

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NUMBER 1000146809	<b>PAGE 1 OF 61</b>	
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER SPE300-22-R-0035	6. SOLICITATION ISSUE DATE 2022 DEC 16		
7. FOR SOLICITATION INFORMATION CALL:	a. NAME Vincent Key GZC0091		b. TELEPHONE NUMBER (No Collect calls) Phone: DSN-442-2019		8. OFFER DUE DATE/ LOCAL TIME 2023 JAN 17 03:00 PM	
	9. ISSUED BY  DLA TROOP SUPPORT DIRECTORATE OF SUBSISTENCE 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA	CODE SPE300	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: 311812 <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8 (A) SIZE STANDARD: 1000			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS		<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>1</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
--	--------------------	---------------------------------	--	------------------

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

BLOCK 8 (Continued):

OFFER DUE DATE/ LOCAL TIME: [01/17/2023] at 3:00PM EASTERN STANDARD TIME

BLOCK 9 (Continued):

Email and DIBBS are the acceptable forms of transmission for submission of initial proposals. E-mailed submissions should be sent to:

Amanda Qualie, Amanda.Qualie@dla.mil;

Vincent Key vincent.key@dla.mil

NOTES:

INITIAL OFFERS:

(1) Submitting offers via DIBBS electronic upload is authorized for this solicitation. A notice with instructions to vendors has been posted to DIBBS. The following notes apply:

(a) The offer must be signed and completed in its entirety in accordance with the solicitation requirements. Do not select submit until all associated documents are added. No data will be saved unless the offer is submitted. Once submitted, documents may be added, but not removed.

(b) Offerors are responsible for submitting proposals, and any revisions, and modifications, so as to reach the Government office by 3:00 p.m. Eastern Standard Time.

(c) If the ability to upload proposals is unavailable for any reason, this does not constitute an acceptable reason for a late proposal. In that case, one of the other acceptable submission methods must be utilized.

(2) Facsimile offers are NOT authorized for this solicitation.

DIBBS-Upload-Offer-User-Help.pdf (dla.mil)

(3) Offerors submitting proposals using email are advised that DLA Troop Support systems have certain email size and transmission limitations. Proposals must be prepared accordingly. Individual email attachments should not exceed 5MB in size, and no individual email should exceed more than 10 MB per email (multiple email submissions may be necessary). When submitting multiple emails as a proposal submission, label each email with a number (e.g., 1 of 8), accordingly. After transmitting an email submission, offerors should confirm receipt of all emails with the intended recipients. It is an offeror's responsibility to ensure its entire proposal is received by the date and time specified is sufficient time to ensure and confirm receipt by the Government.

DISCUSSIONS/NEGOTIATIONS: As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal Revision(s).

BLOCK 17A. (Continued):

OFFERORS: SPECIFY

CAGE CODE: \_\_\_\_\_

FAX NUMBER \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

COMPANY POC: \_\_\_\_\_

PHONE #: \_\_\_\_\_

BLOCK 17B. (Continued):

Remittance will be made to the address that the vendor has listed in the System for Award Management Database. (www.sam.gov). Offeror's assigned SAM Unique Entity Identifier (UEI):

(If you do not have a SAM Unique Entity Identifier (UEI), 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 contacting www.sam.gov to obtain one.)

BLOCKS 19-24 (Continued):

SEE SCHEDULE OF ITEMS (ATTACHMENT 1)

AUTHORIZED NEGOTIATORS:

The offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposal. Please list names, titles, e-mail addresses, and telephone numbers for each authorized negotiator.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Form****TECHNICAL REQUIREMENTS**

THIS DOCUMENT INCORPORATES TECHNICAL AND/OR QUALITY REQUIREMENTS (IDENTIFIED BY AN 'R' OR AN 'I' NUMBER IN SECTION B) SET FORTH IN FULL TEXT IN THE DLA MASTER LIST OF TECHNICAL AND QUALITY REQUIREMENTS FOUND ON THE WEB AT:

<http://www.dla.mil/HQ/Acquisition/Offers/eProcurement.aspx>. FOR SIMPLIFIED ACQUISITIONS, THE REVISION OF THE MASTER IN EFFECT ON THE SOLICITATION ISSUE DATE OR THE AWARD DATE CONTROLS. FOR LARGE ACQUISITIONS, THE REVISION OF THE MASTER IN EFFECT ON THE RFP ISSUE DATE APPLIES UNLESS A SOLICITATION AMENDMENT INCORPORATES A FOLLOW-ON REVISION, IN WHICH CASE THE AMENDMENT DATE CONTROLS.

**Continuation of Blocks on the SF**  
**1449**

**1. Block 8 (Continued):**

Offer Due Date/ Local Time Is: **January 17, 2023 AT 3:00 P.M, EASTERN TIME ZONE.**

**2. Block 9 (Continued):**

**All offers must submit via Electronic mail (e-mail) to: [Amanda.Quaile@dla.mil](mailto:Amanda.Quaile@dla.mil) and [Vincent.Key@dla.mil](mailto:Vincent.Key@dla.mil)**

**Solicitation Number: SPE300-22-R-0035**

**Opening/Closing Date and Time: December 15, 2022 - January 17, 2023 at 3:00 P.M. EASTERN TIME ZONE**

**IMPORTANT NOTES:**

----- **Electronic mail (e-mail) is the only acceptable form of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation and will be used during discussions/negotiations, if discussions/negotiations are held.**

**3. Block 10 (Continued):**

**NAICS: 311511**

**Size Standard: 1,000 Employees**

**4. Block 15 (Continued):**

SEE DELIVERY SCHEDULE

**5. Block 17A (Continued):**

Ø OFFERORS: SPECIFY FAX NUMBER(S):

EMAIL ADDRESS:

**6. Block 17B (Continued):**

REMITTANCE WILL BE MADE TO THE ADDRESS THAT THE VENDOR HAS LISTED IN THE SYSTEM FOR AWARD MANAGEMENT (SAM) DATABASE.

Offeror's assigned DUNS number:

**7. Authorized Negotiators:**

The offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposal. Please list names, titles, telephone

**CONTINUED ON NEXT PAGE**

**Form (CONTINUED)**

numbers, facsimile (FAX) numbers and emails for each authorized negotiator.

**8. Blocks 19-24 (Continued):**

SEE SCHEDULE OF ITEMS

**Caution Notice**

This acquisition will utilize the Lowest Price Technically Acceptable Source Selection Process. See 52.212-2 Evaluation - Commercial Items. This procurement is being solicited on an unrestricted basis with Hubzone evaluation preference.

This procurement is being solicited on an unrestricted full-competition basis with HUBZONE evaluation preference. Solicitation **SPE300-22-R-0035** is designed to place market ready fresh milk and other dairy items, all fully competitive, on contract for various customers in the state of **Kansas/Missouri**. The resultant contracts will be fixed price Indefinite Quantity Contracts (IQC's) with EPA applied to Class 1 fluid milk items and firm-fixed price for all other items, for an indefinite quantity, within stated limits, of specific supplies to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (FAR 16.540(a)). The duration of the contracts are for a term of 36 months (three-year period). For all Class I fluid milk items, the EPA will be applied throughout the contract. Pricing for all other items will have two separate pricing tiers and the pricing will remain firm-fixed for each pricing tier. The first pricing tier shall be for the 18-month period beginning on January 22, 2023 and ending on July 20, 2024. The second pricing tier shall be for the following 18-month period beginning on July 21, 2024 and ending on January 17, 2026. The effective ordering period for any contract resulting from this solicitation shall be from January 22, 2023 and ending on January 17, 2026.

The resultant contracts will be for a thirty-six month

period. The solicitation contains three (3) groups:

**Group 1: KS: Ft. Leavenworth**

**Group 2: MO: Ft Leonard Wood**

**Group 3: KS: Ft. Riley**

**Based on the Berry Amendment, all dairy items must be produced and manufactured in the United States (DFARS 252.225-7012).**

**IMPORTANT: Please be aware that any proposal submitted in response to this solicitation MUST comply fully with its terms and conditions. All proposals must contain all pertinent information required by the solicitation. Said information will be reviewed by the Contracting Officer for completeness and accuracy. Providing an incomplete proposal and/or inaccurate information may result in the proposal being deemed technically unacceptable by the Contracting Officer. If such a determination is made, the technically unacceptable proposal will be immediately removed from competition and therefore**

**CONTINUED ON NEXT PAGE**

**Form (CONTINUED)**

**ineligible for the award.**

**\*\*THE GOVERNMENT INTENDS TO AWARD TO THE RESPONSIBLE OFFEROR THAT CONFORMS TO THE SOLICITATION REQUIREMENTS AND OFFERS THE LOWEST PRICE\*\***

**If you have any questions, please contact the Contract Specialist or Contracting Officer that is associated with this procurement. Contact information is provided below for your convenience.**

**Contract Specialist:**

Vincent Key (215)  
737-4622  
Vincent.Key@dla.mil

**Contracting Officer:**

Amanda Quaile  
(215) 737-7805  
Amanda.Quaile@dla.mil

**Caution - Contractor Code of Business Ethics (Feb 2012)**

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.

**Notice to our Valued Suppliers**

*The following attached forms require information to be furnished by each offeror. Any questions may be directed to the Contract Specialist at the telephone number shown or email listed on the cover sheet of this solicitation. Return one (1) completely filled out solicitation in its entirety.*

**CONTINUED ON NEXT PAGE**

**Form (CONTINUED)**

1. Complete Standard Form 1449, 17a, 30a, b and c.
2. Complete all Supplies/Prices "Schedule of Items" spreadsheets (Offered Prices) and Qualifications.
3. Sign and return any/all amendments.
4. Complete the CAGE Code and DUNS number.
5. Complete all of the following and any additional Offeror Representations and Certifications:

AUTHORIZED NEGOTIATORS

Review the REVISED INFORMATION noted via Clause 52.212-2, Evaluation - Commercial Items

FAR 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS -- COMMERCIAL ITEMS

FAR 52.215-6 PLACE OF PERFORMANCE

Completion of 52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (DEC 2019) FAR and Representation in 52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES- REPRESENTATION (DEC 2019) FAR

The requirements for Clause 52.222-37 (see Addendum to FAR 52.212-5), Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212) mandate annual reporting of certain statistics on a form titled "Federal Contractor Veterans' Employment Report VETS-100."

-Statement of Work - complete all requested information

**All offerors are required to submit a Wholesale Price List with their offer.**

**ALL VENDORS MUST BE REGISTERED IN THE SYSTEM FOR AWARD MANAGEMENT (SAM) TO RECEIVE AN AWARD. SEE CLAUSE 52.212-4(t)**

**GO TO [HTTPS://WWW.SAM.GOV](https://www.sam.gov) FOR DETAILS**

**Please submit the CAGE Code: \_\_\_\_\_**

**[STORES \(Subsistence Total Order and Receipt Electronic System\)](#)**

The automated STORES (Subsistence Total Order and Receipt Electronic System) will be used to the maximum extent practical on the resultant contracts from this solicitation. Orders will be sent via a computer-generated fax (STORES purchase order). In order to facilitate the receipt and payment process, there is specific information contained on the STORES purchase order that MUST be mirrored on the vendor's invoice. The information may have to be hand written on the invoice. Please ensure the information is correct and legible. Invoices for those customers placing orders under STORES must be submitted for payment to the following address:

DFAS BVDP (SL4701)  
P.O. Box 369031  
Columbus, Ohio 43236-9031

**CONTINUED ON NEXT PAGE**

**Form (CONTINUED)****Electronic Invoicing by Suppliers via Electronic Commerce/Electronic Data Interchange:**

All suppliers are required to process invoices electronically. **This is a condition for contract award.** An electronic invoicing system expedites payments by providing a real time system for invoice processing. In an effort to ensure that your firm is paid promptly for products that you supply, we want to utilize the best business practices available. The business practices of today reflect increased utilization of Electronic Commerce/Electronic Data Interchange providing more timely and cost effective ways of information exchange. DLA Troop Support, Subsistence is migrating towards more and more use of the electronic mediums available to conduct business with you as our business partners. The Defense Logistics Agency has undergone an Enterprise Business Systems (EBS) initiative. This EBS initiative will change the way you currently invoice. EBS conforms to a strict adherence of detailed line item payment in concert with the order. The manual paperwork will no longer be a viable way to invoice. Invoices need to be submitted for payment promptly after delivery. Our intention is to provide you a quick and easy way to submit your invoices for payment and to help ensure prompt and accurate payments. Efforts have been underway for some time to bring a resolution for you to be able to accomplish Electronic Data Interchange with the invoices. Alternatives available are:

1. If your company is able to exchange information electronically through ANSI X12 format, we could set your company up as an EDI vendor immediately, being able to receive orders and send invoices electronically.
2. There are companies available who for a fee will turn your flat files into EDI Invoices (810 transactions).
3. The STORES/BSM Reconciliation (Recon) Tool web application is used to submit your invoices electronically. This system can be found on the DLA TROOP SUPPORT web page for Subsistence, [https://www.stores.dla.mil/stores\\_web/default.aspx](https://www.stores.dla.mil/stores_web/default.aspx). You will be issued a User ID and Password, after properly registering for this site. This application will allow you to see on the website receipts by the customers, for your contracts only. You can review the receipt and, if in agreement you will simply type in an invoice number to submit your invoice to DFAS. This receipt information is available at this website for 8 weeks. The user will have the ability to add lines or change existing lines to reflect what was delivered. The changes will be e-mailed to your DLA Troop Support Account Manager, who will work at resolving the differences; however, the customer must make the corrections electronically. Vendors are encouraged to wait until the receipt is adjusted to submit their invoices. The system will be updated daily from the receipt files. Invoices submitted using this website will generate an EDI invoice to flow through the paying process

at DFAS. If you need additional information on electronic or alternate electronic invoice processing, contact your DLA TROOP SUPPORT Account Manager or Buyer or use the Recon Training Tool.

**One of the listed methods must be used as paper invoices are no longer a viable option.**

A sample STORES order is illustrated for informational purposes only. The information indicated in the five elements below is required to be identified on the vendor's invoice in order for the vendor to be promptly paid by DFAS. These elements are on the system generated STORES purchase order, and the information needs to be transferred to the invoice.

1. Contract Number - i.e. SPE300-15-D-V500 (on attached sample). This number will remain constant throughout the life of the contract.
2. Call Number - i.e. 408Y (This is the Julian date and the Lap ID number of the purchase order). This number will change with every order.
3. Lead CLIN No. - i.e. 55 (This is the item number on the purchase order). This number will change with every order.
4. Purchase Order Number - i.e. FT123490912211. This number will change with every order.
5. Required Delivery Date (RDD) i.e. 4/3/15. This date will change with each order.

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**Form (CONTINUED)**

Each order will contain similar information. Contractor is responsible to extract the correct information from the STORES order for each invoice.

**SAMPLE OF SENT ORDER DETAILS**

Purchase Order Number: FT123490912211  
 Contract Number: SPE30015DV500  
 Vendor: VENDOR NAME  
 Call Number: 408Y  
 Ordering Point: FT1234  
 Ship To DoDAAC: FT1234  
 RDD: 4/3/2015  
 Receipt Date:  
 Source of Receipt: Manual

**Include?**

CLIN

Document Number

Stock Number

FIC

Description

U/M

PRF DLA TROOP SUPPORT

Order Qty

Receipt Qty

Cost

Proj Code

*Part Number U/I Price*

55

FT123490913203 891001E112644 MILK, CHOC, LOW FAT, CHL, 1% MILK FAT, 5 GAL BIB

CO

1

CO

\$10.51

1

\$10.51

28348

56

FT123490913204 891001E112161 MILK, LOW FAT, CHL, 1% MILK FAT, 5 GAL BIB

CO

1

CO

\$10.09

2

\$20.18

15056

57

CONTINUED ON NEXT PAGE

**Form (CONTINUED)**

FT123490913205 891001E113402 CHEESE, COTTAGE, CHL, CREAMED, LARGE OR SMALL CURD, 5 LB CO  
 CO  
 1  
 CO  
 \$8.58  
 8  
 \$68.64

25140  
**Total: \$99.33**

**Provisions and Clauses****52.216-9032 Economic Price Adjustment (EPA) - Established Market Price - Milk****ECONOMIC PRICE ADJUSTMENT (EPA) - ESTABLISHED MARKET PRICE - MILK (FEB 2009)**

(a) To the extent that contingent cost increases are provided for by this clause, the Contractor warrants that prices included in the contract do not include any amount to protect against such contingent cost increases.

(b) This EPA clause applies to skim milk and butterfat fluid milk products classified as class I milk only (i.e., whole milk, fat-free milk, low fat milk, light milk, reduced fat milk, milk drinks, eggnog and cultured buttermilk, including any such beverage products that are flavored, cultured, modified with added nonfat milk solids, sterilized, concentrated, or reconstituted. As used in this paragraph, the term concentrated milk means milk that contains not less than 25.5 percent, and not more than 50 percent, total milk solids). Any package sizes other than gallons will be pro-rated based upon the price adjustment per gallon.

(c) Class I milk, as described in this clause, is subject to the regulations of the United States Department of Agriculture under the Federal milk marketing orders.

(d) The economic indicator for the purpose of prospective adjustments to contract prices under this clause shall be the Class I price [(base skim milk price for Class I times 0.965) plus (advanced butterfat pricing factor times 3.5)] in the announcement of advanced prices and pricing factors released by the U.S. Department of Agriculture, Agricultural Marketing Service, dairy programs. The announcement is released on the Friday before the 23rd of the month unless the 23rd of the month falls on a Friday in which case, Friday the 23rd will be the release date.

(e) Price adjustments shall be based on the following:

(1) The "base price" for the purpose of the initial adjustment calculation under this clause shall be the current month price of the economic indicator in effect at (i) the closing date for proposals, if no discussions are held, or

(ii) the due date for final proposal revisions, if discussions are held. The "base price" for each subsequent monthly adjustment calculation shall be the adjusting price from the previous month.

(2) The "adjusting price" shall be the monthly price of the economic indicator released following the month used to determine the "base price".

(f) For the purpose of price adjustments pursuant to this clause:

(1) Adjustments will be made in increments of \$0.01 per gallon when and only when the change per gallon in either direction is equal to or greater than +/- \$0.0100.

(2) Adjustments in excess of \$0.0100 per gallon and in excess of \$0.0050 for units other than a gallon (i.e.,

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**Form (CONTINUED)**

half gallon, quart, pint and half pint) will be rounded to two decimal places to accommodate systems requirements of the subsistence total order receipt electronic system (STORES), as follows:

\$0.0050 to \$0.0099 = \$0.01  
 \$0.0100 to \$0.0149 = \$0.01  
 \$0.0150 to \$0.0199 = \$0.02  
 \$0.0200 to \$0.0249 = \$0.02  
 \$0.0250 to \$0.0299 = \$0.03, etc.

(3) One hundred weight (CWT) as used in the price of the economic indicator equates to 11.63 gallons of milk deliverable under this contract.

(g) Promptly following release of the announcement of advanced prices and pricing factors applicable to the following month, the Contracting Officer shall compute the adjustments, if any, to the current contract prices for the purpose of determining any revised prices applicable to orders for the next month in the manner detailed below:

- (1) Compute adjusting price.
- (2) Compute base price.
- (3) Compute change from base price.
- (4) Convert the price change to price per gallon.
- (5) Compute price change for other units other than a gallon.
- (6) Round price adjustment(s) from lines (4) and (5) to nearest \$0.01 increment (see paragraph (f)(2)).
- (7) Compute adjusted contract unit price(s). The following sample price computation is an illustration using January as the base price and February as the adjusting price.

## (1) Adjusting price

Base skim milk price for Class I \$7.72 CWT X 0.965 \$ 7.4498

Advanced butterfat pricing factor \$0.9302 LB X 3.5 \$ 3.2557

Class I Price \$10.7055

## (2) Base price base skim milk

Price for Class I \$7.72 CWT X 0.965 \$ 7.4498

Advanced butterfat pricing factor \$0.9854 LB X 3.5 \$ 3.4489

Class I Price \$10.8987

## (3) Change from base price per CWT (\$0.1932)

(4) Price change per gallon Line (3) divide by

11.63 gallons/cwt (\$0.0166)

(5) Price change per half gallon (\$0.0083)

Price change per quart (\$0.0042)

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**Form (CONTINUED)**

Price change per pint (\$0.0021)  
Price change per half pint (\$0.0010)  
(6) Price adjustment per gallon (\$0.02)  
Price adjustment per half gallon (\$0.01)  
Price change per quart \$0.00  
Price change per pint \$0.00  
Price change per half pint \$0.00  
(7) Adjusted contract unit price  
Item per gallon (current unit price - \$0.02)

Item per half gallon (current unit price -  
\$0.01)  
Item per quart (No adjustment)  
Item per pint (No adjustment)  
Item per half pint (No adjustment)

(h) Revised prices will become effective on the 1st Sunday of the next month and will remain in effect until the next price change occurs.

(i) Price adjustments pursuant to this clause will not be made by separate contract modifications. Adjustments will be implemented by the government as follows, and these actions shall constitute a modification to the contract:

(1) The adjusted contract unit price(s) for the following month will be input in STORES,

(2) A facsimile transmission will be sent to Contractors who do not have electronic access, and

(3) The calculations used to derive the adjusted contract unit price(s) for the following month will be posted on the Internet.

(j) The aggregate of the increases in any contract unit price under this clause shall not exceed 30% of the original contract unit price. The original contract unit price is the price in effect on the date of award. If at any time during the term of the contract, a proposed economic price adjustment will exceed this ceiling, the Government reserves the right to raise this ceiling where changes in market conditions during the contract period support an increase. There is no percentage limitation on the amount of downward adjustments that may be made under this clause.

(k) In the event publication of the economic indicator is discontinued or its method of calculation substantially altered so that it no longer reflects market prices, the parties shall mutually agree upon an appropriate substitute for price adjustment(s) under this clause.

(l) Any dispute arising under this clause is subject to the "disputes" clause of the contract

**ECONOMIC PRICE ADJUSTMENT****EVALUATION OF OFFERS -**

(a) Offers in response to solicitations will be evaluated without adding any amount for economic price adjustment unless the economic price adjustment (EPA) clause included in the solicitation provides for offerors to specify the portion of the contract price subject to EPA. In this case, the offered price(s) subject to the EPA clause will be adjusted to the maximum possible extent under the EPA using the price ceiling limitation provision of such clause for the basic contract plus all options covered by the evaluation. The

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**Form (CONTINUED)**

resulting price(s) will be used for evaluation of offers.

(b) If a successful offeror stipulates a lower maximum increase limitation than that included in the solicitation, it will be incorporated into the resulting contract.

(c) Offers which (1) increase the maximum ceiling percentage specified in the solicitation, (2) stipulate a maximum decrease limit, or (3) delete or otherwise alter the economic price adjustment clause, will not be considered for award, unless the Contracting Officer determines that award on such basis is in the best interests of the Government and all Offerors are afforded an opportunity to offer on the same basis.

**STATEMENT OF WORK**Supplies or Services and Prices**I. INTRODUCTION**

A. The Defense Logistics Agency (DLA Troop Support) intends to support the needs of its customers by entering into one Indefinite Quantity Contract (IQC) per group to supply fresh Milk and Dairy items to the customers stated below. This solicitation contains the estimated requirements for these items for various customers in the state of **Kansas/Missouri**. The solicitation contains three (3) groups:

**Group 1: KS: Ft. Leavenworth**

**Group 2: MO: Ft Leonard Wood**

**Group 3: KS: Ft. Riley**

NOTE: Customers may be added or deleted during the period of the contract.  
(SEE CONTRACT ADMINISTRATION DATA SECTION, ADDITIONAL CUSTOMERS FOR DETAILS)

B. The resultant contract(s) will be fixed price Indefinite Quantity Contracts (IQC's) with EPA applied to Class 1 fluid milk items and firm-fixed price for all other items, for an indefinite quantity, within stated limits, of specific supplies to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (FAR 16.540(a)). The duration of the contract(s) are for a term of 36 months (three-year period). For all Class I fluid milk items, the EPA will be applied throughout the contract. Pricing for all other items will have two separate pricing tiers and the pricing will remain firm-fixed for each pricing tier. The first pricing tier shall be for the 18-month period beginning on January 22, 2023 and ending on July 20, 2024. The second pricing tier shall be for the following 18-month period beginning on July 21, 2024 and ending on January 17, 2026. The effective ordering period for any contract resulting from this solicitation shall be from January 22, 2023 and ending on January 17, 2026.

Delivery - The current delivery schedule for each location is set forth in the statement of work. Offerors shall indicate their agreement to the current schedule or propose an alternate schedule. Delivery on all products is required, no less than on a weekly basis and should be in accordance with standard commercial practice.

**GUARANTEED MINIMUM/MAXIMUM**

The guaranteed minimum for is 10% of the estimated dollar value of TIER 1

The maximum ceiling, on the resultant contract, is 250% of the estimated dollar value of the award per 36-

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**Form (CONTINUED)**

month contract period.

**PRICING**

A. Offerors are required to submit a copy of their current Wholesale Price List Schedule or other documents containing commercial pricing information.

B. Prices shall be FOB Destination only.

C. Offerors are required to cross-reference the prices on the Wholesale Price List, Catalog Price Schedule or other pricing documents to the item number on the solicitation.

There are several ways of accomplishing this, including writing the item number, as specified in the solicitation, next to the price and item description on the price list. Please do not submit a separate list of information especially prepared for this solicitation; the pricing catalog, complete with cross-references, is requested.

In order to accommodate the Government's ordering system, the Subsistence Total Order and Receipt Electronic System (STORES), unit prices are limited to a maximum of two (2) places after the decimal point". In addition, the system requires that prices be fixed for a certain period of time.

**SCHEDULE OF ITEMS**

If a customer desires to order an item that is not listed on the resultant contract(s), a written request to the DLA Troop Support Market Ready Contract Specialist shall be submitted to have the item added. The Contract Specialist will contact the vendor and arrange to have the item added to the STORES catalog in coordination with the Contracting Officer.

Prior to its inclusion in the STORES catalog, the pricing for each additional item must be negotiated and the Contracting Officer must determine that the price for the respective item is fair and reasonable.

Additional items may be added or removed from the contract. However, any items that are added may not increase the value of the contract above the contract maximum.

**IMPORTANT NOTE:** Items not on the STORES catalog CANNOT be ordered from the contractor under the resulting contract. Payments will not be made for items not appearing on the catalog at time of order.

The Government reserves the right to remove any items from the Schedule of Items from the Group should an (all offeror(s) not bid on all the items.

**ADDITIONAL CUSTOMERS**

The Government reserves the right to add or remove DoD customers from the same distribution area as the successful contractor, based on a mutually agreed upon implementation plan followed by formal modification to the contract.

The increase in the new business will be reflected in the 250% maximum. Additional customers are limited to those that receive Federal funding. The Government reserves the right to unilaterally remove DoD customers from the resultant award by way of formal modification.

**CUSTOMER SERVICE POLICY**

The contractor(s) shall treat each of the customers covered under the contract as one of its best customers. Therefore, any treatment and/or customer service policy given to other essential accounts shall also be given to the customers covered under the resulted contract.

**NEGOTIATIONS**

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**Form (CONTINUED)**

For the subject acquisition, the Government intends to evaluate offers and award the 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 negotiations 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; and waive informalities and minor irregularities in offers received.

Initial responses to negotiations shall be in a form of communication customary in the industry for transmitting information to include phone, facsimile transmission, letter, in-person and e-mail.

**NON-MANUFACTURER / NON-DISTRIBUTER**

All offerors are required to provide product originating from a sanitarily approved source and in delivery conveyances that are subject to the Sanitary Conditions clause in the solicitation. Offerors indicating a Place of Performance (manufacturing location) that is not under the day to day control and management of the offeror shall submit documentation that an agreement for production and distribution is in effect at the time of offer covering the period of the contract. The documentation must be signed by the offeror and the proposed subcontractor(s). This does not include similar entities & affiliates of the offeror but applies to non-manufacturers, partners, subcontractors and similar entities that would be performing on the proposed contract but are not the offeror itself. Offerors using a consortium, joint venture or other teaming approaches shall provide evidence of experience pertaining to the execution of the requirements of the solicitation. The freshness requirement of the product being delivered may not be compromised. The offeror's distance from the delivery location is very important. The offeror must be capable of delivering product to arrive at the delivery location the same day for emergency orders.

**Please make sure to read the instructions to fill out the Schedule of Items (SOI) spreadsheet correctly for each group you are offering on. Government has provided you with the customer's requirements and auto calculations as follows:**

Column Name	Column	Description
Item	A	Item Number
Item Name/Description	B	The Government's format begins with a broad category and then continues with a more general description. For example, Milk, Chocolate, Low Fat, Chl. 1% milk fat
Container Size	C	This column displays the requested container size of each item.
Estimate Annual Quantity per Unit	D, E, F	This column represents the estimated number of units to be ordered for each period/tier. Column D = estimated units for Fluid Milk (36 months) Column E = estimated units for Tier 1 (18 months) Column F = estimated units for Tier 2 (18 months)
Measure of Unit	G	This column describes the unit size required per line item. The prices offered will be Prices per Unit.
Total Price per Unit	N, O, P	This column auto calculates the Total Price for each CLIN as follows: <b>Fluid Milk</b> = (Column D * Column K) <b>Tier 1</b> = (Column E * Column L) <b>Tier 2</b> = (Column F * Column M)

**Offerors are expected to complete all the information requested as follows for each item.**

**Form (CONTINUED)**

Column Name	Column	Description
Product Code	I	Enter Company Product Code or UPC.
Wholesale Price	J	Indicate the wholesale price from the customer Wholesale Price List
Price per Unit	K, L, M	Offerors should submit prices Per Unit. For Fluid Milk the price will change monthly based on EPA updates. For Other Dairy the price will be Firm Fixed for each Tier.
Remarks	Q	Write any comment you have for that specific item, such as: different flavor or size, no bid on this item, difference in the item name/description, etc.

**Group 1: KS: Ft. Leavenworth****GOVERNMENT QUALIFICATION:**

The Government expects to award all items within a group but reserves the right to award a contract with less than all listed items if determined to be in the Government's best interests. The Government will make one award. Offerors must offer on both tiers.

**GOVERNMENT QUALIFICATIONS:** IF YOU ARE OFFERING A SIZE OTHER THAN 5 GALLON FOR ANY BULK MILK/JUICE ITEM PLEASE INDICATE BELOW. IF DIFFERENT BULK MILK/JUICE SIZES ARE OFFERED BY DIFFERENT OFFERORS, EVALUATION WILL BE DONE ON A COST PER GALLON BASIS. IF THERE ARE OFFERS FOR ITEMS OTHER THAN THE LISTED SIZE, THEN OFFERS WILL BE EVALUATED ON A PER UNIT BASIS, I.E., GALLONS AND OUNCES. PLEASE NOTE: THE CUSTOMER MUST AGREE TO ACCEPT SIZE CHANGES.

OFFEROR QUALIFICATION: (Qualification pertains to any conditions, deviations, or contingencies upon which offered prices are based).

**IS YOUR COMPANY EDI CAPABLE? (Please circle a response) YES NO**

EDI Code:

**Note:** All troop issue customers are currently processing orders and receipts through EBS. Provide the following information for ordering, invoicing, and payment purposes:

**STORES Recon User ID****Point of Contact who will be operating STORES Recon tool**

Point(s) of Contact for **Ordering/Delivery Issues:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

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**Form (CONTINUED)**Point(s) of Contact for **Invoicing and Payment**: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email &amp; Fax Number: \_\_\_\_\_

Point of Contact for **Item Recalls**: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email &amp; Fax Number: \_\_\_\_\_

The delivery preference is for a 48 hour (skip day) delivery. Please address your ability to adhere to these delivery terms. Delivery is required 48 hours after order is placed. Orders may be placed with a longer lead-time; however, the minimum lead-time is "skip day".

INDICATE YOUR REGULARLY SCHEDULED NON-DELIVERY DAYS:

**BULK MILK CONTAINERS:**

THE BULK MILK/JUICE DISPENSER CONTAINER SHALL BE A SINGLE SERVICE DISPENSER CONTAINER (MULTI-GALLON POLYETHYLENE BAG) AND SHALL BE DELIVERED IN A SINGLE SERVICE SHIPPING CONTAINER (CORRUGATED CARDBOARD BOX) OR A MULTI-SERVICE SHIPPING CONTAINER (PLASTIC/METAL HOLDER/KEEPER CASE) WHICH DOES NOT REQUIRE A TRANSFERRING OF THE SINGLE SERVICE DISPENSER CONTAINER (POLYETHYLENE BAG) TO A HOLDER/KEEPER CASE OR DISPENSER CASE AT POINT OF USE.

**Group 2: MO: Ft Leonard Wood****GOVERNMENT QUALIFICATION:**

The Government expects to award all items within a group but reserves the right to award a contract with less than all listed items if determined to be in the Government's best interests. The Government will make one award. Offerors must offer on both tiers.

**GOVERNMENT QUALIFICATIONS:** IF YOU ARE OFFERING A SIZE OTHER THAN 5 GALLON FOR ANY BULK MILK/JUICE ITEM PLEASE INDICATE BELOW. IF DIFFERENT BULK MILK/JUICE SIZES ARE OFFERED BY DIFFERENT OFFERORS, EVALUATION WILL BE DONE ON A COST PER GALLON BASIS. IF THERE ARE OFFERS FOR ITEMS OTHER THAN THE LISTED SIZE, THEN OFFERS WILL BE EVALUATED ON A PER UNIT BASIS, I.E., GALLONS AND OUNCES. PLEASE NOTE: THE CUSTOMER MUST AGREE TO ACCEPT SIZE CHANGES.

OFFEROR QUALIFICATION: (Qualification pertains to any conditions, deviations, or contingencies upon which offered prices are based).

IS YOUR COMPANY EDI CAPABLE? (Please circle a response) YES

NO EDI Code:

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**Form (CONTINUED)**

Note: All troop issue customers are currently processing orders and receipts through EBS. Provide the following information for ordering, invoicing, and payment purposes:

STORES Recon User ID

Point of Contact who will be operating STORES Recon tool

Point(s) of Contact for **Ordering/Delivery Issues:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

Point(s) of Contact for **Invoicing and Payment:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

Point of Contact for **Item Recalls:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

The delivery preference is for a 48 hour (skip day) delivery. Please address your ability to adhere to these delivery terms. Delivery is required 48 hours after order is placed. Orders may be placed with a longer lead-time; however, the minimum lead-time is "skip day".

INDICATE YOUR REGULARLY SCHEDULED NON-DELIVERY DAYS:

**BULK MILK CONTAINERS:**

THE BULK MILK/JUICE DISPENSER CONTAINER SHALL BE A SINGLE SERVICE DISPENSER CONTAINER (MULTI-GALLON POLYETHYLENE BAG) AND SHALL BE DELIVERED IN A SINGLE SERVICE SHIPPING CONTAINER (CORRUGATED CARDBOARD BOX) OR A MULTI-SERVICE SHIPPING CONTAINER (PLASTIC/METAL HOLDER/KEEPER CASE) WHICH DOES NOT REQUIRE A TRANSFERRING OF THE SINGLE SERVICE DISPENSER CONTAINER (POLYETHYLENE BAG) TO A HOLDER/KEEPER CASE OR DISPENSER CASE AT POINT OF USE.

**Group 3: KS: Ft. Riley****GOVERNMENT QUALIFICATION:**

The Government expects to award all items within a group but reserves the right to award a contract with less than all listed items if determined to be in the Government's best interests. The Government will make one award. Offerors must offer on both tiers.

**GOVERNMENT QUALIFICATIONS:** IF YOU ARE OFFERING A SIZE OTHER THAN 5 GALLON FOR ANY BULK MILK/JUICE ITEM PLEASE INDICATE BELOW. IF DIFFERENT BULK MILK/JUICE SIZES ARE OFFERED BY DIFFERENT OFFERORS, EVALUATION WILL BE DONE ON A COST PER

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**Form (CONTINUED)**

GALLON BASIS. IF THERE ARE OFFERS FOR ITEMS OTHER THAN THE LISTED SIZE, THEN OFFERS WILL BE EVALUATED ON A PER UNIT BASIS, I.E., GALLONS AND OUNCES. PLEASE NOTE: THE CUSTOMER MUST AGREE TO ACCEPT SIZE CHANGES.

OFFEROR QUALIFICATION: (Qualification pertains to any conditions, deviations, or contingencies upon which offered prices are based).

IS YOUR COMPANY EDI CAPABLE? (Please circle a response) YES

NO EDI Code:

Note: All troop issue customers are currently processing orders and receipts through EBS. Provide the following information for ordering, invoicing, and payment purposes:

STORES Recon User ID

Point of Contact who will be operating STORES Recon tool

Point(s) of Contact for **Ordering/Delivery Issues:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

Point(s) of Contact for **Invoicing and Payment:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

Point of Contact for **Item Recalls:** \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email & Fax Number: \_\_\_\_\_

The delivery preference is for a 48 hour (skip day) delivery. Please address your ability to adhere to these delivery terms. Delivery is required 48 hours after order is placed. Orders may be placed with a longer lead-time; however, the minimum lead-time is "skip day".

INDICATE YOUR REGULARLY SCHEDULED NON-DELIVERY DAYS:

**BULK MILK CONTAINERS:**

THE BULK MILK/JUICE DISPENSER CONTAINER SHALL BE A SINGLE SERVICE DISPENSER CONTAINER (MULTI-GALLON POLYETHYLENE BAG) AND SHALL BE DELIVERED IN A SINGLE SERVICE SHIPPING CONTAINER (CORRUGATED CARDBOARD BOX) OR A MULTI-SERVICE SHIPPING CONTAINER (PLASTIC/METAL HOLDER/KEEPER CASE) WHICH DOES NOT REQUIRE A TRANSFERRING OF THE SINGLE SERVICE DISPENSER CONTAINER (POLYETHYLENE BAG) TO A HOLDER/KEEPER CASE OR DISPENSER CASE AT POINT OF USE.

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**Form (CONTINUED)****Ordering System****I. Subsistence Total Order and Receipt Electronic System (STORES)**

STORES is the Government's ordering system which is capable of accepting orders from any of the Services', i.e. Army, Air Force, Navy or Marines, individual ordering systems and translating the orders into an EDI (Electronic Data Interchange) format. In addition, this information is transmitted to DLA TROOP SUPPORT for the purposes of contractor payment and customer billing.

Customers will be able to order all of their Milk and Dairy requirements through STORES.

- A. Initially, a copy of the STORES Orders will be transmitted via FAX (unless they are an EDI vendor) from the customers listed in this solicitation to the successful awardee. While it is not a requirement of this solicitation, vendors are encouraged to have a separate FAX line in order to accommodate orders in a timely, efficient manner.
- B. EDI capability is not a requirement for award under this solicitation; however, offerors should consider moving towards a fully functional EDI environment. In order to interface with STORES electronically, the offeror must be able to support the following EDI transaction sets:
  - Catalog (Vendor to DLA TROOP SUPPORT)
  - Purchase Order
  - Functional Acknowledgment
  - Receipt
  - Invoice (optional at this time)
- C. It is preferred that the successful vendor has access to the Internet and is able to send and receive electronic mail (e-mail).
- D. The EDI-capable vendor must be able to conform to the Government's format for Item Descriptions on both the catalog and the invoices. The Government's format begins with a broad category and then continues with a more general description. For example, a half pint of whole milk would be described as "Milk, Whole, CHL (Chilled), ½ PT CO".
- E. Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point.

**II. Order Placement**

- A. Customers shall place orders via STORES to accommodate order lead time stated on contract. Orders shall generally be sent no later than 10:00 a.m. two (2) days prior to the desired delivery date (or specified lead-time on contract) in order to ensure maximum availability of product. However, a customer may decide to place an order with a longer lead-time for delivery except as noted on Section VI-A. Holidays of this Solicitation.
- B. The vendor should notify the customer, no later than 24 hours after order placement, of the non-availability of an item. If it appears that the vendor will not be able to fulfill the order in time to

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**Form (CONTINUED)**

meet the required delivery date, the vendor shall either offer the customer a substitute of equal or higher quality and of equal or lower cost, or advise the customer of its Not-in-Stock position.

- C. There shall be no line-item (LSN) additions to existing STORES orders. Requirements for additional LSN's to prior/existing orders shall be ordered by customers via STORES as a new and separate STORES order.
- D. All pricing is at the time the order is placed.

**Purchase Orders**

There shall only be **one invoice per purchase order and only one purchase order per day**. This will reduce invoice and payment issues. At no time is a delivery driver permitted to deliver items that do not appear on the purchase order.

**DESCRIPTIONS/SPECIFICATIONS****Product Quality**

Acceptance of supplies awarded under this solicitation will be limited to fresh product. All products delivered under this contract must conform to the following **freshness requirements**. Fluid dairy products and other dairy products shall have sufficient remaining shelf life commensurate with good commercial practice. Each container, carton, etc. shall have visible, legible, and understandable "sell-by-date" or equivalent.

1. Milk, Whipping Cream (fresh), Cream (fresh) and Half-and-Half (fresh), Ice Milk Mix, Fresh (soft serve), Milk Shake Mix, Fresh (direct draw), Buttermilk and Eggnog must be delivered with a minimum 10 days shelf life remaining.
2. Whipping Cream (ultra-pasteurized), Half-and-Half (ultra-pasteurized), and Cream (ultra-pasteurized) must be delivered with a minimum 14-day shelf life remaining.
3. Cottage Cheese, cultured and acidified, normal and extended shelf life must be delivered with a minimum 14-day shelf life remaining.
4. Sour Cream must be delivered with a minimum 21-day shelf life remaining.
5. Yogurt must be delivered with a minimum of 18-day shelf life remaining.
6. Ice Cream must be delivered with a minimum 120-day shelf life remaining.

Commercial standards should be used to maintain temperatures appropriate for the individual items.

**Contractor Quality Program**

The contractor should develop and maintain a quality program for product acquisition, warehousing and distribution to assure the following:

- Standardized product quality;
- The usage of First-In, First-Out (FIFO) principles;
- Product shelf life is monitored;
- Items are free of damage;
- Correct items and quantities are selected and delivered;
- Customer satisfaction is monitored;
- Product discrepancies and complaints are resolved and corrective action is initiated;
- Supplier, FDA, or DoD initiated food recalls are promptly reported to customers and DLA

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**Form (CONTINUED)**

Troop Support;

- Compliance with EPA and OSHA requirements;
- Salvaged items or products shall not be used;

The vendor shall comply with any findings or corrective actions noted on all its mandatory monthly and yearly inspections and audits performed by County, State, and Federal Agencies including the Food and Drug Administration and US Department of Health & Human Services. The vendor will immediately notify the Contracting Officer of any negative findings by any of these auditing agencies which affect the performance of its contract(s) and of the vendor's corrective action. The Contracting Officer may request copies from the vendor of any negative County, State, or Federal health inspection which affects its contract(s).

Failure to comply with County, State, and Federal milk regulations; apply corrective actions to audit findings; or not maintaining its pasteurization plant compliance at a rate of at least 90 percent or higher, as certified by a state milk sanitation officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers" may result in termination of the contract at the vendor's expense. In the event the vendor is subcontracting milk, dairy, or ice cream products, the vendor shall be responsible for replacing any noncomplying subcontractor with an approved subcontracting source or risk termination of the contract.

The vendor shall have in place the proper temperature controls in their warehouse to ensure product is stored at commercially acceptable temperature settings.

#### Warehousing and Sanitation Program/Stored Product Pest Management

The contractor shall develop and maintain a sanitation program and a stored product pest management program for food and other co-located non-food items that comply with industry standard programs such as the Code of Federal Regulations, Title 21, part 110, Food Manufacturing Practices, the Federal Insecticide, Fungicide and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as all pertinent state and local laws and regulations. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request.

#### Contractor Quality Audits

The Government may conduct formalized audits to verify the vendor's adherence to the contract requirements and the quality of product being supplied under any resultant contract.

#### Recall Procedures Requirements

A. In the event that a product recall is initiated by the USDA, the Contractor, or the Contractor's supplier or manufacturer, the Contractor shall follow the procedures as outlined below:

1. Immediately notify the following personnel:

- (a) Customers that have received the recalled product.
- (b) DLA Troop Support Contracting Officer.
- (c) DLA Troop Support Account Manager.
- (d) DLA Troop Support Customer Safety Officer at (215) 737- 2922.

2. Provide the following information to the DLA Troop Support Consumer Safety Officer:

**Form (CONTINUED)**

- (a) Reason for recall
- (b) Type of recall, i.e., Type I, II or III.
- (c) Description of product.
- (d) Amount of product.
- (e) List of customers that have received product.
- (f) Name and phone number of responsible person (Recall Coordinator).

3. The Contractor shall provide a Final Status Report of Recall, when completed, to the DLA Troop Support Consumer Safety Officer.

4. At the discretion of the affected customers, the Contractor shall either replace at no additional cost or adjust the invoice quantity for any recalled product.

A. In the event of a DoD All Food and Drug Acts ("ALFOODACT") notification resulting from a product recall, the Contractor shall provide the following information within 72 hours after recall notification (ALFOODACT) to their Contracting Officer (KO), Contracting Specialist, Tailored Vendor Logistics Specialist (TVLS) and/or Contracting Officer Representative (COR).

Additionally, this information will be sent to the DLA Troop Support Subsistence Food Safety Office at [dscpcnssafofc@dla.mil](mailto:dscpcnssafofc@dla.mil):

- 1) ALFOODACT 201X-XXX
- 2) DLA Contract Number:
- 3) Unit of Measure:
- 4) Quantity Currently in Stock:
- 5) List of customers that received product AND (a-h) for each customer:

- a. Customer name and location:
- b. DLA Purchase Order Number:
- c. Vendor Invoice Number:
- d. Item Stock number (LSN, NSN):
- e. Quantity Shipped:
- f. Date Shipped:
- g. Value of Affected Product:
- h. Amount of credit due:

**MANAGEMENT REPORTS**

A. The Contractor shall electronically transmit the following reports to the DLA Troop Support Contracting Officer and Account Manager on a monthly basis. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (e.g., for the reporting period of January 1 through January 31, the reports must be received by February 7).

- 1. Fill Rate Report: The fill-rate is calculated by dividing the number of containers accepted by the customer by the number of containers ordered. No other method of calculating fill rates should be included. Mis-picks and damaged or rejected containers should not be included in this calculation. The report should specify fill rates per customer and an overall average fill-rate for all customers under the contract for the month being reported. For further fill rate explanation, see Section FILL RATE.

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**Form (CONTINUED)****Packaging, Packing and Labeling**

- A. All packaging shall be in accordance with good commercial practice. Labeling shall be in accordance with commercial labeling complying with the Federal Food, Drug and Cosmetic Act and regulations promulgated thereunder. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.
- B. All items must be adequately protected during inclement weather.

**INSPECTION AND ACCEPTANCE****Inspection and Acceptance**

- A. Contractor's delivery vehicles will stop and report to the veterinary inspection points as designated for inspection of products before proceeding to any other designated delivery point.
- B. Inspection and Acceptance of products will be performed at destination. The inspection is normally limited to identity, count and condition; however, this may be expanded if deemed necessary by either the military Veterinary Inspector, Medical Personnel, or Contracting Officer.
- C. All deliveries are subject to military veterinary inspection. In addition, the delivery vehicles may be inspected for cleanliness and condition.
- D. The Food Service Officer (and/or) Authorized Receiving Official (ARO) at each delivery point (are/is) responsible for inspecting and accepting products as they are delivered. The invoice/delivery ticket shall not be signed prior to inspection of the product. All overages, shortages, and/or returns are to be noted on the delivery ticket by the receiving official and the truck driver. A signature on the delivery ticket/invoice denotes acceptance of the product.

**RapidGate, Defense Biometric Identification System (DBIDS) Requirement and/or Other Security Programs**

Many bases may require enrollment in either RapidGate or the Defense Biometric Identification System (DBIDS). Both RapidGate and DBIDS manage access to Department of Defense (DoD) installations and will not allow entry without clearance. During the contract start-up/ implementation period, the Contractor must contact all customer locations to determine whether enrollment in RapidGate, DBIDS, or another security program is required for access to each location. If RapidGate, DBIDS, or other security enrollment is required, the Contractor must take all necessary steps to obtain this in time for the start of performance under this contract.

Failure to have clearance may result in a vendor being turned away from the base and being unable to complete delivery. The Contractor is responsible for any costs associated with RapidGate, DBIDS, and/or other security program enrollment and must ensure that a RapidGate or DBIDS enrolled driver is available for all deliveries.

We currently estimate that RapidGate enrollment will cost about \$250 per company and \$200 per enrolled employee for 1 year of access to multiple locations, but the cost of RapidGate or other security enrollment may vary, so the Contractor should contact RapidGate to determine its own costs. If more than one driver is

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**Form (CONTINUED)**

required, RapidGate or DBIDS enrollment must be obtained for each driver. Note that enrollment can take several weeks, so an awardee that is not already enrolled must begin enrollment at the time of award notification at the latest. If difficulty or delay in enrollment in RapidGate or DBIDS is encountered during the start-up/implementation period, the Contractor MUST contact RapidGate, DBIDS, and/or the Security Officer at the applicable customer locations to resolve any issues with processing RapidGate, or DBIDS enrollment so that the Contractor will be able to deliver as required.

Please note that RapidGate and/or the Defense Biometric Identification System (DBIDS) is currently a requirement for access to some military bases; however, these and other locations may require enrollment in other security programs now or at some time in the future. In this event, the contractor is responsible for obtaining all required enrollments and clearances for each of their drivers as soon as they receive notice of such a requirement.

For additional information regarding RapidGate and DBIDS, including enrollment instructions, please visit their websites at [www.rapidgate.com](http://www.rapidgate.com) and <http://dbids.dmdc.mil/DBIDS>

**Warranties**

The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties the contractor gives to any customer for such supplies and the rights and remedies provided therein are in addition to and do not limit any rights afforded to the Government by Clause 52.212-4(o) "Warranty" contained in the solicitation.

**Rejection Procedures**

- A. If product is determined to be defective, damaged, or compromised in any other manner, it may be rejected by the Authorized Receiving Official (ARO). All suspect items shall be segregated.
- B. When product is found to be nonconforming or damaged or otherwise suspect, the receiving personnel shall notify the Food Service Officer (FSO) (and/or) Authorized Receiving Official.
- C. It is a requirement of this solicitation that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the contractor from responsibility, nor impose liability on any of the customers, for nonconforming supplies.
- D. If an item is rejected at the time of delivery, the delivery ticket/invoice must be annotated to reflect what item(s) and quantity (ies) were affected. The line item dollar value, as well as, the total invoice dollar value must be adjusted to reflect the adjusted value of the shipment.
- E. If product is rejected after the delivery occurred, the vendor must pick up the rejected product at the time the next regular shipment is made.

**Contract Closeout**

Individual delivery orders shall be invoiced within five (5) days from the actual date of delivery. Cumulative delivery order closeout will result in total contract closeout. It is the Government's intent to closeout contracts within 60 days from the date of the final delivery.

**DELIVERIES AND PERFORMANCE****I. ITEM AVAILABILITY****CONTINUED ON NEXT PAGE**

**Form (CONTINUED)**

All items must be available in sufficient quantities to fill the customers' requirements. **ALL DELIVERIES MUST BE MADE WITHIN 48 HOURS AFTER ORDER PLACEMENT OR LEAD TIME STATED IN CONTRACT UNLESS OTHERWISE AUTHORIZED BY THE CUSTOMER.**

Contractors must have the ability to provide to the customers a range of milk and other dairy items in sufficient quantities to fill all customer requirements and maintain the overall 97% contract fill rate. All supplies shall be delivered on a "fill or kill" per line item basis (i.e. If a Contractor cannot fill a line item, the line item dies). Therefore, item substitutions are not authorized.

- B. Contractors shall notify the customer within 24 hours of required delivery date/time of the non-availability of any particular ordered item, whether in whole or in part. The customer may choose to replace the non-available item with another item from the contract catalog by placing a new, separate order for the item in STORES as applicable. Assuming the proper procedure is followed, this circumstance (i.e. replacement of a NIS item with a separate order for another catalog item) will not negatively impact a Contractor's fill rate.

**II. DELIVERY INSTRUCTIONS**

- A. Deliveries shall be made FOB Destination to each ordering activity and shall be free of damage, with all packing and packaging intact.
- B. Deliveries shall be made when and as requested by the Ordering Officer(s) of the activity concerned, and shall be accompanied by the delivery ticket of the dealer in triplicate, showing the exact quantities delivered. Deliveries shall be made by the contractor any day, except Holidays, between the hours and location specified by the Ordering Officer (see Delivery Points /Schedule).
- C. Deliveries are required as indicated and between the hours listed on the delivery under Times/Frequency. Occasionally, delivery times may need to be readjusted by the ordering activity.
- D. The customer will be responsible to notify the contractor of any changes in location or departure date.
- E. The contractor warrants that they will provide a person and telephone number where orders and changes can be received between 9:00 am and 4:00 pm, Monday through Saturday.

**III. DELIVERY VEHICLE REQUIREMENTS**

- A. Supplies transported in vehicles that are not sanitary, or that have not maintained the proper temperatures, may be rejected at destination without further inspection.
- B. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.

**IV. NO SUBSTITUTIONS**

- A. If an item is not available, vendor is NOT to substitute an item without having a separate purchase order for the additional item. Customer MUST zero-out unavailable item(s) in STORES. Customer will be directly responsible for payment of any items not appearing on a STORES purchase order.
- B. The customer must authorize any substitution to their order prior to delivery. Substitutions must be of the same or higher quality and at the same or lower price. Payment of items will be based on

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**Form (CONTINUED)**

the price in the vendor's electronic catalog. Therefore, firms that submit an invoice reflecting a higher price for substituted items will not be paid the full amount and will only be reimbursed for the unit price shown in the catalog.

- C. If the price of the substituted item is lower than the price of the item originally ordered, then the vendor shall invoice at the lower price and not the catalog price.

**V. HOLIDAYS**

- A. All orders are to be delivered on the specified delivery date, except for Federal holidays as outlined below. When a scheduled delivery day falls on one of these days, or one designated by your firm, delivery should occur on the next scheduled business day, unless otherwise agreed to by the customer.

New Year's Day  
Martin Luther King's Birthday  
President's Day  
Memorial Day  
Juneteenth  
Independence Day

Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day

NOTE: Saturday holidays are celebrated on the preceding Friday; Sunday holidays are celebrated on the following Monday.

- A. Holidays celebrated by your firm other than those specified above must be listed below. Also specify your policy for celebrating holidays that fall on the weekend.

**II. EMERGENCY ORDERS**

- A. In order to adequately support emergency orders, the vendor must have the ability to provide "same day service" to a customer that is experiencing an emergency situation.
- B. The vendor shall provide, at maximum, two (2) emergency orders per month, per individual ordering activity or individual ship or vessel, at no additional cost to the Government.
- C. The vendor is responsible for furnishing the name of the designated point of contact responsible for handling emergency orders, and his/her phone number and/or pager number, to the customers.

**III. AUTHORIZED RETURNS**

- A. The contractor shall accept returns under the following conditions:
1. Products shipped in error;
  2. Products damaged in shipment;

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**Form (CONTINUED)**

3. Products with concealed or latent damage;
4. Products that are recalled;
5. Products that do not meet shelf-life requirements;
6. Products that do not meet the minimum quality requirements;
7. Products delivered in unsanitary vehicles;
8. Quantity excess as a result of order input error and/or Purchase Ratio Factor error.

B. Any other conditions not specified above that are deemed to be valid reasons for return by the customer.

**IV. SHORT SHIPMENTS/SHIPPING ERRORS**

- A. All short shipments must be annotated by the receiving official on the delivery ticket/invoice accompanying the shipment.
- B. Any product delivered in error must be picked up by the vendor on the same day or by the next delivery day after notification by the ordering activity.

**V. DELIVERY**

- A. A delivery ticket will accompany each delivery citing order number, unit price, itemized, extended and totaled.
- B. It is mandatory that the Delivery Ticket includes the **contract number, call number, lead CLIN number, purchase order number, government unit of issue**. Total quantity shall be based on Government unit of issue.
- C. Prices cited on delivery tickets for STORES orders will be the prices at the time of order and not the prices at time of delivery.
- D. All deliveries exclude national legal holidays unless otherwise indicated by ordering activity.
- E. Items will be off-loaded from the contractor vehicle(s) and contractor personnel will place items delivered inside the dining halls, etc. Deliveries to ships shall be brought to the brow of the vessel, when applicable.
- F. Except for deliveries made to ships, vendors are required to shelf stock in accordance with standard commercial practice unless otherwise directed by the customer.

**CONTRACT ADMINISTRATION  
DATA****I. CONTRACTING AUTHORITY**

- A. The DLA TROOP SUPPORT Contracting Officer is the only person authorized to approve changes to, or modify any requirement of, the contract. Notwithstanding

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**Form (CONTINUED)**

any provisions contained elsewhere in the contract, said authority remains solely with the DLA TROOP SUPPORT Contracting Officer.

- B. In the event the vendor effects any change at the direction of any person other than the DLA TROOP SUPPORT Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made to cover any costs associated with such change.
- C. Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA Troop Support Contracting Officer.

**II. INVOICING**

- A. Each delivery will be accompanied by the contractor's delivery ticket/invoice. Three (3) copies (an original plus two) shall accompany the shipment. The customer shall sign all copies of the invoices/delivery ticket, keep one (1) copy and return the ORIGINAL copy to the vendor. Any changes must be made on the face of the invoice.
- B. All invoicing for payment is to be submitted electronically using the STORES/BSM Reconciliation (Recon) Tool website [https://www.stores.dla.mil/stores\\_web/](https://www.stores.dla.mil/stores_web/)

**No paper invoices shall be submitted to DFAS for payment.**

Each invoice shall contain sufficient data for billing purposes. This includes:

1. Contract Number;
  2. Call Number or Delivery Order Number or Contract Order Number;
  3. Purchase Order Number;
  4. Contract Line Items listed in numeric sequence (also referred to as CLIN order);
  5. DODAAC;
  6. Item Nomenclature;
  7. LSN or NSN;
  8. Quantity purchased per item in DLA TROOP SUPPORT's unit of issue;
  9. Clearly identified and annotated changes on all copies;
  10. Total dollar value of each invoice (reflecting changes to the shipment, if applicable).
- C. All invoices must be "clean", i.e. all debits and/or credits must be reflected on the invoice prior to its submission.
- D. Vendors shall submit **one invoice per purchase order.**
- E. Unit prices and extended prices must be formatted to only two (2) places beyond the decimal point. STORES will not accommodate positions of three (3) and above places beyond the decimal point. For example, an extended unit price of \$1.087 must be rounded up to \$1.09.
- F. Information on the STORES/BSM Reconciliation (Recon) Tool invoicing website: To create an account, go to the website [https://www.stores.dla.mil/stores\\_web/Admin\\_Logon.aspx](https://www.stores.dla.mil/stores_web/Admin_Logon.aspx), and select New Account Request Form and follow the directions. After registration, you will receive a User Name and Password to access data from your contract. You will then be asked to

review data on the website and either post new lines or change existing lines on the site to reflect what was delivered. EDI invoices will be generated, which will be sent to the paying office for payment.

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**Form (CONTINUED)**

G. Vendor Reconciliation Tool - The STORES/BSM Reconciliation tool is available from the DLA Troop Support Subsistence Website at [https://www.stores.dla.mil/stores\\_web/Admin\\_Logon.aspx](https://www.stores.dla.mil/stores_web/Admin_Logon.aspx). This tool is only for vendors that have a DLA TROOP SUPPORT contract and are invoicing using the 810 transaction set. Both invoice and receipt information will be available for review on the EBS website by the Market Ready Vendor. In order to view information on this website you must apply for a password. The reconciliation tool will match the customers' receipts to the vendors' electronically submitted EDI 810 invoice. The vendors will be able to see the lines that did not match for review and possible update. A training tool is available on our homepage under Reconciliation Tool training.

H. All vendors are required to obtain a Public Key Interface (PKI) certificate for each individual that will have access to the DLA Troop Support Reconciliation Tool.

**FILL RATE**

A. Order fill rates shall be calculated by the Contractor on an on-time, per order basis and tracked for monthly submission to the Contracting Officer/Account Manager. To ensure accuracy in the Contractor's reported fill rates, the Government will utilize its own internal data for comparison purposes. The fill rate shall be calculated as follows and shall not include mis-picks, damaged containers or rejected items (**No other method of calculating fill rate will be accepted**):

$$\frac{\text{Containers accepted} * 100}{\text{Containers ordered}} = \text{fill rate \%}$$

**B. Definitions:**

1. Containers Accepted: Product that the customer has received and receipted not including damaged containers, rejected items, or mis-picks.
2. Containers Ordered: Product ordered by a customer through STORES.

C. Contractor is required to maintain at a minimum a **97.0%** fill-rate.

D. The Contractor will submit a monthly report, by customer, to the DLA Troop Support Contracting Officer with the following information:

1. Fill Rate
2. List of all items that were Not in Stock, Returned, Damaged, and/or Mis-picked

**III. PAYMENTS**

A. DFAS Columbus is the payment office for this acquisition.

**Customers are to place orders electronically that will flow through the DLA TROOP SUPPORT ordering system STORES.**

B. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (I) of Clause 52.212-4 "Contract Terms and Conditions - Commercial Items", appearing in the section of this solicitation entitled "Contract Clauses".

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**Form (CONTINUED)**

- C. All offerors must have the ability to accept an 820 transaction set from its financial institution. DFAS Columbus will no longer forward a detailed summary of payment(s). This information will only be available from your bank.
- D. Payment is currently being made in approximately ten (10) days after the receipt of a proper invoice; however, payment is still subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903). All electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.
- E. The Government intends to utilize Electronic Funds Transfer (EFT) to make payments under the resultant contract(s). However, the Government reserves the right to use a manual payment system, i.e. check, if the need arises. Refer to Clause 52.232-33 "Mandatory Information for Electronic Funds Transfer Payment".
- F. VENDOR PAYMENT INQUIRY SYSTEM - ACCESS  
AT: <https://myinvoice.csd.disa.mil/index.html>

**IV. ADMINISTRATION**

- A. Administration of the contract will be performed by DLA TROOP SUPPORT In Philadelphia.
- B. Administration of the individual delivery order will be performed by a designated representative at the ordering activity. This includes approving product substitutions and delivery changes.
- C. The DLA TROOP SUPPORT Contracting Officer must approve any changes to the contract.

**REMOVAL OF GOVERNMENT IDENTIFICATION FROM NON-ACCEPTED SUPPLIES**

(a) The Contractor shall remove or obliterate from a rejected end item and its packing and packaging, any marking, symbol, or other representation that the end item or any part of it has been produced or manufactured for the United States Government. Removal or obliteration shall be accomplished prior to any donation, sale, or disposal in commercial channels. The Contractor, in making disposition in commercial channels of rejected supplies, is responsible for compliance with requirements of the Federal Trade Commission Act (15 United States Code (U.S.C.) 45 et seq.) and the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), as well as other Federal or State laws and regulations promulgated pursuant thereto.

(b) Unless otherwise authorized by the Contracting Officer, the Contractor is responsible for removal or obliteration of government identifications within 72 hours of rejection of nonconforming supplies including supplies manufactured for the Government but not offered or supplies transferred from the Government's account to the cold storage Contractor's account at origin or destination. (For product rejected at destination and returned to the Contractor's plant, the 72 hour period starts with the time of Contractor receipt of returned product). After removal or obliteration is accomplished and prior to disposition, the Contractor must notify the Government inspector.

**FOOD AND DRUG ADMINISTRATION (FDA) COMPLIANCE - DLA TROOP SUPPORT MEDICAL AND SUBSISTENCE**

If any supplies acquired hereunder are recalled under the provisions of the Federal Food, Drug and Cosmetic Act, and regulations there under, the Contractor shall, at the Government's option, either

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**Form (CONTINUED)**

reimburse the Government or repair/replace the recalled supplies. Additionally, the Contractor shall notify the Contracting Officer immediately when a firm decides to voluntarily recall or withdraw any product from the marketplace. Upon notification by the Contracting Officer that supplies acquired hereunder have been recalled, the Contractor shall either (a) accept certificates of destruction from the Government after the supplies have been properly disposed of, (b) request return of the supplies, or (c) if supplies may be repaired on site without transporting them from their location, furnish all materials necessary to effect repairs. Replacement or reimbursement will be accomplished by the Contractor immediately on receipt of Certificates of Destruction or returned supplies. The costs of replacement or repair of supplies, and transportation and handling costs for movement of returned, replaced or repaired supplies within the contiguous United States shall be paid by the Contractor. The provisions of this clause are applicable only when the value of the recalled supplies in the possession of the Government amounts to \$100 or more. The rights and remedies of the Government provided in this clause are in addition to, and do not limit, any rights afforded to the Government by any other clause in the contract.

(End of Text)

**State Minimum Price Regulations**

Acquisitions financed by appropriated funds are made under authority of Chapter 137, Title 10 United States Code (U.S.C.), and the Defense Federal Acquisition Regulation Supplement (DFARS). Pursuant to Paul versus United States decided by the Supreme Court of the United States on 14 January 1963, state minimum distributor price regulations with respect to milk or milk products are not applicable to such acquisitions.

**Special Provisions for Bulk Milk Dispensing Equipment - DLA Troop Support Subsistence**

(a) General. Regulations require that the cost to the Government for bulk milk dispensing equipment must be identified and paid for from a different fund than the milk itself. Accordingly, unit and extended prices on each offered item requiring the furnishing of bulk milk dispensing equipment will be broken down and will state separately (1) the charge for the milk itself, and (2) the charge for the bulk milk dispensing equipment called for by that item. The dispensing equipment charge will include the cost of furnishing, installing, servicing, maintaining and removing such equipment. Evaluation of offers will be based on the total charge for each such item. By submission of this offer, the offeror confirms that the separate charges entered for such items represent the true and accurate charges for the milk and bulk milk dispensing equipment, and that the price offered for milk does not include any cost on account of bulk milk dispensing equipment. Dispensing equipment charge will be the per- gallon rate for equipment and services.

(b) Invoices. Invoices covering items requiring the furnishing of bulk milk dispensing equipment must show separately for each such item the charge for the milk product furnished and the applicable charge for the bulk milk dispensing equipment.

(c) Computations. (Applicable only in contracts which contemplate the use of both government-furnished and Contractor-furnished dispensers.)

(1) Basic. To the extent both government-furnished and Contractor-furnished equipment is to be used in the dispensing of bulk milk required under this contract, the following dispenser charge procedures shall apply. In each case, the Government shall give written notice to the Contractor stating which of the consumption points will employ Contractor-furnished dispensers exclusively. Such points shall be called "Contractor Dispenser Points".

(2) Central deliveries. Where bulk milk is delivered to a central delivery point for redistribution by the Government both to Contractor dispenser points and to other consumption points, data shall be furnished by

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**Form (CONTINUED)**

such central delivery point to the Contractor stating the gallonage issued during the invoice period to Contractor-dispenser points. Such data shall be the basis of invoicing dispenser charges.

(3) Direct deliveries. Where bulk milk is delivered to Contractor Dispenser Points directly by Contractor, delivery receipt data applicable to such points shall be the basis of such invoicing.

(4) Mixed-equipment points. Where bulk milk is delivered either directly or through a central delivery point to any consumption point where any or all of the dispensers are furnished by the Government, no dispenser charges shall be applicable to, such milk, except as provided below. Contractor shall not be required to furnish dispensers at any consumption point where any Government dispensers are located, except as provided below.

(5) Urgency exception. Where urgent requirements, as determined by the ordering officer, necessitate the use of both Government and Contractor-furnished dispensers at the same consumption point, the minimum number of Contractor-furnished dispensers shall be ordered in writing only and supplied to such point. In such case, dispenser charges (per line item) shall apply to that proportion of the bulk milk delivered to such point which corresponds to the proportion of Contractor-furnished dispenser spigots to the total number of spigots at such point. (For example: If half the number of spigots used in dispensing chocolate milk at that point are Contractor- furnished, half of the chocolate milk gallonage there shall be subject to the dispenser charge).

**52.252-1****52.212-1 Instructions to Offerors --Commercial Products and Commercial Services.**

As prescribed in [12.301\(b\)\(1\)](#), insert the following provision:

Instructions to Offerors --Commercial Products and Commercial Services (Nov 2021)

(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 that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees if the acquisition --

(1) Is set aside for small business and has a value above the simplified acquisition threshold;

(2) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(3) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(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

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**Form (CONTINUED)**

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 Federal Acquisition Regulation (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 FAR [subpart 4.10](#)), or alternative commercial products or commercial services 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)

(i) 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.

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**Form (CONTINUED)**

(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.

(i) Availability of requirements documents cited in the solicitation.

(1)

(i) 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:

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**Form (CONTINUED)**

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

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

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

(i) 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](http://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](http://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:

(1) 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 products, the make and model of the product 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.

(End of provision)

**Addendum to 52.212-1**

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

- 1. Paragraph (b),** *Submission of Offers.*

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**Form (CONTINUED)**

- a. See pages 3-4, for any specific instructions on how to submit your offer if mailed or hand carried.
- b. E-mail is an acceptable form of transmission for submission of initial proposals or revisions to proposals submitted in response to this solicitation. E-mailed submissions should be sent to [Amanda Quaile amanda.quaile@dla.mil](mailto:Amanda.Quaile@dla.mil) , and [Vincent Key, vincent.key@dla.mil](mailto:Vincent.Key@dla.mil) . Limit the file size of any individual email attachment to 5MB, and the total size of any email to 10MB. Multiple email submissions may be required. If submitting multiple emails as a proposal submission, label each email with a number (e.g., 1 of 8), accordingly. After transmitting an email submission, offerors should confirm receipt of all emails with the intended recipients.
- c. Facsimile is not an acceptable form of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revisions, including Final Proposal Revisions.

**2. Paragraph (c), Period for Acceptance of Offers, is revised as follows:**

Period of acceptance is **180** days.

**3. Paragraph (h), Multiple Awards, is revised to add the following:**

The Government intends to make one (1) award, for each Group based on the technically acceptable offer with the lowest aggregate evaluated price. In the event that one offeror is the awardee for more than one Group, the award for more than one Group may be issued under a single contract. Offerors shall submit their best proposal for each Group independently due to the Government's right to make separate awards for Group 1. Offerors are required to offer on all items in the Schedule of Items for each Group; failure to do so may result in exclusion from award consideration.

**PROPOSAL SUBMISSION INFORMATION****A. Pricing**

1. An offeror's price proposal shall consist of prices submitted for each of the items found in the Schedule of Items (Attachment 1). The Schedule of Items is a grouping of items expected to be ordered by the customers along with the estimated quantities. The items found in the Schedule of Items represent 100% of the estimated dollar value for that particular Group. Offerors are required to submit their Contract Unit Price for each item.
2. Formatting of Prices: Prices shall be formatted to no more than two places to the right of the decimal point, for example, \$2.50. In the event that the offeror submits a price that exceeds this limitation, the price will be rounded up or down using standard rounding methods. For example, a price of \$2.215 or higher will be rounded up to \$2.22 and a price of \$2.214 or lower will be rounded down to \$2.21.

**B. Schedule of Items: Pricing**

1. The Schedule of Items in Attachment 1 represents 100% of the estimated dollar value of this procurement. Offerors must submit pricing for all items in the Schedule of Items. The unit prices of all items found in the Schedule of Items will be comparatively assessed to identify any unusually high or low priced items. This assessment includes, but is not limited to, comparison amongst offerors' prices as well as comparison against market report prices and internal Government databases that are applicable.
2. Estimated quantities for each Tier period (2 separate Tiers, consisting of one (24-month) and one (12-month) tier periods) are indicated next to each item and are for information and evaluation purposes only. The Offeror's proposed Contract

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**Form (CONTINUED)**

Unit Prices found in the Schedule of Items will be multiplied by the estimated quantities by Tier in order to calculate the Offeror's overall aggregate total price, which will be compared against the other offerors in order to identify the lowest overall price proposal.

**C. Contract Unit Prices**

1. Prices must not extend more than two places to the right of the decimal point. Standard rounding methods must be observed. For example, a delivered price of \$2.215 or higher must be rounded up to \$2.22 and a price of \$2.214 or lower must be rounded down to \$2.21.
2. If an offeror carries a variety of brands for the same item, the price submitted shall be for the lowest priced, technically acceptable, item that meets the Government's minimum requirements.
3. All items procured under the resultant contract are subject to all contractual clauses and regulations, including, but not limited to, DFARS 252.225-7012, Preference for Certain Domestic Commodities, and the requirement that items be procured from a sanitarily approved source. All invoices and quotes must contain sufficient information to clearly reflect compliance with solicitation/contract terms and conditions.
4. Offerors are required to submit a spreadsheet containing the following information (Attachment 1):
  - (a) Stock Number.
  - (b) Item Description: Government Item Description.
  - (c) Estimated Quantity: Quantity provided.
  - (d) Unit of Issue: Self-explanatory. Note: Unit of Issue must be the same as that identified in the Government's Schedule of Items.
  - (e) Total: Estimated Quantity multiplied by Contract Unit Price.
  - (f) Gov't Average Case Weight: Provided.

**D. Instructions for Proposal Spreadsheet - Attachment 1**

1. Please fill in the white boxes only for each Group. **For Group 1 Ft. Leavenworth: fill in Columns I, J, K for CLIN #1-7 and Columns I, J, L, M for CLIN #8-13. For Group 2 Ft. Leonard Wood: fill in Columns I, J, K for CLIN #1-10 and Columns I, J, L, M for CLIN #11-17. For Group 3 Ft. Riley: fill in Columns I, J, K for CLIN #1-9 and Columns I, J, L, M for CLIN #10-18.** The spreadsheet will automatically calculate your aggregate total. All prices must be rounded to two places to the right of the decimal point using standard rounding methods (see paragraph A.2. above.)
2. When preparing the spreadsheet, totals must appear in row **25 Columns N, O, & P, and "Total Aggregate" in row 30 column O for Group 1, 30 Columns N, O, & P, and "Total Aggregate" in row 35 column O for Group 2, and 31 Columns N, O, & P, and "Total Aggregate" in row 36 column O for Group 1.**

**E. Proposal Submission: Each offeror must submit:**

- (i) a signed copy of the solicitation (and amendments, if applicable),
- (ii) all solicitation attachments (including Attachment 1 with proposed prices),
- (iii) signed financial arrangement information,

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**Form (CONTINUED)**

When submitting a proposal to the Business Opportunities Office an offeror must provide a hard copy as well an electronic version (CD/DVD) of all items listed above. No hard copy is required when submitting a proposal through DIBBS.

No hard copy is required when submitting a proposal through email.

For email submissions, offerors are reminded to limit the file size of any required documents being emailed, i.e., signed copy of the solicitation, amendments, completed Attachment 1, financial arrangement letter, completed list of Places of Performance, third party warehouse audit results, invoices, etc. No individual document submitted should be greater than 5MB and no entire email should be larger than 10 MB. Multiple emails are likely necessary. When submitting multiple emails as a proposal submission, label each email with a number (e.g., 1 of 8), accordingly. In addition, label each individual document according to submission requirement with which it corresponds.

**52.212-2 Evaluation --Commercial Products and Commercial Services.**

As prescribed in [12.301\(c\)](#), the Contracting Officer may insert a provision substantially as follows:

Evaluation --Commercial Products and Commercial Services (Nov 2021)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

\_\_\_\_\_ [Contracting Officer shall insert the significant evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR [15.304](#)); and include them in the relative order of importance of the evaluation factors, such as in descending order of importance.]

Technical and past performance, when combined, are \_\_\_\_\_ [Contracting Officer state, in accordance with FAR [15.304](#), the relative importance of all other evaluation factors, when combined, when compared to price.]

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

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

(End of provision)

**ADDENDUM to FAR 52.212-2, Evaluation of Commercial Items.**

(a) The Government will award contract(s) resulting from this solicitation to the responsible offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the Government, price and other factors considered. Lowest Price Technically Acceptable (LPTA) source selection procedures will be used as the source selection method in this procurement. The following factors shall be used to evaluate offers:

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**Form (CONTINUED)**

1. Technical Acceptability - A technically acceptable offer is an offer that takes no exceptions to the terms and conditions in the solicitation and complies fully with all submission requirements. A proposal that takes exception to solicitation terms and conditions or that fails to comply with all submission requirements may be deemed technically unacceptable and, thus, may be found ineligible, and removed from further consideration, for the awards. By submitting a proposal with no exceptions, an offeror is confirming it possesses the necessary facilities, equipment, technical skills and capacity to successfully provide all items required by this solicitation.

2. Pricing - Pricing is required for all items found in the Schedule of Items (for each Group, if applicable) and for all tiers. Failure to offer pricing for all items and for all tiers may result in a proposal being removed from consideration for award as technically unacceptable. The Government will perform an aggregate price analysis for all items found in the Schedule of Items (for each Group, if applicable). To determine an offeror's evaluated aggregate price, the estimated quantities in the Schedule of Items will be multiplied by the unit prices to determine the lowest aggregate price, (for each Group, if applicable) to the Government. Offered prices, on an individual line item basis, will be evaluated to determine fair and reasonableness.

The award(s) will be made on the basis of the lowest Evaluated Aggregate Price (for each Group, if applicable) of proposals meeting or exceeding the acceptability standards for non-price factors. The Government reserves the right to remove item(s) from the Schedule of Items or do a common item comparison if offerors do not submit pricing for all items. Prior to award, the offered prices of the presumptive awardee(s) will be evaluated on an individual line-item basis to determine whether each price is fair and reasonable using analytical techniques deemed appropriate by the Contracting Officer in her/his complete discretion.

(b) Options are not included in this solicitation.

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

**52.212-4****52.212-4 Contract Terms and Conditions --Commercial Products and Commercial Services.**

As prescribed in [12.301\(b\)\(3\)](#), insert the following clause:

Contract Terms and Conditions --Commercial Products and Commercial Services (Nov 2021)

(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](#)

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**Form (CONTINUED)**

[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 Federal Acquisition Regulation (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.

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**Form (CONTINUED)**

(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

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**Form (CONTINUED)**

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 FAR [32.608-2](#) 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,

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**Form (CONTINUED)**

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

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**Form (CONTINUED)**

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.

(End of clause)

**Addendum to 52.212-4 - Contract Terms and Conditions - Commercial Items.**

The following paragraph(s) of 52.212-4 are amended as indicated below:

**1. Paragraph (a), Inspection/Acceptance, is revised to add the following:**

"Inspection and acceptance of products will be performed at destination. The authorized Government receiving official for each customer is responsible for signing for and accepting products when they are delivered. The final disposition decision rests with the food service officer and/or the authorized Government receiving official.

**2. Paragraph (c), Changes, is deleted in its entirety and replaced with the following:**

(c) Changes.

- (1) In addition to bilateral changes, the Contracting Officer, at his/her discretion, may unilaterally invoke any of the contingency options set forth in this contract.
- (2) The Contracting Officer may at any time, by unilateral written order, make changes within the general scope of this contract in any one or more of the following:
  - (i) Method of shipment or packing;
  - (ii) Place, manner, or time of delivery.
- (3) If such change causes an increase or decrease in the cost of, or time required for, performance for any part of the work under this contract, the Contracting Officer shall make equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
- (4) The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.
- (5) Failure to agree to any adjustment shall be a dispute under the Disputes Clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract.

**3. Paragraph (m), Termination for Cause.**

Delete paragraph (m) in its entirety and substitute the following:

- (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 this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1350.00 as payment in

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**Form (CONTINUED)**

full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

**52.212-5****52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders --Commercial Products and Commercial Services.**

As prescribed in [12.301\(b\)\(4\)](#), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders --*Commercial Products and Commercial Services (May 2022)*

(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 products* and *commercial services*:

- (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 (Nov 2021) (Section 1634 of Pub. L. 115-91).
- (3) [52.204-25](#), Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (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 products* and *commercial services*:

[*Contracting Officer check as appropriate.*]

(1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (Jun 2020), with *Alternate I* (Nov 2021) ([41 U.S.C. 4704](#) and [10 U.S.C. 2402](#)).

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**Form (CONTINUED)**

(2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ([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*. (Nov 2021) ([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) [52.219-3](#), Notice of *HUBZone* Set-Aside or Sole-Source Award (Sep 2021) ([15 U.S.C. 657a](#)).

(12) [52.219-4](#), Notice of Price Evaluation Preference for *HUBZone Small Business Concerns* (Sep 2021) (if the *offeror* elects to waive the preference, it *shall* so indicate in its *offer*) ([15 U.S.C. 657a](#)).

(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 (Nov 2021) ([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](#).

**Form (CONTINUED)**

(iv) *Alternate III* (Jun 2020) of [52.219-9](#).

(v) *Alternate IV* (Sep 2021) 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 (Sep 2021) ([15 U.S.C. 637s](#)).

(20) [52.219-16](#), Liquidated Damages --Subcontracting Plan (Sep 2021) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).

(21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Sep 2021) ([15 U.S.C. 657f](#)).

(22) (i) [52.219-28](#), Post Award Small Business Program Representation (Sep 2021) ([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* (Sep 2021) ([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 (Sep 2021) ([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 (Sep 2021) ([15 U.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 (Jan 2022) (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](#)).



**Form (CONTINUED)**

(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 (Nov 2021) ([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 (*May 2022*) (Executive Order 12989). (Not applicable to the *acquisition* of commercially available off-the-shelf items or certain other types of *commercial products* or *commercial services* as prescribed in FAR [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).

**Form (CONTINUED)**

\_(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* (Nov 2021) ([41 U.S.C. chapter 83](#)).

\_(49) (i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2021) ([41 U.S.C. chapter 83](#), [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 (Feb 2021) (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. 2302](#)Note).

\_(53) [52.226-4](#), Notice of Disaster or *Emergency Area Set-Aside* (Nov 2007) ([42 U.S.C. 5150](#)).

\_(54) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or *Emergency Area* (Nov 2007) ([42 U.S.C. 5150](#)).

\_(55) [52.229-12](#), Tax on Certain Foreign *Procurements* (Feb 2021).

\_(56) [52.232-29](#), Terms for Financing of Purchases of *Commercial Products* and *Commercial Services* (Nov 2021) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

\_(57) [52.232-30](#), Installment Payments for *Commercial Products* and *Commercial Services* (Nov 2021) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

(58) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (Oct 2018) ([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](#)).

**Form (CONTINUED)**

\_(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 (Nov 2021) ([46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)).

\_(ii) *Alternate I* (Apr 2003) of [52.247-64](#).

\_(iii) *Alternate II* (Nov 2021) 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 products and commercial services*:

[*Contracting Officer check as appropriate.*]

\_(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 for Contractor Workers Under Executive Order 14026 (Jan 2022).

\_(8) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2022) (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.

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**Form (CONTINUED)**

(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 products* or *commercial services*. 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 (Nov 2021) ([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 (Nov 2021) (Section 1634 of Pub. L. 115-91).

(iv) [52.204-25](#), Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (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](#)).

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**Form (CONTINUED)**

(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 (Nov 2021) ([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 (May2014) ([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 (May 2022) (E.O. 12989).

(xvii) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).

(xviii) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2022) (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 (Nov 2021) ([46 U.S.C. 55305](#) 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 products* and *commercial services* a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

**Form (CONTINUED)****FAR 52.215-6 -- Place of Performance.****Place of Performance (Oct 1997)**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, intends, does not intend [*check applicable block*] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other Than Offeror or Respondent

**Part 12 Clauses****CLAUSES ADDED TO PART 12 BY ADDENDUM**

**52.203-19 PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017) FAR**

**252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013) DFARS**

**52.204-7 SYSTEM FOR AWARD MANAGEMENT (OCT 2018) FAR**

**52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2018) FAR**

**52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016) FAR**

**52.204-15 SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (OCT 2016) FAR**

**52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (AUG 2020) FAR**

**252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) DFARS**

**252.204-7009 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (OCT 2016) DFARS**

**252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEC 2019) DFARS**

**252.204-7015 NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (MAY 2016) DFARS**

**L02 ELECTRONIC ORDER TRANSMISSION (JUN 2020)**

**CONTINUED ON NEXT PAGE**

**Part 12 Clauses (CONTINUED)**

Offerors shall select one of the following alternatives for paperless order transmission:

- American National Standards Institute (ANSI) X12 Standards through a value added network (VAN) approved by DLA Transaction Services; or  
 Electronic mail (email) award notifications containing web links to electronic copies of the Department of Defense (DD) Form 1155, Order for Supplies or Services.

Offerors must register on the [DLA Internet Bid Board System \(DIBBS\)](https://www.dibbs.bsm.dla.mil/) (<https://www.dibbs.bsm.dla.mil/>) to receive email notification. If the offeror elects ANSI/VAN order transmission, DLA will send Electronic Data Interchange (EDI) transaction sets at time of award. The contractor shall acknowledge receipt of transaction sets with a functional acknowledgement or order receipt message within 24 hours. If the contractor receives the award transaction set on a weekend or Federal holiday, the contractor shall acknowledge receipt on the next business day. This acknowledgement will confirm that the contractor's interface with the system is working as needed for contract ordering.

Offerors can obtain information regarding EDI, ANSI X12 transactions, and VANs approved by DLA Transaction Services at [Defense Automatic Addressing System \(DAAS\) Value Added Network List](https://www.transactionservices.dla.mil/daashome/edi-vanlist-dla.asp) (<https://www.transactionservices.dla.mil/daashome/edi-vanlist-dla.asp>).

Offerors should direct questions concerning electronic ordering to the appropriate procuring organization point of contact below:

DLA Land and Maritime, [Helpdesk.EBS.L&M.LTCs@dlamail](mailto:Helpdesk.EBS.L&M.LTCs@dlamail)

DLA Troop Support, [dlaedigroup@dlamail](mailto:dlaedigroup@dlamail)

DLA Aviation, [avnprocsproceddiv@dlamail](mailto:avnprocsproceddiv@dlamail), phone # 804-279-4026

**52.216-18 ORDERING (AUG 2020) FAR**

(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 Schedule. Such orders may be issued from **January 22, 2023** through **January 17, 2026** [insert dates].

(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) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

**52.216-19 ORDER LIMITATIONS (OCT 1995) FAR**

As prescribed in [16.506\(b\)](#), insert a clause substantially the same as follows:

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than **25.00** [insert dollar figure or quantity], 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 **\$221,894.77** [insert dollar figure or quantity];

(2) Any order for a combination of items in excess of **\$221,894.77** [insert dollar figure or quantity]; or

(3) A series of orders from the same ordering office within **2** days that together call for quantities exceeding the limitation in paragraph (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 **2** 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.

(End of clause)

**52.216-22 INDEFINITE QUANTITY (OCT 1995) FAR**

As prescribed in [16.506\(e\)](#), insert the following clause:

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated

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**Part 12 Clauses (CONTINUED)**

in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after **January 20, 2026** [insert date].

(End of clause)

**252.225-7052 RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALUM, AND TUNGSTEN (OCT 2020) DFARS**

**52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (NOV 2021) FAR**

**252.232-7010 LEVIES ON CONTRACT PAYMENTS (DEC 2006) DFARS**

**52.233-3 PROTEST AFTER AWARD (AUG 1996) FAR**

**52.242-13 BANKRUPTCY (JUL 1995) FAR**

**52.242-15 STOP-WORK ORDER (AUG 1989) FAR**

**252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (JAN 2021) DFARS**

**252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (AUG 2016) DFARS**

**252.246-7008 SOURCES OF ELECTRONIC PARTS (MAY 2018) DFARS**

**52.247-34 F.O.B. DESTINATION (NOV 1991) FAR**

**52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) FAR**

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/?q=browsefar>

DFARS: <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>

DLAD: <http://www.dla.mil/HQ/Acquisition/Offers/DLAD.aspx>

(End of clause)

**52.253-1 COMPUTER GENERATED FORMS (JAN 1991) FAR**

**252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (JAN 2021) DFARS**

**252.225-7048 EXPORT CONTROLLED ITEMS (JUN 2013) DFARS**

**252.225-7051 PROHIBITION ON ACQUISITION OF CERTAIN FOREIGN COMMERCIAL SATELLITE SERVICES (SEP 2021) DFARS**

**52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013) FAR**

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**Attachments (CONTINUED)****Attachments****List of Attachments**

Description	File Name
ATTACH_Schedule_of_Items	Attachment 1-Schedule of Items .xlsx
ATTACH_Customer_List	Customer Lists.xlsx

**Part 12 Provisions****PROVISIONS ADDED TO PART 12 BY ADDENDUM****252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (NOV 2011) DFARS****52.204-6 UNIQUE ENTITY IDENTIFIER (OCT 2016) FAR****52.204-16 COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING (AUG 2020) FAR****252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (OCT 2016) DFARS****L09 REVERSE AUCTION (OCT 2016)****252.225-7000 BUY AMERICAN STATUTE - BALANCE OF PAYMENTS PROGRAM CERTIFICATE (NOV 2014) DFARS**

(a) *Definitions.* "Commercially available off-the-shelf (COTS) item," "component," "domestic end product," "foreign end product," "qualifying country," "qualifying country end product," and "United States," as used in this provision, have the meanings given in the Buy American and Balance of Payments Program --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 evaluate offers of qualifying country end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

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

(1) For all line items subject to the Buy American and Balance of Payments Program --Basic clause of this solicitation, the offeror certifies that --

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

Line Item Number                      Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of "domestic end product":

Line Item Number                      Country of Origin (If known)

(End of provision)

**L06 AGENCY PROTESTS (DEC 2016)****252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992) DFARS**

(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.

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**Part 12 Provisions (CONTINUED)**

(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. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at [252.247-7024](#), Notification of Transportation of Supplies by Sea.

(End of provision)

**252.247-7023**

As prescribed in [247.574](#)(b) and (b)(1), use the following clause:

**TRANSPORTATION OF SUPPLIES BY SEA --BASIC (FEB 2019)**

(a) *Definitions.* As used in this clause --

“Components” means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

“Department of Defense” (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

“Foreign-flag vessel” means any vessel that is not a U.S.-flag vessel.

“Ocean transportation” means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

“Subcontractor” means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

“Supplies” means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) “Supplies” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material;

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**Part 12 Provisions (CONTINUED)**

equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

"U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if --

(i) This contract is a construction contract; or

(ii) The supplies being transported are --

(A) Noncommercial items; or

(B) Commercial items that --

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of foreign-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone

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**Part 12 Provisions (CONTINUED)**

numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of steamship company.

(f) If this contract exceeds the simplified acquisition threshold, the Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief --

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all foreign-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on foreign-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION CONTRACT LINE ITEMS QUANTITY

TOTAL

(g) If this contract exceeds the simplified acquisition threshold and the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of foreign-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) If the Contractor indicated in response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies; however, after the award of this contract, the Contractor learns that supplies will be transported by

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**Part 12 Provisions (CONTINUED)**

sea, the Contractor shall --

(1) Notify the Contracting Officer of that fact; and

(2) Comply with all the terms and conditions of this clause.

(i) In the award of subcontracts, for the types of supplies described in paragraph

(b)(2) of this clause, including subcontracts for commercial items, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (i), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of

this clause, and this paragraph (i), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)