

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER	PAGE 1 OF 37
2. CONTRACT NO. SPM3SE08D0001	3. AWARD/EFFECTIVE DATE 18 JAN 2008	4. ORDER NUMBER	5. SOLICITATION NUMBER SPM3SE07R0002	6. SOLICITATION ISSUE DATE	
7. FOR SOLICITATION INFORMATION CALL: Karen Howard			b. TELEPHONE NUMBER (No collect calls) (215) 737-4267	8. OFFER DUE DATE/ LOCAL TIME	
9. ISSUED BY DIRECTORATE OF SUBSISTENCE DSCP (SP0300) CONTRACTING & PRODUCTION DIVISION 700 ROBBINS AVENUE PHILADELPHIA, PA 19111-5096 Karen.Howard@dla.mil		10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:			
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS	13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input checked="" type="checkbox"/>		13b. RATING DOC9	
15. DELIVER TO Delivery Terms provided in individual orders		16. ADMINISTERED BY SEE BLOCK 9			
17a. CONTRACTOR/OFFEROR ATMOST REFRIGERATION COMPANY INC dba RTF MANUFACTURING 793 ROUTE 66 HUDSON, NY 12534-3410 TELEPHONE NO.		17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>	18a. PAYMENT WILL BE MADE BY DFAS BVDP (SL4701) P.O. BOX 369031 COLUMBUS, OH 43236-9031		
17a. CONTRACTOR/OFFEROR CODE OWPH5 FACILITY CODE		18a. PAYMENT WILL BE MADE BY CODE SL4701			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>		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
	VARIOUS FSC 4110, 7310, & 7320 ITEMS 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)		
27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED			27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED		
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 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. <u>SPM3SE07R0002</u> OFFER DATED <u>SEE PAGE 3</u> . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input checked="" type="checkbox"/>		
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	
		Sharon Piecyk		18JAN2008	

TABLE OF CONTENTS

TITLE	PAGE
Standard Form (SF) 1449 Solicitation/Contract/Order for Commercial Items	1
Continuation of any block(s) from SF 1449	3
Schedule of Supplies	3-4
<u>Contract Clauses</u>	
1. FAR 52.212-4 - Contract Terms and Conditions – Commercial Items	5
2. Addendum to FAR 52.212-4	9
3. FAR 52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items	24
4. DFARS 252.212-7001 - Contract Terms and Conditions Required to Implement Statutes or Executive orders Applicable to Defense Acquisition of Commercial Items	28
<u>Statement of Work</u>	30

Block 29 of Standard 1449 (continued): and final offer dated January 4, 2008 via email.

Schedule of Supplies/Services

BASE YEAR		Effective Period: January 18, 2008 - January 15, 2009					
LINE ITEM	MODEL NUMBERS	NSN	NOMENCLATURE	EST QTY	UNIT PRICE	EXTENDED PRICE	DLVY ARO
0001	NAV-3-HT-BC-2	7310-01-391-3376	Cold Food Counter	1	SEE FEDLOG		30
0002	NAV-4-HT-BC-2 R134A	7310-01-462-6251	Cold Food Counter	1	SEE FEDLOG		30
0003	NAV-5-LT	4110-01-351-4176	Freezer, Undercounter	1	SEE FEDLOG		30
0004	NAV-20-HT-CT R134A	4110-01-451-6881	Refrigerator, Undercounter	1	SEE FEDLOG		30
0005	NAV-5-HT-B	4110-01-378-5317	Refrigerator, Upright	2	SEE FEDLOG		30
0006	NAV-20-HT-B	4110-01-378-6553	Refrigerator, Upright	7	SEE FEDLOG		30
0007	NAV-30-HT-B	4110-01-378-4983	Refrigerator, Upright	3	SEE FEDLOG		30
0008	NAV-40-HT-B	4110-01-378-9115	Refrigerator, Upright	2	SEE FEDLOG		30
0009	NAV-50-HT-B	4110-01-378-8319	Refrigerator, Upright	4	SEE FEDLOG		30
0010	NAV-65-HT-B	4110-01-378-6185	Refrigerator, Upright	3	SEE FEDLOG		30
0011	NAV-3-6-HLT-B	4110-01-378-4903	Refrigerator / Freezer, Upright	1	SEE FEDLOG		30
0012	NAV-6-14-HLT-B	4110-01-378-5105	Refrigerator / Freezer, Upright	1	SEE FEDLOG		30

The resultant contract will be for a base period and 4 option periods. The contractor is responsible for providing option prices for the subsequent option year 4 months prior to the expiration of the base period, and of any exercised option periods, for purposes of determining said option prices fair and reasonable. Negotiations may result upon evaluation of proposed option prices. Proposed option prices must be determined fair and reasonable prior to execution of the option. Exercise of any option is solely a unilateral decision by the Government. If the vendor does not agree to the prices set by the unilateral modification executing an option period then the issue shall be subject to FAR clause 52.233-1 Disputes as incorporated by 52.212-4(d).

Option Period	Effective Date
Option Year 1	January 16, 2009 – January 14, 2010
Option Year 2	January 15, 2010 – January 13, 2011
Option Year 3	January 14, 2011 – January 12, 2012
Option Year 4	January 13, 2012 – January 11, 2013

Schedule of Supplies/Services (continued)

OPTION YEARS							
LINE ITEM	MODEL NUMBERS	NSN	NOMENCLATURE	EST QTY	UNIT PRICE	EXTENDED PRICE	DLVY ARO
0001	NAV-3-HT-BC-2	7310-01-391-3376	Cold Food Counter	1			30
0002	NAV-4-HT-BC-2 R134A	7310-01-462-6251	Cold Food Counter	1			30
0003	NAV-5-LT	4110-01-351-4176	Freezer, Undercounter	1			30
0004	NAV-20-HT-CT R134A	4110-01-451-6881	Refrigerator, Undercounter	1			30
0005	NAV-5-HT-B	4110-01-378-5317	Refrigerator, Upright	2			30
0006	NAV-20-HT-B	4110-01-378-6553	Refrigerator, Upright	7			30
0007	NAV-30-HT-B	4110-01-378-4983	Refrigerator, Upright	3			30
0008	NAV-40-HT-B	4110-01-378-9115	Refrigerator, Upright	2			30
0009	NAV-50-HT-B	4110-01-378-8319	Refrigerator, Upright	4			30
0010	NAV-65-HT-B	4110-01-378-6185	Refrigerator, Upright	3			30
0011	NAV-3-6-HLT-B	4110-01-378-4903	Refrigerator / Freezer, Upright	1			30
0012	NAV-6-14-HLT-B	4110-01-378-5105	Refrigerator / Freezer, Upright	1			30

DFARS clauses 252.225-7021 and 252.225-7036 were included in the solicitation but are hereby deleted and are not included in the contract.

NOTE: WINs System has been discontinued; vendors must now submit EDI invoices via WAWF for payment.

- Website: <https://wawf.eb.mil>
- WAWF Practice Site: <https://wawftraining.eb.mil>
- Web-based Training Site: <http://www.wawftraining.com>
- WAWF Customer Support/DISA Ogden Help Desk: Phone: (866) 618-5988 or (801) 605-7095
- Email: cscassig@ogden.disa.mil (Successful transmission of invoices are automatically generated from this e-mail address).

Do not recommend vendors send e-mail questions, if immediate response is required.

**FAR 52.212-4 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS
(FEB 2007)**

(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. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.*

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

(c) *Changes.*

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

(d) *Disputes.*

This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.*

The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable Delays.*

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

(g) *Invoice.*

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

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract 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.

FAR 52.212-4 (continued)

(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-Central Contractor Registration; or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

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

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

(h) *Patent Indemnity.*

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

(i) *Payment.*

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

(2) *Prompt Payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) 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 immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(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.

FAR 52.212-4 (continued)

(m) *Termination for Cause.*

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

(n) *Title.*

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

(o) *Warranty.*

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

(p) *Limitation of Liability.*

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

(q) *Other Compliances.*

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

(r) *Compliance with Laws Unique to Government Contracts.*

The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 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, and Compliance with Laws Unique to Government Contracts 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; and (9) the specification.

(t) *Central Contractor Registration (CCR).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

FAR 52.212-4 (continued)

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

If preceded by an X, the following paragraphs of 52.212-4 contain additional language:

Paragraph

Additional Language

[] (a)

FAR 52.246-2, *Inspection of Supplies - Fixed Price*, is hereby included in this contract and takes precedence over FAR 52.212-4(a).

ADDENDUM TO FAR 52.212-4

THE CLAUSES LISTED BELOW ARE INCORPORATED 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 solicitation provision may be accessed electronically at these addresses: FAR and DFARS – <http://www.acq.osd.mil/dp/dars> ; DLAD, PROCLTRs and FARS Deviations – <http://www.dla.mil/j-3/j-336>; Local Clauses - http://www.dscpl.dla.mil/contract/dgpa/Part52_Interface.doc

CLAUSE NUMBER

TITLE/DATE

FAR 52.204-7	Central Contractor Registration (OCT 2003)
FAR 52.209-6	Protecting the Government's Interests When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JAN 2005)
FAR 52.211-17	Delivery of Excess Quantities (Sep 1989)
FAR 52.217-5	Evaluation of Options (Jul 1990)
FAR 52.223-11	Ozone-Depleting Subsistence (May 2001)
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)
FAR 52.232-17	Interest (JUNE 1996)
FAR 52.242-13	Bankruptcy (SEPTEMBER 1995)
FAR 52.242-15	Stop-Work Order (AUG 1989)
FAR 52.247-34	F.O.B. Destination (Nov 1991)
DFARS 252.203-7002	Display of DoD Hotline Poster (Dec 1991)
DFARS 252.204-7003	Control of Government Personnel Work Product (APR 1992)
DFARS 252.204-7004	Alteration to FAR 52.204-7, Alternate A (NOV 2003)
DFARS 252.209-7004	Subcontracting with Firms That Are Owned or Controlled by the Government of a Terrorist Country (MAR 1998)
DFARS 252.211-7006	Radio Frequency Identification (May 2006)
DFARS 252.225-7002	Qualifying Country Sources as Subcontractors (APR 2003)
DFARS 252.232-7010	Levies on Contract Payments (SEPT 2005)
DFARS 252.246-7000	Material Inspection and Receiving Report (Mar 2003)
DLAD 52.211-9009	Non-Acceptability of Government Surplus Material (Apr 2002)
DLAD 52.211-9010	Shipping Documentation - MIL-STD-129P (MAY 2006)
DLAD 52.211-9010	Shipping Documentation - MIL-STD-129P, ALT I (MAY 2006)
DLAD 52.212-9000	Changes-Military Readiness (MAR 2001)
DLAD 52.233-9000	Agency Protests (SEP 1999)

ADDENDUM TO FAR 52.212-4 (continued)

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 receiving official for each customer is responsible for signing for and accepting products when they are delivered.

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

(c) Changes.

- (1) The Contracting Officer may at anytime, 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.
- (2) 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.
- (3) 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.
- (4) 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 (e), Definitions

Add the following:

Food Service Equipment (FSE) - Food Service Equipment is defined as the various types of small, medium or large kitchen equipment and related parts which are normally used in a ship's galley, scullery, military dining halls and government or institutional cafeterias in order to produce, prepare or store food products and clean utensils and equipment. This also includes products associated with the receipt and storage of food, serving, presentation and preservation of food and clean up or maintenance of FSE. ***FSE does not include accessories, such as, certain small wares, table wares or Food Service Operating Supplies (FSOS); these accessories fall under other DSCP Prime Vendor contracts or other government programs.***

Full Life Cycle Support - “Life Cycle” refers to the operational life of equipment. “Full Life Cycle Support”, for purposes of this solicitation, is defined as any equipment or support for the period before and during the life cycle of food service equipment. Support during the life cycle may include training or warranty support for equipment currently in use.

Commercial Warranties - Standard Commercial Warranties for FSE items typically apply for the first year the product is in use. In some cases, customers may elect to purchase extended warranties for additional coverage beyond the first year as a method to reduce maintenance costs and maintain equipment to operational readiness.

ADDENDUM TO FAR 52.212-4 (continued)

4. Paragraph (i)(2) Prompt Payment is hereby removed and replaced with the following clauses incorporated by reference:

52.212-9001 APPLICATION OF FAST PAYMENT TO PART 12 ACQUISITIONS (AUG 2005) DLAD

52.213-1 FAST PAYMENT PROCEDURES (MAY 2006) FAR

52.213-9009 FAST PAYMENT PROCEDURE (AUG 2005) DLAD

5. Paragraph (t), Central Contractor Registration(CCR).

Add the following:

(5) Definitions.

"Central Contractor Registration (CCR) Database" means the primary Government repository for contractor information required for the conduct of business with the Government.

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

(a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an "NCAGE code".

"Data Universal Number System (DUNS) Number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System+4 (DUNS+4) Number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

"Registered in the CCR Database" means that—

(a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(b) The Contractor's CAGE code is in the CCR database; and

(c) The Government has validated all mandatory data fields and has marked the records

ADMINISTRATIVE COSTS OF REPROCUREMENT AFTER TERMINATION FOR CAUSE (SEPTEMBER 2004)

If this contract is terminated in whole or part for cause pursuant to Paragraph (m) of the clause included in this contract entitled "Contract Terms and Conditions - Commercial Items", 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 Government expressly agree that in addition to any excess costs of repurchase, or any other damages resulting from the Contractor's default, the Contractor shall pay, and the Government shall accept, the sum of \$1,155.00 as payment in full for the administrative costs of such repurchase. The assessment of damages for administrative costs shall apply for any termination for cause for which the Government repurchases the terminated supplies or services, regardless of whether any other damages are incurred and/or assessed.

ADDENDUM TO FAR 52.212-4 (continued)

REQUIREMENTS CONTRACT

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

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

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

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

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

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and DSCP'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 **180 days**.

OPTION FOR REQUIREMENTS CONTRACT TERM EXTENSION

(a) Acceptance of the option provision(s)/clauses contained herein is mandatory. Failure to indicate acceptance of the option at the end of this clause or elsewhere in the solicitation will be deemed non-acceptance of the option and may result in rejection of the offeror's entire bid/proposal.

(b) Offerors may offer options at unit prices which differ from the unit prices for the base ordering period.

(c) The contracting officer may extend the term of this contract for **4 - 12 month** option period(s) by written notice to the contractor within the time specified in paragraph (e) below provided that the contracting officer shall give the contractor a preliminary written notice of intent to extend at least **60 days** days before expiration of the contract. The preliminary notice does not commit the Government to an extension.

(d) Performance under the option period shall continue at the same performance level specified for the basic contract.

ADDENDUM TO FAR 52.212-4 (continued)

(e) The option to extend the term of the contract shall be exercised not later than three (3) days before the expiration date of the contract.

(f) The option is deemed exercised when mailed or otherwise furnished to the contractor.

(g) If the contracting officer exercises this option, the extended contract shall be considered to include this option clause.

(h) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **5 years.**

(i) The following provisions apply only to negotiated acquisitions:

(1) If an option has been priced under this solicitation and is to be exercised at time of award of the basic contract, the submission of cost or pricing data shall be required prior to award where the combined dollar value of the basic contract and option exceeds \$550,000, unless an exception thereto is appropriate in accordance with FAR 15.403-1.

(2) Prior to the award of any contract which will contain one or more priced options totaling \$550,000 or more, the submission of cost or pricing data covering the basic contract and the option(s) shall be required regardless of when the option(s) may be exercised, unless an exception thereto is appropriate in accordance with FAR 15.403-1.

ACCEPTANCE OF THIS OPTION CLAUSE CAN BE INDICATED BY PLACING AN "X" IN THIS SPACE [X]

252.217-7026 IDENTIFICATION OF SOURCES OF SUPPLY (NOV 1995)

(a) The Government is required under 10 U.S.C. 2384 to obtain certain information on the actual manufacturer or sources of supplies it acquires.

(b) The apparently successful Offeror agrees to complete and submit the following table before award:

TABLE						
Line <u>Items</u> (1)	National Stock <u>Number</u> (2)	Commercial Item <u>(Y or N)</u> (3)	Company (4)	Source of Supply Address (4)	Part No. (5)	Actual Mfg? (6)
<p>(1) List each deliverable item of supply and item of technical data.</p> <p>(2) If there is no national stock number, list "none."</p> <p>(3) Use "Y" if the item is a commercial item; otherwise use "N." If "Y" is listed, the Offeror need not complete the remaining columns in the table.</p> <p>(4) For items of supply, list all sources. For technical data, list the source.</p> <p>(5) For items of supply, list each source's part number for the item.</p> <p>(6) Use "Y" if the source of supply is the actual manufacturer; "N" if it is not; and "U" if unknown.</p>						

ADDENDUM TO FAR 52.212-4 (continued)

52.211-9014 CONTRACTOR RETENTION OF TRACEABILITY DOCUMENTATION (FEB 2006) – DLAD

(a) This clause applies when award is made to a dealer/distributor (non-manufacturer) for “exact product,” as defined in DLAD 52.217-9002, and when traceability documentation was not obtained prior to award.

(b) The Contractor must retain evidence of the technical acceptability of supplies furnished under this contract. Evidence will generally include information tracing the supplies back to the original equipment manufacturer or its authorized distributor. At a minimum, evidence must be sufficient to establish the identity of the product and its manufacturing source. This documentation must be retained for 3 years after final payment under this contract and provided for review (1) at time of Government source inspection, if applicable; (2) during random or directed post-award audits; or (3) to the Contracting Officer upon request.

(c) The Contracting Officer determines the acceptability and sufficiency of documentation or other evidence, at his or her sole discretion. If the Contracting Officer finds the evidence to be unacceptable, or if the Contractor fails to retain or provide the requested evidence, the award may be cancelled.

52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997)

(a) “*Hazardous material*,” as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material <i>(If none, insert “None”)</i>	Identification No.
None	

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

ADDENDUM TO FAR 52.212-4 (continued)

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to --

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

252.223-7001 HAZARD WARNING LABELS (DEC 1991)

(a) "Hazardous material," as used in this clause, is defined in the Hazardous Material Identification and Material Safety Data clause of this contract.

(b) The Contractor shall label the item package (unit container) of any hazardous material to be delivered under this contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq). The Standard requires that the hazard warning label conform to the requirements of the standard unless the material is otherwise subject to the labelling requirements of one of the following statutes:

- (1) Federal Insecticide, Fungicide and Rodenticide Act;
- (2) Federal Food, Drug and Cosmetics Act;
- (3) Consumer Product Safety Act;
- (4) Federal Hazardous Substances Act; or
- (5) Federal Alcohol Administration Act.

(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labelled in accordance with one of the Acts in paragraphs (b)(1) through (5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

MATERIAL (If None, Insert "None.")	ACT
None	

ADDENDUM TO FAR 52.212-4 (continued)

(d) The apparently successful Offeror agrees to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of this clause. The Offeror shall submit the label with the Material Safety Data Sheet being furnished under the Hazardous Material Identification and Material Safety Data clause of this contract.

(e) The Contractor shall also comply with MIL-STD-129, Marking for Shipment and Storage (including revisions adopted during the term of this contract). MIL-STD-129 can be found in its entirety at [http://www.acq.osd.mil/log/rfid/MIL-STD-129P-chg3-29Oct04%20\(2\).pdf](http://www.acq.osd.mil/log/rfid/MIL-STD-129P-chg3-29Oct04%20(2).pdf)

**CLEARANCE AND DOCUMENTATION REQUIREMENTS -- SHIPMENTS TO DOD AIR OR WATER
TERMINAL TRANSSHIPMENT POINTS**

All shipments to water or air ports for transshipment to overseas destinations are subject to the following requirements unless clearance and documentation requirements have been expressly delegated to the Contractor:

(a) At least 10 days before shipping cargo to a water port, the Contractor shall obtain an Export Release from the Government transportation office for --

- (1) Each shipment weighing 10,000 pounds or more; and
- (2) Each shipment weighing less than 10,000 pounds; if the cargo either --
 - (i) Is classified Top Secret, Secret, or Confidential;
 - (ii) Will require exclusive use of a motor vehicle;
 - (iii) Will occupy full visible capacity of a railway car or motor vehicle;
 - (iv) Is less than a carload or truckload, but will be tendered as a carload or truckload; or
 - (v) Is to be shipped to an ammunition outloading port for water shipment; or
- (3) Each shipment weighing less than 10,000 pounds if the cargo consists of --
 - (i) Narcotics;
 - (ii) Perishable biological material;
 - (iii) Vehicles to be offered for driveaway service;
 - (iv) Explosives, ammunition, poisons or other dangerous articles classified as class 1, division 1.1, 1.2, 1.3, 1.4; class 2, division 2.3; and class 6, division 6.1; or
 - (v) Radioactive material, as defined in 49 CFR 173.403, class 7.

(b) The Contractor is cautioned not to order railway cars or motor vehicles for loading until an Export Release has been received.

(c) If the Contracting Officer directs delivery within a shorter period than 10 days, the Contractor shall advise the transportation office of the date on which the cargo will be ready for shipment.

(d) At least 5 days before shipping cargo to either a water port or an airport (regardless of the weight, security classification, or the commodity description), the Contractor shall provide the Government transportation office the information shown in paragraph (e) below to permit preparation of a Transportation Control and Movement Document (TCMD).

ADDENDUM TO FAR 52.212-4 (continued)

(e) When applying for the Export Release in paragraph (a) above or when providing information for preparation of the TCMD in accordance with paragraph (d) above, the Contractor shall furnish the --

- (1) Proposed date or dates of shipment;
- (2) Number and type of containers;
- (3) Gross weight and cube of the shipment;
- (4) Number of cars or trucks that will be involved;
- (5) Transportation Control Number(s)(TCN) as required for marking under MIL-STD-129 or Federal Standard 123; and
- (6) Proper shipping name as specified in 46 CFR 146.05 for all items classified as dangerous substances as required for marking under MIL-STD-129.

(f) All movement documents (Government or commercial bills of lading or other delivery documents) shall be annotated by the Contractor with the --

- (1) Transportation Control Number, Consignor Code of activity directing the shipment; i.e., cognizant contract administration office, purchasing office when contract administration has been retained, or a Contractor specifically delegated transportation responsibilities under DoD 4500.9-R, Defense Transportation Regulation, responsibilities in the contract, whichever is appropriate, Consignee Code, and Transportation Priority for each shipment unit;
- (2) Export Release Number and valid shipping period, if stated (if expired, the Contractor shall request a renewal); and
- (3) Cubic foot measurement of each shipment unit.

(g) All annotations on the movement documents shall be made in the "Description of Articles" space except, on Government bills of lading the Export Release number and shipping period shall be entered in the space entitled "Route Order/Release No."

(h) The Contractor shall --

- (1) Mail a copy of the bill of lading or other movement document to the transshipment point; and
- (2) Give a copy of the bill of lading or other movement document to the carrier for presentation to the transshipment point with delivery of the shipment.

TREATMENT OF NON-MANUFACTURED WOOD PALLETS AND CONTAINERS (APR 2003)

All wooden pallets and wood containers produced entirely or in part of non-manufactured softwood species shall be constructed from Heat Treated (HT to 56 degrees Centigrade for 30 minutes) coniferous material and certified accordingly by an accredited agency recognized by the American Lumber Standard Committee, Incorporated (ALSC) in accordance with the latest revision of ALSC Non-Manufactured Wood Packing Policy and Non-Manufactured Wood Packing Enforcement Regulations (see World Wide Web URL: [Hhttp://www.alsc.org/H](http://www.alsc.org/H)) All wooden pallets and containers produced entirely of non-manufactured hardwood species shall be identified by a permanent marking of "NC-US", 1.25 inches or greater in height, accompanied by the CAGE code of the pallet/container manufacturer and the month and year of the contract. On pallets, the

ADDENDUM TO FAR 52.212-4 (continued)

marking shall be applied to the stringer or block on diagonally opposite sides of the pallet and be contrasting and clearly visible. On containers, the marking shall be applied on a side other than the top or bottom, contrasting and clearly visible.

FAR 52.216-18 ORDERING (OCT 1995)

(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 date of award through 365 days after award.

(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.

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

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than (**vendor fill-in**), 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 100K (**vendor fill-in**)

(2) Any order for a combination of items in excess of 100K (**vendor fill-in**); or

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

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 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.

RESPONSIBILITY FOR ADMINISTRATION OF DELIVERY ORDER(S)

Delivery orders issued against this requirements contract shall be administered by the contract specialist or contracting officer who placed the order on behalf of the government. The DSCP contracting personnel are authorized to modify delivery orders and perform all administrative functions pertaining to such orders including termination of the order for late deliveries and other product nonconformances. Only an authorized contracting officer acting on behalf of the agency can take these particular procurement actions. Administration of the terms and conditions set forth in the contract is the responsibility of the DSCP contracting officer.

ADDENDUM TO FAR 52.212-4 (continued)

ADMINISTRATIVE COST TO THE GOVERNMENT IN PROCESSING CONTRACT MODIFICATIONS

Where contract modifications are issued solely for the benefit of the contractor, e.g., acceptance of nonconforming supplies or change in place of performance or delivery, the sum of \$250.00 (the government's administrative cost to process the modification) shall be obtained from the contractor in addition to any other monetary consideration.

FAR 52.211-16 -- VARIATION IN QUANTITY (APR 1984)

The permissible variation shall be limited to:

00% Increase **00%** Decrease

52.216-9006 ADDITION/DELETION OF ITEMS (AUG 2005) DLAD

(a) The Government reserves the right to unilaterally delete items that were available from only one manufacturer at the time of award if an alternate source of supply becomes available or the Government's requirements are modified to provide for full and open competition. The Government will provide a 30 day advance notice to the contractor prior to deleting any item from the contract.

(b) New items may be added to the contract through bilateral modification with negotiated prices. All new requirements are subject to synopsis prior to addition to the contract.

(c) Discontinued Items:

(1) The contractor agrees to provide the Government with immediate, written notification when an item is to be discontinued by the manufacturer, including a recommendation for any potential substitute or replacement items. If the Government elects to include a substitute or replacement item in the contract, the contract will be modified accordingly.

(2) If an item is discontinued without replacement, the notice should include a recommendation concerning the availability of items that are comparable in form, fit and function. The contractor shall not incur any costs related to alternate sources of supply without the express written approval of the Contracting Officer. The Government has the option to make a last time order, or series of orders, within 30 days after receiving written notification of the discontinued item after which the item will be deleted from the contract. The contractor shall honor any last time order unless it is returned to the ordering office within 10 days after issuance, with written notice stating the full quantity is not available for shipment. The terms of such order(s) will be negotiated by the parties, including changes to the delivery schedule and maximum quantity available for shipment.

WARRANTY OF SUPPLIES

(a) Definitions.

"Acceptance", as used in this clause, means the act of an authorized representative of the government by which the government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract. "Correction", as used in this clause, means the elimination of a defect. "Supplies", as used in this clause, means the end item furnished

ADDENDUM TO FAR 52.212-4 (continued)

by the contractor and related services required under the contract. The word does not include “data”.

(b) Contractor's Obligations.

(1) Notwithstanding inspection and acceptance by the government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the contractor warrants that for 24 (**vendor fill in**) months after receipt of supplies at destination:

(i) all supplies furnished under this contract will be free from defects in material or workmanship and will conform with all requirements of this contract; and

(ii) the preservation, packaging, packing and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

(2) When return of the supplies to the contractor and redelivery, if applicable, is required, transportation charges and responsibility for the supplies while in transit shall be borne by the contractor. Contractor shall also be liable for:

(i) handling costs and incidental charges incurred by the government in the preparation of the above described supplies for return to the contractor and in return of said supplies to storage, after redelivery by the contractor; and

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of receipt at destination of the corrected or replaced supplies.

(4) All implied warranties of merchantability and “fitness for a particular purpose” are excluded from any obligation contained in this contract.

(c) Remedies Available to the Government.

(1) The contracting officer shall give written notice to the contractor of any breach of warranties in paragraph (b)(1) of this clause within 1 months from receipt of supplies at destination.

(2) Conformance of supplies or parts thereof subject to warranty action shall be determined in accordance with the inspection and acceptance procedures contained in the contract except as provided herein. If the contract provides for sampling, the contracting officer may group any supplies delivered under this contract. The size of the sample shall be that required by the sampling procedure specified in the contract for the quantity of supplies on which warranty action is proposed, except when projecting sampling results. Warranty sampling results may be projected over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection and regardless of whether such supplies have been issued or consumed, provided; the supplies from which the samples were drawn are reasonably representative of the quantity on which warranty action is proposed; and the defects found in the sample size are sufficient to reject the quantity of supplies on which warranty action is proposed, even though the sample size may be less than that required for such quantity. The original inspection Lots need not be reconstituted, nor shall the contracting officer be required to use the same Lot size as on original inspection. Within a reasonable time after the notice, the contracting officer may exercise one or more of the following options, and also, following the exercise of any option, may unilaterally change it to one or more of the other options set forth below:

ADDENDUM TO FAR 52.212-4 (continued)

- (i) Require an equitable adjustment in the contract price for any supplies or group of supplies;
 - (ii) Screen the supplies grouped under this clause at contractor's expense and return all nonconforming supplies to the contractor for correction or replacement;
 - (iii) Require the contractor to screen the supplies at depots designated by the government within the continental United States and to correct or replace all nonconforming supplies;
 - (iv) Return any supplies or group of supplies under this clause to the contractor (irrespective of the F.O.B. point or the point of acceptance) for screening and correction or replacement;
 - (v) Return or hold for contractor's account any supplies or group of supplies delivered hereunder, whereupon the contractor shall repay the contract price paid therefore. In such event, the government may reprocur similar supplies upon such terms and in such manner as the contracting officer may deem appropriate, and charge to the contractor the additional cost occasioned the government thereby.
- (3) When either option three or four of this clause is exercised, the contractor is required to submit in writing and within 30 days after receipt of notice of such invocation a schedule for either:
- (i) correction and/or replacement of all defective supplies and subsequent redelivery of the returned supplies; or,
 - (ii) screening defective supplies at each destination involved and subsequent redelivery of all corrected and/or replaced supplies.
 - (iii) Such redelivery schedule will become a part of the contract delivery schedule upon agreement thereto by the government. If the contractor fails to provide an agreeable schedule within the specified period, or any extension agreed to by the government, the government may correct the items and charge the contractor's account, or issue a contract for correction of the items and charge the contractor's account, or exercise one or more of the remedies specified in paragraph (4) below.
- (4) If the contractor fails to accept return of the nonconforming supplies, or fails to make redelivery of the corrected or replaced supplies to the government within the time established, or fails to make progress after their return to correct or replace them so as to endanger performance within the time established for redelivery and does not cure such failure within a period of 10 days (or such longer period as the contracting officer may authorize in writing) after receipt of notice from the contracting officer specifying such failure, the contracting officer may exercise one or more of the following remedies:
- (i) Retain or have the contractor return the nonconforming supplies and require an equitable adjustment in the contract price.
 - (ii) Return or hold the nonconforming supplies for contractor's account, or require the return of the nonconforming supplies and then hold for contractor's account, whereupon the contractor shall repay the contract price therefore. In such event, the government may reprocur similar supplies upon such terms and in such manner as the contracting officer may deem appropriate, and charge to the contractor the additional costs occasioned the government thereby.
 - (iii) If the contractor fails to furnish timely disposition instructions, dispose of the nonconforming supplies for the contractor's account in a reasonable manner, in which case the government is entitled to reimbursement

ADDENDUM TO FAR 52.212-4 (continued)

from the contractor or from the proceeds for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for any other costs incurred or to be incurred.

(5) 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 of this contract.

(d) Failure to agree upon any determination to be made under this clause shall be a dispute concerning a question of fact within the meaning of the "disputes" clause of this contract.

(e) When the contract specifies ultimate delivery of supplies to a location outside the contiguous United States, such location shall be deemed the destination for purposes of this clause.

52.215-2 -- AUDIT AND RECORDS – NEGOTIATION (JUN 1999) ALT I (JAN 1997)

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Examination of costs.* If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract. The obligations and rights specified in this paragraph shall extend to the use of, and charges for the use of, the facilities under this contract.

(c) *Cost or pricing data.* If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to --

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

(d) *Comptroller General --*

(1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

ADDENDUM TO FAR 52.212-4

(e) *Reports.* If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating --

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) *Availability.* The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition --

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available 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.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and --

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

GOVERNMENT'S RIGHT TO AUDIT

In addition to any other audits required by this contract, the Government reserves the right to audit the Government's accounting and procurement records related to the payments made under this contract. The audit may be conducted either by the Government or a private contractor at the Government's expense. Any Government claims of overpayment will be pursued in accordance with FAR part 32 as well any and all applicable supplemental regulations. The Government may demand collection of overpayments within six years of final disbursement.

FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (AUG 2006)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

[Contracting Officer shall check as appropriate.]

___ (1) **52.203-6**, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995)(41 U.S.C. 253g and 10 U.S.C. 2402).

___ (2) **52.219-3**, Notice of Total HUBZone Set-Aside (Jan 1999)(15 U.S.C. 657a).

___ (3) **52.219-4**, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jul 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

___ (4) [Reserved]

___ (5) (i) **52.219-6**, Notice of Total Small Business Aside (June 2003) (15 U.S.C. 644).

___ (ii) Alternate I (Oct 1995) of 52.219-6.

___ (iii) Alternate II (Mar 2004) of 52.219-6.

___ (6) (i) **52.219-7**, Notice of Partial Small Business Set-Aside (June 2003)(15 U.S.C. 644).

___ (ii) Alternate I (Oct 1995) of 52.219-7.

___ (iii) Alternate II (Mar 2004) of 52.219-7.

X (7) **52.219-8**, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).

X (8) (i) **52.219-9**, Small Business Subcontracting Plan (Jul 2005)(15 U.S.C. 637(d)(4)).

___ (ii) Alternate I (Oct 2001) of 52.219-9.

___ (iii) Alternate II (Oct 2001) of 52.219-9.

___ (9) **52.219-14**, Limitations on Subcontracting (Dec 1996)(15 U.S.C. 637(a)(14)).

___ (10) (i) **52.219-23**, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Sep 2005)(10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

FAR 52.212-5 (continued)

___ (ii) Alternate I (June 2003) of 52.219-23.

___ (11) **52.219-25**, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Oct 1999)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (12) **52.219-26**, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

___ (13) **52.219-27**, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).

X (14) **52.222-3**, Convict Labor (June 2003)(E.O. 11755).

X (15) **52.222-19**, Child Labor—Cooperation with Authorities and Remedies (Jan 2006) (E.O. 13126).

X (16) **52.222-21**, Prohibition of Segregated Facilities (Feb 1999).

X (17) **52.222-26**, Equal Opportunity (Apr 2002)(E.O. 11246).

X (18) **52.222-35**, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).

X (19) **52.222-36**, Affirmative Action for Workers with Disabilities (Jun 1998)(29 U.S.C. 793).

X (20) **52.222-37**, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).

___ (21) **52.222-39**, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

X (22) (i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Aug 2000)(42 U.S.C. 6962(c)(3)(A)(ii)).

___ (ii) Alternate I (Aug 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

___ (23) **52.225-1**, Buy American Act--Supplies (June 2003)(41 U.S.C. 10a-10d).

___ (24) (i) **52.225-3**, Buy American Act –Free Trade Agreements – Israeli Trade Act (Jun 2006) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286, and 109-53).

___ (ii) Alternate I (Jan 2004) of 52.225-3.

___ (iii) Alternate II (Jan 2004) of 52.225-3.

___ (25) **52.225-5**, Trade Agreements (Jun 2006) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

X (26) **52.225-13**, Restrictions on Certain Foreign Purchases (Feb 2006) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

FAR 52.212-5 (continued)

___ (27) **52.226-4**, Notice of Disaster or Emergency Area Set-Aside (42 U.S.C. 5150).

___ (28) **52.226-5**, Restrictions on Subcontracting Outside Disaster or Emergency Area (42 U.S.C. 5150).

___ (29) **52.232-29**, Terms for Financing of Purchases of Commercial Items (Feb 2002)(41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

___ (30) **52.232-30**, Installment Payments for Commercial Items (Oct 1995)(41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

X (31) **52.232-33**, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003)(31 U.S.C. 3332).

___ (32) **52.232-34**, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration (May 1999)(31 U.S.C. 3332).

___ (33) **52.232-36**, Payment by Third Party (May 1999)(31 U.S.C. 3332).

___ (34) **52.239-1**, Privacy or Security Safeguards (Aug 1996)(5 U.S.C. 552a).

X (35) (i) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)(46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

___ (ii) Alternate I (Apr 2003) of 52.247-64.

(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 items:

[Contracting Officer check as appropriate.]

___ (1) **52.222-41**, Service Contract Act of 1965, as Amended (Jul 2005)(41 U.S.C. 351, *et seq.*).

___ (2) **52.222-42**, Statement of Equivalent Rates for Federal Hires (May 1989)(29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

___ (3) **52.222-43**, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (May 1989)(29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

___ (4) **52.222-44**, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Feb 2002)(29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

(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, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

FAR 52.212-5 (continued)

(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 paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) **52.219-8**, Utilization of Small Business Concerns (May 2004)(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 \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) **52.222-26**, Equal Opportunity (Apr 2002)(E.O. 11246).

(iii) **52.222-35**, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).

(iv) **52.222-36**, Affirmative Action for Workers with Disabilities (June 1998)(29 U.S.C. 793).

(v) **52.222-39**, Notification of Employee rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(vi) **52.222-41**, Service Contract Act of 1965, as Amended (Jul 2005), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, *et seq.*)

(vii) **52.247-64**, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006)(46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64,

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

DFARS 252.212-7001 – CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUN 2006)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in the contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3 Gratuities (APR 1984) (10 U. S. C. 2207)

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

- 252.205-7000** Provision of Information to Cooperative Agreement Holders (Dec 1991) (10 U.S.C. 2416).
- 252.219-7003** Small, Small Disadvantaged Business, and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (Apr 1996) (15 U.S.C. 637).
- 252.219-7004** Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program)(Jun 1997)(15 U.S.C. 637 note)
- 252.225-7001** Buy American Act and Balance of Payment Program (June 2005) 41 U.S.C. 10a-10d, E.O. 10582)
- 252.225-7012** Preference for Certain Domestic Commodities (June 2004) (10 U. S. C. 2533a)
- 252.225-7014** Preference for Domestic Specialty Metals (June 2005)(10 U.S.C. 2533a).
- 252.225-7015** Restriction on Acquisition of Hand or Measuring Tools (June 2005) (10 U.S.C. 2533a).
- 252.225-7016** Restriction on Acquisition of Ball and Roller Bearings (Mar 2006) (Section 8065 of Pub L. 107-117 and the same restriction in subsequent DoD appropriations acts).
- 252.225-7021** Trade Agreements (June 2006)(19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note)
- 252.225-7027** Restriction on Contingent Fees for Foreign Military Sales (Apr 2003) (22 U.S.C.2779) (Insert _____ in paragraph (b)(1))
- 252.225-7028** Exclusionary Policies and Practices of Foreign Governments (Apr 2003) (22 U.S.C. 2755).
- 252.225-7036** Buy American Act--Free Trade Agreements--Balance of Payments Program (June 2006) (____ Alternate I)(Jan 2005)(41 U.S.C.10a - 10d and 19 U.S.C. 3301 note)
- 252.225-7038** Restriction on Acquisition of Air Circuit Breakers (June 2005) (10 U.S.C. 2534(a)(3))
- 252.226-7001** Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).
- 252.227-7015** Technical Data -- Commercial Items (Nov 1995)(10 U.S.C. 2320).
- 252.227-7037** Validation of Restrictive Markings on Technical Data (Sep 1999) (10 U.S.C. 2321).
- 252.232-7003** Electronic Submission of Payment Requests (May 2006)(10 U.S.C. 2227)
- 252.237-7019** Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Pub. L. 108-375).

DFARS 252.212-7001 (continued)

252.243-7002 Requests for Equitable Adjustment (Mar 1998)(10 U.S.C. 2410)

252.247-7023 Transportation of Supplies by Sea (May 2002) (____ Alternate I) (Mar 2000) (____ Alternate II) (Mar 2000) (Alternate III) (May 2002) (10 U.S.C. 2631) .

252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

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

252.225-7014 Preference for Domestic Specialty Metals, Alternate I (Apr 2003) (10 U.S.C. 2533a).

252.237-7019 Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Pub. L. 108-375).

252.247-7023 Transportation of Supplies by Sea (May 2002) (10 U.S.C. 2631).

252.247-7024 Notification of Transportation of Supplies by Sea (Mar 2000) (10 U.S.C. 2631).

STATEMENT OF WORK

SUPPLIES/SERVICES AND PRICES

I. INTRODUCTION

A. The Defense Supply Center Philadelphia (DSCP) intends to enter into requirements contract(s) to provide the Maritime and Aviation Unique Food Service Equipment to all CONUS and OCONUS customers for Navy and Air Force.

B. The use of the authority permitting other than Full and Open Competition 10 U.S.C.2304 c(1) is to allow the acquisition of part numbered items, from a single source, that is necessary to satisfy the Navy and Air Force strict requirements for its equipment. The Navy and Air Force have unique requirements for fleet and air craft equipment use. Each piece of equipment used on naval vessels is fully tested under Naval Supply Systems Command (NAVSUP) guidance to ensure form, fit and function is met prior to placement on the list of approved items. The list of items was established to assist planning yards, Naval Shipyards, Supply Officer, Foodservice Officers, Supervisors of Shipbuilding (SUPSHIP), Fleet Industrial Supply Centers (FISC) and any other personnel who are required to order food service equipment authorized for Naval ships and submarines. The Air Force items are also modified commercial equipment that are modified specifically for military aircraft use only. The Air Force items are part numbered for which the Government does not possess complete unrestricted technical data which can be included/referenced in the solicitation. Equipment and the manufacturers selected to meet Navy and Air Force requirements have been tested and conform to fleet and air craft food service equipment standards. This list identifies food service equipment approved for use aboard U.S. Navy ships and submarines, and Air Force air craft. **Foodservice equipment listed in the General Services Administration (GSA) catalog is not authorized for shipboard use.** The approved list of items addresses Navy's unique requirements such as the ability of larger items to fit through 26 inch by 66 inch oval hatch, or a 25 inch diameter hatch for submarines. Equipment that require legs must be on four to six inch high round stock corrosion resistant (CRES) leg supports of suitable size in diameter for supporting the specified equipment and secured by bolting to the dresser. Most items need to be bolted to bulkhead or decking to ensure there is no shifting while the ships are at sea. For submarine items, additional requirements are necessary to insure that equipment can withstand a 20 degree decline or incline without losing hot oil, shifting of ozone depleting refrigerant, etc. The list of Air Force items are for Military Aircraft only; The original designs for these units were by U.S. Air Force purchase specifications and Military Specifications to address the Air Force's unique electrical characteristics for the complex electrical systems in military transport aircraft.

The resulting contracts made against Solicitation SPM3SE-07-R-0002 will be Requirements Contracts that provide for an indefinite quantity of specific supplies or incidental services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractors (FAR 16.503). These contracts will be for a one (1) year base term and four (4) one year options. The combined length of the contracts, including option terms, may total five (5) years.

C. Estimated Dollar Value/Maximum

The estimated dollar value of this acquisition is \$7.5 million for the base period, for a total of \$37.5 million over the base period and four (4) one-year options. The maximum ceiling is 200% of the estimated dollar value per contract period. Individual award estimates and maximums will be based on the number of Lots awarded under each contract.

STATEMENT OF WORK (continued)

II. ITEMS

A. This solicitation is for various food serve equipment items to include Federal Stock Class (FSC) 4110 – Refrigeration Equipment, 7310 – Food Cooking, Baking, and Servicing Equipment, and 7320 – Kitchen Equipment and Appliances. All item descriptions and NSNs can be found in Schedule B Schedule of Supplies.

B. Any changes to the list of the NSNs for the equipment with installation will be provided to the vendor via amendment to this solicitation once obtained.

C. **ORDERING OF PRODUCTS WITHIN SCOPE OF WORK:** Awardees must be prepared to support small dollar value orders. Customers will have the ability to order parts and accessories as separate orders from the awardee under the resultant contracts. There is no minimum amount for orders under the resulting contract to accommodate various customer funding methods. Normally shipboard parts are a part of an Approved Parts List (APL) requirement for a larger equipment order. Items could be funded individually or together under lump sum funding. The scope of orders could range from a single item (i.e. a door assembly for an oven that has its own distinct NSN) to multiple equipment items (i.e. oven, refrigerator, microwave etc) needed for renovation project of a dining facility, not to include the actual renovation, depending on how the customer may fund their requirements.

D. **NAVAL SHIPBOARD ITEMS:** Only Naval Shipboard FSE approved by Naval Surface Warfare Center, Carderock Division (NSWCCD), Code 9783, in Philadelphia PA, may be sold to Navy ships under this FSE program. Items are listed in the Naval Shipboard Food Service Equipment Catalog, S161-Q5-CAT-010, Revision 1, October 1997. However, this catalog has not been recently updated. The most recent FSE listing is provided in Section B of this solicitation. **Vendors may *only* offer approved FSE items for Naval Shipboard Use (NSU). Any questions pertaining to approved NSU FSE items should be forwarded to Code 9783 at the address below or contact the DSCP technical representative, Frank LaForgia 215-737-8768 for assistance. Submission of any proposed new items should be addressed to:**

Naval Surface Warfare Center
Philadelphia Naval Business Center
Habitability Code 9783
Philadelphia PA 19112-5083

For all naval shipboard items requiring a technical manual, that manual must conform to: ASTM-F760-93 (2000). For all other products, at least one copy of a technical manual must be furnished with equipment where it is normally done so for a commercial customer. In special situations where a technical manual must be created or revised, the manual should also conform, if practical, to ASTM-F760-93 (2000) Standard Specification For Food Service Equipment Manuals. A copy of the ASTM may be obtained by calling ASTM's customer service at (310) 832-9585 or through the worldwide web at <http://www.astm.org>.

Only approved Navy shipboard items in accordance with the Naval Shipboard Food Service Equipment Catalog, S161-Q5-CAT-010, Revision 1, October 1997, or any subsequent revisions as approved by NWSC, may be sold under this FSE Program to Navy customers. All other FSE shall meet commercial standards. Updates to the approved list will be executed in accordance with DLAD 52.216-9006 Addition/Deletion of Items Aug 2005.

STATEMENT OF WORK (continued)

III. PRICING

A. Pricing for equipment will be based on the following formula:

$$\text{Selling Price (Equipment Only)} = \text{List/Catalog Price} - \text{Any Discounts} + \text{Transportation}$$

B. Definitions:

1. Selling Price - The selling price is defined as the total price per unit of equipment charged to DSCP by the contractor (**Note:** This price shall include transportation)

2. List/Catalog Price – The list or catalog price is simply defined as the price for that particular item as charged by the manufacturer and listed in the manufacturer’s catalog, prior to any discounts being applied. When offering this price, offeror must indicate which year this list price is in effect; as a rule, offerors should propose using the latest available list prices.

3. Discounts – These discounts can be any discounts provided by the manufacturer for that particular item, such as Factory discounts, Trade Show Discounts, Year End Sales discounts, etc. that the distributor will be passing along to the government’s customers. These should be expressed as both a percentage as well as the actual dollar reduction being applied to the selling price. When multiple discounts are utilized, the offeror must provide a single percentage within its unit price calculation (i.e., 50/5/5/5/5 = 61.31%). However, the offeror must provide the discounts to comprise the single discount.

4. BASIC INSTALLATION – As expressed by the Naval Sub-Commands due to changes to security and installation requirements the Navy will assume all responsibility for installation for equipment ordered under the resultant contract(s).

IV. OPTIONS

A. There are four (4) one-year options in this contract. Acceptance of these options by the successful offeror(s) is **mandatory**. These option terms will follow the base year period upon expiration of that term, for a total possible contract period of five (5) years. Exercise of options by the Government is covered in **OPTION FOR REQUIREMENTS CONTRACT TERM EXTENSION** on pages **15-16** for Contract Clause.

STATEMENT OF WORK (continued)

V. INSPECTION AND ACCEPTANCE

1. INSPECTION AND ACCEPTANCE BY THE GOVERNMENT

(A) Saving and reserving to the Government all rights under the inspection provision, the following is applicable to this acquisition:

Inspection at Contractor's Plant

Destination

AND

Acceptance at Contractor's Plant

Destination

Upon execution of DD Form 250/Commercial Invoice by the authorized Government Representative.

(B) Resultant awards or contract will contain the name and address of the office responsible for performance of inspection.

(C) Offeror shall indicate below the location where suppliers will be inspected (if at Origin):

FOR OCONUS Shipments the place of inspection and acceptance will be at the consolidation point listed on each individual order. F.O.B. delivery may be at one of the two identified consolidation points located on page 37 of this contract. Terms for OCONUS shipments will be included in the individual orders of the resulting contract(s).

2. WARRANTIES

A. The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the contractor or its suppliers, as applicable, gives to any customer. The warranty 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", "Contract Terms and Conditions-Commercial Items" contained in the contract.

STATEMENT OF WORK (continued)

VI DELIVERIES AND PERFORMANCE

1. TERMS OF REQUIREMENTS CONTRACT

The duration of the contract(s) is for a one (1) year base term with four (4) one year options. The ordering period begins the day of contract award.

2. DELIVERY INSTRUCTIONS

A. Deliveries shall be F.O.B. destination to all ordering activities and delivery points. All items will be delivered to customer locations, free of damage, with all packaging and packing intact. No pallet exchange programs will be available for the customers listed in this contract. Deliveries shall be scheduled according to the customer's timetable as listed in individual orders under the resultant contract(s).

B. Any transportation/delivery questions shall be directed to the Transportation Office especially for *Tentative Shipping Addresses*: telephone 800-456-5507, fax 717-770-2701, email delivery@dla.mil. Use of the Distribution Planning & Management System (DPMS) will be required for most, if not all, orders placed under the resultant contract(s). DPMS will provide the most updated shipping information. Vendors must be registered to utilize DPMS. Visit <https://www.ddc.dla.mil/dmps> for registration instructions and more information.

3. DELIVERY POINTS:

Mc Connell AFB
53327 Derby Ct.
McConnell AFB, KS. 67221

Grand Forks AFB
308 Warrior Drive, Bldg 241
Grand Forks AFB, ND 58205

CONSOLIDATION POINTS

DD New Cumberland – W25G1U
DDSP New Cumberland Facility
Building Mission Door 113-134
New Cumberland, PA 17070-5001

DD San Joaquin – W62G2T
Defense Distribution San Joaquin
25600 S. Chrisman Road
Receiving Warehouse 10
Tracey, CA 95376-5000

Deliveries may be required at other Air Force Bases not currently listed in this contract at no additional charge to the Government.

4. 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 business day, unless otherwise agreed to by the customer,

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

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

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

STATEMENT OF WORK (continued)

5. Performance Metrics

The vendor is expected to attain or exceed the Automated Best Value System (ABVS) score that was noted at time of award. Vendors that do not have a quality or delivery score with the Government and an ABVS score of 999 a baseline ABVS score will be set after first 30 days of delivery. The ABVS score will be monitored monthly and downward trends will be discussed with the awardee as needed. Vendors that fall below their established score at time of award for three consecutive months will be in jeopardy of losing the contract. Quarterly scheduled conference calls with the vendor and the customers will be utilized to discuss performance concerns and/or issues.

6. AUTHORIZED RETURNS

The contractor shall accept returns under the following conditions:

- a. Products shipped in Contractor error;
- b. Products damaged in shipment;
- c. Products with concealed or latent damage;
- d. Products that are recalled;

VII. CONTRACT ADMINISTRATION DATA

1. CONTRACTING AUTHORITY

A. The DSCP Contracting Officer is the only person authorized to approve changes, or modify any requirement of the contract. Notwithstanding any provisions contained elsewhere in the contract, said authority remains solely with the DSCP Contracting Officer.

B. In the event the vendor effects any change at the direction of any person other than the DSCP Contracting Officer, the change will be considered to have been made without authority and no compensation will be provided. The Contracting Officer must authorize any modification or costs associated with a 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 DSCP Contracting Officer.

2. ELECTRONIC INVOICING

A. Refer to 52.212-4(g) on page 8 of this contract for invoice content requirements and other invoicing provisions.

B. All invoicing for payment is to be filed electronically using Electronic Data Interchange or DFAS Web Invoicing System (WInS). No paper invoices shall be submitted to DFAS for payment. WInS allows non-EDI capable businesses to electronically invoice. Visit <http://www.dod.mil/dfas/contractorpay/electroniccommerce/webinvoicingwins.html> to register and obtain more information.

C. The same invoice cannot be submitted with different dollar amounts.

STATEMENT OF WORK (continued)

D. Unit prices and extended prices must be formatted not more than two (2) decimal places to the right of the decimal point.

E. The following address must appear in the "Bill To" or "Payment Will Be Made By" block of the contractor's invoice:

DFAS – Columbus Center
Attn: DFAS – BVDP (SL4701)
PO Box 369031
Columbus, OH 43236-9031

F. Proof of delivery documentation is required.

Vendors/Manufacturers are requested to send proof of delivery using one of the following methods:

(1) Via e-mail (the preferred method): Vendors can scan the documentation, and e-mail to Karen.Howard@dla.mil. The subject line of the e-mail should read "Proof of delivery – FAST PAYMENT PROCEDURES".

(2) Via regular mail: Vendors can mail the documentation to the below address:

Defense Supply Center Philadelphia
ATTN: Subsistence, Bldg. 6, Karen Howard
700 Robbins Avenue
Philadelphia, PA 19111

The delivery documentation should include the contract number and call number, at a minimum. Acceptable proof of delivery includes any of the following documents:

(1) UPS Shipments: (Any of the following):

(i) UPS Receipt Card, duly executed by the DSCP customer/consignee.

(ii) A copy of the UPS Tracer, with a copy of the signed UPS delivery manifest and pick-up record.

(iii) A copy of the UPS Tracer, with the receipt signature traced off the UPS delivery manifest and pick-up record.

(2) U.S. Postal Service Shipments: Certificate of mailing.

(3) Common Carrier: A copy of the signed commercial bill of lading indicating the carrier's receipt of the supplies covered by the order.

(4) Other Than Above: A receipted copy of the appropriate delivery document showing receipt at the destination(s) specified in the order.

STATEMENT OF WORK (continued)

3. PAYMENTS

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

B. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (i) of Clause 52.212-4 "Contract Term and Conditions – Commercial items", appearing in the section of this contract entitled "Contract Clauses".

C. Payment is subject to the terms and conditions of Fast Pay. Fast Pay clauses are identified in addendum to 52.212-4 located on page 14 of this contract. All electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.

D. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.

E. The Government intends to make payments under this contract by electronic funds transfer (EFT). Reference Clause 52.232-33, Payment by Electronic Funds Transfer –Central Contractor Registration appearing in the section of this contract entitled "Contract Clauses".

However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

4. ADMINISTRATION

A. The Defense Supply Center Philadelphia will perform Administration of the basic Requirements Contract and individual Delivery Orders.

B. The DSCP Contracting Officer must approve any changes to the contract.