalog prices listed.

Established Catalog Price

1. As used herein, the term “established catalog price” is one for which a current catalog is maintained by the contractor for sales to the general public (or the manufacturer, if the contractor does not manufacture the item).
2. By signing the proposal the contractor represents:
 - (a) That the items to be delivered under any resulting order are supplies for which there is a catalog price.

(b) Any differences between the catalog price and or the contract price may be because of the requirements of the RFQs such as preservation, packaging, additional requirements for overseas shipments, or the amount included for extended warranty, transportation, and any additional discount.

Note: Special catalogs or price lists developed for the purpose of offering on this solicitation and showing only net prices to the Government or reference to previous submissions, are **NOT** acceptable.

3.) Attachment 1 -The Model Pricing and Discount Information sheet: must be completed and include each proposed product. A comprehensive (line by line) Model Pricing and Discount Information Excel spreadsheet is shown as Attachment #1 in the solicitation. Offerors are required to download the Excel spreadsheet from <https://www.dibbs.bsm.dla.mil/> or the HEPP website (<http://www.dla.mil/TroopSupport/ConstructionandEquipment/HeavyEquipment.aspx>) and complete it, and submit it in the form of a compact disc with their proposals. It is also included as an attachment to this PDF (paperclip). Must submit it in hardcopy form and on a compact disc (CD) with your proposal.

Discounts: The discount pricing relationship shall be maintained throughout the five-year contract period. Contract pricing will be based on catalog price minus discount. The amount of the discount offered should be greater than or equal to the discount offered to your most favored customer, unless adequately justified. At any time, the contractor can offer discounts greater than the discounts negotiated in the contract.

View of Attachment #1
(File embedded in this PDF file under the paperclip tab)

Description of Item	Make / Model Number	Delivery (days after award)	Price List Page#	Base List Price	*The same discount will be applied to all attachments/optional features unless otherwise specified.		Quantity Range Discount (if any). The quantity range discount specified will be applied to the net price of the base units and any attachments/optional features ordered (excluding freight) unless otherwise specified:						
					% of Disc (Base Unit/1 EA)	% of DISC. (Attachments/ Optional Features*	(1) Qty Range	(1) Disc %	(2)Qty Range	(2) Disc%	(3)Qty Range	(3) Disc %	

4.) Attachment 2 - Commercial Invoices: must be completed and include the information contained in each submitted commercial invoices. A comprehensive Excel spreadsheet is shown as Attachment #2 in the solicitation. Offerors are required to download the Excel spreadsheet from <https://www.dibbs.bsm.dla.mil/> or the HEPP website (<http://www.dla.mil/TroopSupport/ConstructionandEquipment/HeavyEquipment.aspx>) and complete it, and submit it in the form of a compact disc with their proposals. It is also included as an attachment to this PDF (paperclip). Must submit it in hardcopy form and on a compact disc (CD) with your proposal.

View of Attachment #2
(File embedded in this PDF file under the paperclip tab)

INVOICE ANALYSIS AND REVIEW												
CURRENT PROPOSED PRICING						COMMERCIAL INVOICE PRICING						
Top Selling Items	Description of Item	Model #	Base List Price	Govt Discount	Govt Price w/Discount	# of Invoices	Invoice reference #	Invoice Date	Base List Price @ Invoice	Customer Name	Invoice Price (BASE Unit*)	Customer Discount
1					\$0.00	1						# DIV/0!
						2						# DIV/0!
						3						# DIV/0!
						4						# DIV/0!
2					\$0.00	5						# DIV/0!
						6						# DIV/0!
						7						# DIV/0!
						8						# DIV/0!
						9						# DIV/0!
						10						# DIV/0!
4					\$0.00	11						# DIV/0!
						12						# DIV/0!
						13						# DIV/0!
						14						# DIV/0!
5					\$0.00	15						# DIV/0!

*Invoice price should only be for the BASE UNIT, do NOT include all options and extra features.

Offerors proposing on six (6) or more items must submit at least three (3) commercial invoices for each of their five (5) highest selling items. Offerors proposing on two (2) to five (5) items must submit at least three (3) commercial invoices for each of their two (2) highest selling items. Offerors proposing on one (1) item must submit at least three (3) commercial invoices for the one proposed item. **ATTENTION DEALERS: Offerors proposing on more than one (1) manufacturer's product line must meet the above criteria for EACH proposed manufacturer's product line.**

INVOICE REQUIREMENTS				ATTENTION AUTHORIZED DEALERS:				
Offering 1 Manufacturer's Product Line				Offering 2 or More Manufacturer's Product Line				
# of Products Offered	# Invoices Required PER Item	PER "Highest Selling Items"	Total Invoices Required	# of Mfr's Product Lines Offered	# of Products Offered	# Invoices Required PER Item	PER "Highest Selling Items"	Total Invoices Required
1	3	1	3	Mfr #1	1	3	1	3
2 to 5	3	2	6		2 to 5	3	2	6
6 or more	3	5	15		6 or more	3	5	15
				Mfr #2	1	3	1	3
					2 to 5	3	2	6
					6 or more	3	5	15

*Example: If you are offering at least 6 items from TWO different Manufacturer's product lines then you are required to submit **at least 30 invoices** (15 per each Manufacturer's product line)*

It is requested that all submitted invoices are for commercial items that have been sold under the current catalog price. Offerors unable to submit commercial invoices that correspond to the current catalog price may submit other invoices but the offeror must also submit the concurrent catalog price list in effect at the time of the invoice(s). All submitted invoices must identify a manufacturer's part number that is referenced in the commercial catalog and proposed under the solicitation. The government must be able to perform an analysis of the invoices and the corresponding price list to determine the commercially afforded discount, if any. Invoices that deviate from these criteria must be accompanied with supporting documentation that clarifies the invoice price compared to the catalog price to determine the commercially afforded discount, if any. The documentation must adequately support the invoice price for the base unit and all base unit options that may or may not be itemized on the invoice. Invoices must not be altered or redacted in any manner. The government reserves the right to request additional invoices at any time during the evaluation process.

5.) Discount Structure: Must identify the standard discount structure for customers and/or dealers. If different discount arrangements exist for different classes of customers or dealers, a detailed explanation of the discount for each such customer or dealer is required.

6.) Original Equipment Manufacturers (OEMs) Letter of Commitment: Dealers and suppliers, other than the manufacturer, that wish to be considered for an award must submit an original letter of commitment from the manufacturer specifically addressing the products or product line, the offeror and the solicitation. The Original Equipment Manufacturers (OEMs) letter of commitment must confirm that the offeror is the OEM's sole representative for the contract. The OEM's letter of commitment must include assurance to provide the offeror a guaranteed, uninterrupted source of supply sufficient to satisfy the Government's requirements for the contract period. Manufacturer's letters of commitment for the same products or product line from more than one offeror will render all offerors for that manufacturer's products or product line unacceptable.

7.) Warranty Requirements

FAR 12.404(a) requires contracting officers to take advantage of commercial warranties. Accordingly, offerors are requested to submit with their proposal an express warranty, offering the Government at least the same warranty terms, including offers of extended warranties, offered to the general public in customary commercial practice. Offerors must indicate in their proposal whether the express warranty is in lieu of, or in addition to, the implied warranties of merchantability and fitness for a particular purpose contained in FAR 52.212-4(o).

Any express warranty must meet the following minimum terms:

- 1.) The equipment purchased under the contract will be sold by DLA Troop Support to our customers in the Military Services and Federal Agencies, and possibly State and/or Local governmental entities. Any proposed express warranty must apply to these subsequent users or purchasers.
- 2.) Any proposed express warranty must cover the equipment including if it is used or operated outside the United States. The warranty may not require equipment outside the United States to be shipped back to a domestic facility for repair.
- 3.) FAR 52.212-4(p) in the RFP states that "Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items." Language in a proposed express warranty attempting to further limit Contractor's liability to the Government, or attempting to limit

Contractor's liability to third parties, may result in rejection of the offeror's proposal, or in the inclusion of a statement in the resultant contract that the express warranty applies only to the extent not prohibited by law or regulation.

4.) The warranty period must be in effect from the date of purchase or the date of delivery under the Troop Support delivery order. Earlier dates, such as the date of manufacture or date of delivery to the manufacturer's dealer, are not acceptable.

5.) The warranty shall provide that Federal law applies, rather than the law of a State or other jurisdiction.

6.) The express warranty may not make the customer liable for taxes. FAR 52.212-4(k) provides that the contract price includes all applicable Federal, State, and local taxes and duties.

7.) If the warranty requires the customer to return a registration card or form, the customer must be given at least ninety (90) days from the date of delivery to do so.

FAR 52.212-2 Evaluation –Commercial Items (OCT 2014)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror who takes no exception to the terms and conditions of the solicitation, meets all solicitation requirements and whose prices are determined to be fair and reasonable.

The following solicitation requirements shall be used to evaluate offers:

>Must meet the criteria for the products/equipment referenced in the Statement of Work (SOW).

>Must submit the documentation cited in the Addendum to FAR 52.212-1 Construction Equipment Instructions to Offerors.

>All pertinent information referenced in this solicitation and required by the offeror must be submitted with the proposal.

> All solicitation clauses that are required to be completed by the offeror must be submitted with the proposal.

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

FAR 52.212-3 Offeror Representations and Certifications Commercial Items (FEB 2021) Alternate I (OCT 2014)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

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

"Covered telecommunications equipment or services" has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Economically disadvantaged women-owned small business (EDWOSB) concern means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

Forced or indentured child labor means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

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

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

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

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

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

Place of manufacture means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

Predecessor means an entity that is replaced by a successor and includes any predecessors of the predecessor.

Reasonable inquiry has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

Restricted business operations means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended."Sensitive technology"—

Sensitive technology—

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—
 - (i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

Service-disabled veteran-owned small business concern—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service connected, as defined in [38 U.S.C. 101\(16\)](#).

Small business concern—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

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

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

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

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

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

Subsidiary means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation

Successor means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term "successor" does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

Veteran-owned small business concern means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

Women-owned small business concern means a small business concern—

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(b)

(1) *Annual Representations and Certifications.* Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications-Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____.

[Offeror to identify the applicable paragraphs at (c) through (v) of this provision that the offeror has completed for the purposes of this solicitation only, if any.]

These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it is, is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, that it is, is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is, is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that-

(i) It is, is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: _____.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that-

(i) It is, is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: _____.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

Note: Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price: _____

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

(i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246-

(1) Previous contracts and compliance. The offeror represents that-

(i) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It has, has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that-

(i) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 <http://uscode.house.gov/> U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) [52.225-1](#), Buy American-Supplies, is included in this solicitation.)

(1)

(i) The Offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(iii) The terms "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(2) Foreign End Products:

Line Item No.	Country of Origin

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

(g) (1) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate.* (Applies only if the clause at FAR [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act, is included in this solicitation.)

(i) (A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (iii) of this provision, is a domestic end product.

(B) The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

(ii) The Offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin

[List as necessary]

(iii) The Offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act." The Offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

Line Item No.	Country of Origin

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

(2) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate 1*. If Alternate 1 to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian End Products:

Line Item No.

[List as necessary]

(3) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian or Israeli End Products:

Line Item No.	Country of Origin

[List as necessary]

(4) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin

[List as necessary]

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR [52.225-5](#), Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line Item No.	Country of Origin

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#). For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) Are, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at [9.104-5\(a\)\(2\)](#) for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

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

(1) **Listed end products.**

Listed End Product	Listed Countries of Origin

(2) *Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]*

(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

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

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

(2) Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) *[The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]*

(1) Maintenance, calibration, or repair of certain equipment as described in FAR [22.1003-4\(c\)\(1\)](#). The offeror does does not certify that-

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR [22.1003-4\(c\)\(2\)\(ii\)](#)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) Certain services as described in FAR [22.1003-4\(d\)\(1\)](#). The offeror does does not certify that-

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR [22.1003-4\(d\)\(2\)\(iii\)](#));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to the SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of [31 U.S.C. 7701\(c\)](#) and [3325\(d\)](#), reporting requirements of [26 U.S.C. 6041](#), [6041A](#), and [6050M](#), and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government ([31 U.S.C. 7701\(c\)\(3\)](#)). If the resulting contract is subject to the payment reporting requirements described in FAR [4.904](#), the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN)*.

TIN: _____.

TIN has been applied for. _____

TIN is not required because: _____

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR1.6049-4;

Other _____.

(5) *Common parent.*

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name _____.

TIN _____.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.*

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

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

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

(ii) It is, is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.*

(1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) *Representation and Certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR [25.703-2\(a\)\(2\)](#) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (e.g., [52.212-3\(g\)](#)) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

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

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

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

Immediate owner CAGE code: _____.

Immediate owner legal name: _____.

(Do not use a "doing business as" name)

Is the immediate owner owned or controlled by another entity: Yes or No.

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

Highest-level owner CAGE code: _____.

Highest-level owner legal name: _____.

(Do not use a "doing business as" name)

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

(1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that–

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that–

(i) It is is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at [52.204-16](#), Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it is or is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated "is" in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: (or mark "Unknown").

Predecessor legal name: _____.

(Do not use a "doing business as" name).

(s) [Reserved].

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM ([12.301\(d\)\(1\)](#)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)].

(i) The Offeror (itself or through its immediate owner or highest-level owner) does, does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) does, does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly accessible website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked "does" in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported: _____.

(u)

(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a

designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(v) *Covered Telecommunications Equipment or Services-Representation*. Section 889(a)(1)(A) and section 889 (a)(1)(B) of Public Law 115-232.

(1) The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(2) The Offeror represents that—

(i) It does, does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(ii) After conducting a reasonable inquiry for purposes of this representation, that it does, does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of Provision)

Alternate 1 (Oct2014). As prescribed in [12.301\(b\)\(2\)](#), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

___ Black American.

___ Hispanic American.

___ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

___ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

___ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

___ Individual/concern, other than one of the preceding.

Addendum to FAR 52.212-3 Offeror Representations and Certifications-Commercial Items (continued)

DFARS 252.225-7020 Trade Agreements Certificate — Basic (NOV 2014)

(a) *Definitions*. "Designated country end product," "non-designated country end product," "qualifying country end product," and "U.S.-made end product" as used in this provision have the meanings given in the Trade Agreements—Basic clause of this solicitation.

(b) *Evaluation*. The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, or designated country end products unless—

- (i) There are no offers of such end products;
- (ii) The offers of such end products are insufficient to fulfill the Government's requirements; or
- (iii) A national interest waiver has been granted.

(c) *Certification and identification of country of origin.*

(1) For all line items subject to the Trade Agreements—Basic clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, or designated country end product.

(2) The following supplies are other non-designated country end products:

<u>(Line Item Number)</u>	<u>(Country of Origin)</u>
_____	_____

DFARS 252.247-7022 Representation of Extent of Transportation by Sea (June 2019)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) *Representation.* The Offeror represents that it—

_____ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

_____ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause.

Place of Performance – Government Inspection, Acceptance and Shipping Point

(a) Place of performance:

[] (1) Items will be manufactured at the following locations: (To be supplied with the offer by the offeror)

ITEM NO.	PLANT NAME AND ADDRESS
_____	_____
_____	_____
_____	_____

[] (2) Items will be furnished from stock. The manufacturer (not the dealer) is as follows: (To be supplied with the offer by the offeror)

ITEM NO. NAME AND ADDRESS OF MANUFACTURER

_____	_____
_____	_____
_____	_____

(b) Place of packaging, packing and marking: (To be supplied with the offer by the offeror)

[] (1) Same as shown in (a)(1) above.

[] (2) As shown below:

ITEM NO. PACKAGING PLANT NAME AND ADDRESS

_____	_____
_____	_____
_____	_____

(c) Place of Government inspection: - **WILL BE SPECIFIED ON DELIVERY ORDER**

[X] (1) Material inspection, except as may be indicated in (c)(2), will be made at the follow locations:

ITEM NO. PLANT NAME AND ADDRESS GOVERNMENT INSPECTION OFFICE

_____	_____
_____	_____
_____	_____

[] (2) Packaging, packing and marking inspection (if other than (c)(1) above) will be made at the following location: (To be supplied with the offer by the offeror)

ITEM NO. PLANT NAME AND ADDRESS GOVERNMENT INSPECTION OFFICE

_____	_____
_____	_____
_____	_____

[X] (3) At destination.

(d) Place of acceptance: **WILL BE SPECIFIED ON DELIVERY ORDER**

[X] (1) At the plant shown and by the Government inspection office shown in (c)(1) above

[] (2) At the plant shown and by the Government inspection office shown in (c)(2) above.

[X] (3) At destination by the receiving authority.

(e) Applicable to free on board (f.o.b.) origin shipments on Government bill of lading awards only. Shipment will be made from the Contractor's or subcontractor plant(s) identified below. These shipping points were used in the evaluation of Contractor's f.o.b. origin offer. If the Contractor ships from a place other than as identified herein, any increase in transportation costs shall be borne by the Contractor and any savings shall revert to the Government. **Not/Applicable**

[] (1) Same as shown in (a)(1) above.

[] (2) As shown below:

Item Number Name and Address of Shipping Point

ITEM NO. PLANT NAME AND ADDRESS OF SHIPPING POINT

_____ (To be supplied with the offer by the offeror)

(f) The performance of any of the work contracted for in any place other than that named above is prohibited unless approved in writing in advance by the Contracting Officer.

The following additional provisions are set forth in full text:**FAR 52.216-1 Type of Contract (APR 1984)**

The Government contemplates award of a **fixed price with economic price adjustment** contract resulting from this solicitation. **DLAD 52.233-9001 Disputes: Agreement To Use Alternate Dispute Resolution (NOV 2011)**

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

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

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

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

1. FAR 52.203-3, Gratuities (APR 1984)
2. DFARS 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011)
3. DFARS 252.203-7003, Agency Office of the Inspector General (DEC 2012)
4. DFARS 252.203-7005, Representation Relating to Compensation of Former DoD Officials (NOV 2011)
5. DFARS 252.204-7011, Alternative Line Item Structure (SEP 2011)
6. DFARS 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (OCT 2016)
7. DFARS 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Offerors (MAY 2016)
8. DFARS 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors (MAY 2016)
9. DFARS 252.204-7015, Notice of Authorized Disclosure of Information for Litigation Support (MAY 2016)
10. DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991)
11. DFARS 252.211-7003, Item Unique Identification and Valuation (MAR 2016)
12. DFARS 252.211-7006, Passive Radio Frequency Identification (JUN 2016)
13. DFARS 252.211-7007, Reporting of Government-Furnished Property (AUG 2012)
14. DFARS 252.212-7002, Pilot Program for Acquisition of Military-Purpose Non developmental Items (JUN 2016)
15. DFARS 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation (JUL 2012)
16. DFARS 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation (OCT 2013)
17. DFARS 252.215-7007, Notice of Intent to Resolicit (JUN 2012)
18. DFARS 252.215-7008, Only One Offer (OCT 2013)
19. FAR 52.219-9 Small Business Subcontracting Plan (DEVIATION 2016-O0009) (AUG 2016)
 - a. Alternate I (AUG 2016) of 52.219-9 (DEVIATION 2016-O0009)

- b. Alternate II (AUG 2016) of 52.219-9 (DEVIATION 2016-O0009)
- c. Alternate III (AUG 2016) of 52.219-9 (DEVIATION 2016-O0009)
- 20. DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) - Basic (MAR 2016)
- 21. DFARS 252.219-7004, Small Business Subcontracting Plan (Test Program) (OCT 2014)
- 22. DFARS 252.223-7008, Prohibition of Hexavalent Chromium (JUN 2013)
- 23. DFARS 252.225-7000, Buy American—Balance of Payments Program Certificate (NOV 2014)
 - a. Alternate I (NOV 2014) of 52.225-7000
- 24. DFARS 252.225-7001, Buy American and Balance of Payments Program - Basic (AUG 2016)
 - a. Alternate I (NOV 2014) of 252.225-7001
- 25. DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals (MAR 2013)
- 26. DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (OCT 2014)
- 27. DFARS 252.225-7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate (JUL 2009)
- 28. DFARS 252.225-7012, Preference for Certain Domestic Commodities (AUG 2016)
- 29. DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)
- 30. DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011)
- 31. DFARS 252.225-7017, Photovoltaic Devices (AUG 2016)
- 32. DFARS 252.225-7018, Photovoltaic Devices—Certificate (SEP 2016)
- 33. DFARS 252.225-7020, Trade Agreements Certificate (NOV 2014)
 - a. Alternate I (NOV 2014) of 252.225-7020
- 34. DFARS 252.225-7021, Trade Agreements (SEP 2016)
 - a. Alternate II (SEP 2016) of 252.225-7021
- 35. DFARS 252.225-7023, Preference for Products or Services from Afghanistan (SEP 2013)
- 36. DFARS 252.225-7024, Requirement for Products or Services from Afghanistan (SEP 2013)
- 37. DFARS 252.225-7026, Acquisition Restricted to Products or Services from Afghanistan (SEP 2013)
- 38. DFARS 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003)
- 39. DFARS 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003)
- 40. DFARS 252.225-7029, Acquisition of Uniform Components for Afghan Military or Afghan National Police (SEP 2013)
- 41. DFARS 252.225-7031, Secondary Arab Boycott of Israel (JUN 2005)
- 42. DFARS 252.225-7035, Buy American—Free Trade Agreements—Balance of Payments Program Certificate (NOV 2014)
 - a. Alternate I (NOV 2014) of 252.225-7035
 - b. Alternate II (NOV 2014) of 252.225-7035
 - c. Alternate III (NOV 2014) of 252.225-7035
 - d. Alternate IV (NOV 2014) of 252.225-7035
 - e. Alternate V (NOV 2014) of 252.225-7035
- 43. DFARS 252.225-7036, Buy American --Free Trade Agreements--Balance of Payment Program - Basic (AUG 2016)
 - a. Alternate I (AUG 2016) of 252.225-7036
 - b. Alternate II (AUG 2016) of 252.225-7036
 - c. Alternate III (AUG 2016) of 252.225-7036
 - d. Alternate IV (AUG 2016) of 252.225-7036
 - e. Alternate V (AUG 2016) of 252.225-7036
- 44. DFARS 252.225-7040, Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (AUG 2015)
- 45. DFARS 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (JUN 2015)
- 46. DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004)
- 47. DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2014)
- 48. DFARS 252.227-7015, Technical Data -- Commercial Items (FEB 2014)
- 49. DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 2016)
- 50. DFARS 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012)
- 51. DFARS 252.232-7009, Mandatory Payment by Government wide Commercial Purchase Card (DEC 2006)
- 52. DFARS 252.232-7010, Levies on Contract Payments (DEC 2006)
- 53. DFARS 252.232-7011, Payments in Support of Emergencies and Contingency Operations (MAY 2013)
- 54. DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
- 55. DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
- 56. DFARS 252.239-7017, Notice of Supply Chain Risk (NOV 2013)
- 57. DFARS 252.239-7018, Supply Chain Risk (OCT 2015)
- 58. DFARS 252.243-7002, Requests for Equitable Adjustment (DEC 2012)
- 59. DFARS 252.244-7000, Subcontracts for Commercial Items (JUN 2013)
- 60. DFARS 252.246-7003, Notification of Potential Safety Issues (JUN 2013)
- 61. DFARS 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations (OCT 2010)

62. _____ DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)
63. _____ DFARS 252.247-7022, Representation of Extent of Transportation by Sea (AUG 1992)
64. X DFARS 252.247-7023, Transportation of Supplies by Sea (APR 2014).
 - a. _____ Alternate I (APR 2014) of 252.247-7023.
 - b. _____ Alternate II (APR 2014) of 252.247-7023
65. _____ DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)
66. _____ DFARS 252.247-7025, Reflagging or Repair Work (JUN 2005)
67. _____ DFARS 252.247-7026, Evaluation Preference for Use of Domestic Shipyards – Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (NOV 2008)
68. _____ DFARS 252.247-7027, Riding Gang Member Requirements (OCT 2011)
69. _____ DFARS 252.247-7028, Application for U.S Government Shipping Documentation/Instructions (JUN 2012)

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

1. DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (FEB 2014)
2. DFARS 252.227-7015, Technical Data – Commercial Items (FEB 2014)
3. DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 2016)
4. DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
5. DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
6. DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)
7. DFARS 252.247-7023, Transportation of Supplies by Sea (APR 2014)
8. DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020).

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

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

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of

covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It will, will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It does, does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

52.204-26 Covered Telecommunications Equipment or Services-Representation (Oct 2020).

(a) *Definitions.* As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c)

(1) *Representation.* The Offeror represents that it does, does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it does, does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)

END OF SOLICITATION