

AUTHORIZED FOR LOCAL REPRODUCTION  
PREVIOUS EDITION IS NOT USABLE

**STANDARD FORM 1449** (REV. 2/2012)  
Prescribed by GSA - FAR (48 CFR) 53.212

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

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED    ☐ INSPECTED    ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	

38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY ( <i>Print</i> )
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	42b. RECEIVED AT ( <i>Location</i> )
41c. DATE	42c. DATE REC'D (YY/MM/DD)
	42d. TOTAL CONTAINERS

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[STATEMENT OF WORK (SOW)/ REQUEST FOR PROPOSAL (RFP) ATTACHMENT LIST]:

Attachment 1: Schedule of Items  
Attachment 2: Customer List  
Attachment 3: Request for New Items  
Attachment 4: FFAVORS Web Vendor User Manual  
Attachment 5: Question Form

[CONTINUATION OF BLOCKS ON THE SF 1449]

BLOCK 8 (continued):

OFFER DUE DATE/ LOCAL TIME: August 29, 2014 at 1:00 P.M. HAWAII STANDARD TIME.

QUESTIONS PERTAINING TO THIS SOLICITATION SHALL BE SUBMITTED IN WRITING ON THE QUESTION FORM (ATTACHMENT 5), NO LATER THAN AUGUST 19, 2014 AT 4:00 P.M. HST.

BLOCK 9 (continued):

ALL OFFERS/MODIFICATIONS/WITHDRAWALS MUST BE PLAINLY MARKED ON THE OUTERMOST ENVELOPE WITH THE SOLICITATION NUMBER, CLOSING DATE, AND TIME SET FOR THE RECEIPT OF OFFERS.

SEND MAILED OFFER TO:  
DLA TROOP SUPPORT PACIFIC  
BUSINESS OFFICE  
440 FULLER WAY, BLDG 280  
PEARL HARBOR, HI 96860-4967

DELIVER HANDCARRIED OFFER, INCLUDING DELIVERY BY COMMERCIAL CARRIER TO:  
DLA TROOP SUPPORT PACIFIC  
BUSINESS OFFICE  
440 FULLER WAY, BLDG 280  
PEARL HARBOR, HI 96860-4967

All hand carried offers are to be delivered to the business opportunities office between 8:00 A.M. and 4:00 P.M.  
Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103. Offerors that respond to this solicitation using a commercial carrier service must ensure that the commercial carrier service hand carries the package to the Business Opportunities Office prior to the scheduled closing time.

If hand-carrying or express mailing proposal, the offeror is advised that the Contracting Officer is on a secured base and passes are required to enter the base. Anticipate delays in base access. If a base pass is desired, provide the following information by email to kristopher.tom@dla.mil and paul.cunanan@dla.mil no later than three (3) workdays prior to the visit date:

Name of person dropping off proposal and citizenship  
Company name, address, phone number  
Date of visit

NOTE: Facsimile offers are not authorized for initial submission.

BLOCK 17A. (CONTINUED):  
OFFERORS: SPECIFY  
CAGE CODE: \_\_\_\_\_

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FAX NUMBER \_\_\_\_\_  
 EMAIL ADDRESS \_\_\_\_\_  
 COMPANY POC: \_\_\_\_\_  
 PHONE #: \_\_\_\_\_

BLOCK 17B. (CONTINUED)

Remittance will be made to the address that the vendor has listed in the System for Award Management (SAM) Database. Offeror’s assigned DUNS Number:

(If you do not have a DUNS number, contact the individual identified in Block 7a of the SF 1449 or see 52.212-1, Instructions to Offerors–Commercial Items (paragraph j) for information on contacting Dun and Bradstreet.)

BLOCKS 19-24 (CONTINUED): SEE SCHEDULE OF ITEMS (ATTACHMENT 1)

BLOCK 18A: (CONTINUED) CODE: SL4701  
 DFAS Columbus Center  
 DFAS BVDP  
 PO Box 369031  
 Columbus, OH 43236-9031

BLOCK 20. (CONTINUED)

Full Line of Grade US#1 or Better Fresh Fruit and Vegetables (FF&V) Support for Non-DoD USDA Schools Customers, Oahu, in the State of Hawaii. See Schedule of Items (Attachment 1).

BLOCK 28. (CONTINUED)  
 Contractor is required to sign this document and return ONE copy to issuing office.

BLOCK 31b. (CONTINUED)

Name of Contracting Officer: Paul Cunanan

[CHECKLIST - DID YOU REMEMBER TO?]

- \_\_\_\_\_1. Fill in Block 17a, of SF 1449?
- \_\_\_\_\_2. Fill in Block 17A above?
- \_\_\_\_\_3. Indicate remittance address and DUNS Number, block 17B above?
- \_\_\_\_\_4. Sign Block 30a, name in Block 30b, and date in Block 30c of SF1449?
- \_\_\_\_\_5. Sign and return any/all amendments?
- \_\_\_\_\_6. Return one (1) COMPLETE & SIGNED copy of the SF1449 solicitation [ALL PAGES]?
- \_\_\_\_\_7. Fill out all certifications and representations in solicitation or submit a copy of ORCA Registration?
- \_\_\_\_\_8. Submit Delivered Prices (EXCEL Spreadsheet Column G) and Distribution Prices (EXCEL Spreadsheet Column H) for every item listed in Attachment 1 - Schedule of Items (on all EXCEL Spreadsheet Tabs) , and save it to a CD?
- \_\_\_\_\_9. Fill out Vendor Name in the Attachment 1 - Schedule of Items, Excel Spreadsheet cell “B3”on all EXCEL Spreadsheet Tabs?
- \_\_\_\_\_10. Save all proposal attachments and documents to a CD and submit with hardcopy proposal?

[CAUTION NOTICE]

This solicitation is being issued as a 100% Small Business Set-Aside. The applicalbe NAICS code is 311991 and

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size standard is 500. A Non-Manufacturer waiver was approved by Small Business Administration (SBA) for the subject solicitation. Evaluation method will be Lowest Priced, Technically Acceptable Source Selection Procedures in accordance with Federal Acquisition Regulation (FAR) Part 15.101-2. The anticipated contract will contain one (18 month) base period plus two (18 month) option periods. The length of the contract, including options if exercised, may total 54 months (4.5) years.

Delivery orders will be placed against the resulting contract at the current catalog price on the United States Department of Agriculture (USDA) Fresh Fruits and Vegetables Order Receipt System (FFAVORS) website. The awardee will be required to have a computer system capable of accepting delivery orders and processing Electronic Data Interchange (EDI) transactions. This contract will require the contractor to have electronic commerce/electronic data interchange (EC/EDI) capabilities.

All contractors who choose to conduct business with the Department of Defense must now be registered in the System for Award Management (SAM) database at [www.sam.gov](http://www.sam.gov).

All contractors who receive awards as a result of this initiative are encouraged to utilize the SBA SUBNet database to assist them in further identifying additional unrestricted sources of supply. Vendors may post notices of sources sought for teaming partners and subcontractors on future contracts. Small Business can review this web site to identify opportunities in their area of expertise. You may access the SBA PRONet database through the SBA Website at: [www.sba.gov](http://www.sba.gov).

In accordance with DLAD Clause 52.215-9023, Reverse Auction may be used for Distribution Prices ONLY and the low offeror at the end of the Reverse Auction may not be the ultimate awardee. Award determination will be based on the lowest evaluated aggregate price.

[CAUTION - CONTRACTOR CODE OF BUSINESS ETHICS (FEB 2012)]

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

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

[RAPIDGATE]

"Many bases currently require enrollment in RapidGate and will not allow entry without RapidGate clearance. During the contract implementation period, the Contractor must contact all customer locations to determine whether enrollment in RapidGate or another security program is required for access to each location. If RapidGate or other security enrollment is required, the contractor must take all necessary steps to obtain this in time for the start of performance under this contract. Failure to have RapidGate clearance may result

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in a vendor being turned away from the base and being unable to complete delivery. The contractor is responsible for the additional cost for RapidGate enrollment and must ensure that a RapidGate enrolled driver is available for all deliveries. We currently estimate that RapidGate enrollment will cost about \$250 per company and \$200 per enrolled employee for 1 year of access to multiple locations, but the cost of RapidGate or other security enrollment may vary, so the contractor should contact RapidGate to determine its own costs. If more than one driver is required, RapidGate enrollment must be obtained for each driver. Note that enrollment can take several weeks, so an awardee that is not already enrolled must begin enrollment at the time of award notification at the latest. If difficulty or delay in enrollment in RapidGate is encountered during the implementation period, the contractor MUST contact RapidGate and/or the Security Officer at the applicable customer locations to resolve any issues with processing RapidGate enrollment so that the contractor will be able to deliver as required. For additional information regarding RapidGate, including enrollment instructions, please visit their website at [www.rapidgate.com](http://www.rapidgate.com).

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

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## **STATEMENT OF WORK (SCOPE)**

### **I. INTRODUCTION**

A. The DLA Troop Support Pacific intends to enter into an Indefinite Delivery, Indefinite Quantity (IDIQ) contract with a commercial firm to supply a full-line of USDA Grade No.1 or better Fresh Fruit and Vegetable (FF&V) products to Non-Department of Defense (DoD) USDA School customers, Oahu, in the State of Hawaii.

B. This solicitation consists of non-Department of Defense (DoD) and private non-profit school customers. Offerors are required to offer on all items in the Schedule of Items; failure to do so may result in exclusion from award consideration.

C. This solicitation is being issued as a 100% small business set-aside. It utilizes the Lowest Price Technically Acceptable Source Selection Process.

D. Any award made against this solicitation will result in a Fixed Price with Economic Price Adjustment (FP with EPA), Indefinite Delivery, Indefinite Quantity (IDIQ) contract. The IDIQ contract will provide for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (reference FAR 16.504 (a)).

E. All Fresh Fruit and Vegetable products delivered under this contract shall be sourced domestically, no exceptions. Non-DoD USDA School Customers are allowed to utilize the resulting contract only when they use Federal funding. Additionally, these customers shall be required to utilize Federal funding on domestic items ONLY. Non-Domestic items are not authorized using Federal funding.

### **II. EFFECTIVE PERIOD OF CONTRACT**

A. The resultant contract may be for a total of 4.5 years (one [18 month] base period plus two [18 month] option periods) commencing on the effective date of the contract. The base period will include a start-up period, see paragraph V. Requirements.

B. For evaluation purposes only, the base term of the resultant contract (18 Months), and the term of any option (18 Months), if exercised under the Contract, will not exceed 18 months for the option period. The total length of the contract will not exceed fifty-four (54) months.

C. Exercising of an option is not automatic and depends upon such conditions as acceptable vendor performance in meeting contract specifications and verifying an ongoing demand for this requirement.

### **III. OPTIONS**

A. There are two (18 month) option periods in this solicitation. Acceptance of these options is mandatory. Distribution Prices (see Economic Price Adjustment (EPA) Clause), must be submitted for each option period, as well as for the base period. The Distribution Prices offered on each option period will be calculated with the Delivered Price (see Economic Price Adjustment (EPA) Clause), proposed for each evaluated item. The Distribution Price for each option period may be offered as a dollar value, increase or decrease, from the base period. Changes expressed as a percentage will not be accepted.

B. Failure to propose an increase or decrease of distribution prices in the option periods will be considered, and evaluated as, no change per option period.

### **IV. GUARANTEED MINIMUM/MAXIMUM**

A. The guaranteed minimum on the resultant contract is 10% of the estimated award amount for the base period only.

B. The maximum ceiling on the resultant contract is 200% of the estimated award value.

### **V. REQUIREMENTS**

A. Start-up-Period: The Contractor's startup period will take place prior to the first order and is included in the 18-month period of the base period. The Contractor shall submit a proposed implementation schedule to the Contracting Officer within five (5) days after award highlighting the steps that will be taken to implement a fully functional distribution account, including all EDI transactions for all

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customers covered by this solicitation. An additional thirty (30) days will be granted for actual implementation. No more than thirty (30) days after award will be permitted for each contractor to have fully functional distribution accounts in place for all customers.

## VI. CATALOGS

Offerors will be required to maintain electronic catalogs that list all items available to the customers covered under this solicitation. Each item in the catalog shall contain the corresponding national or local stock number, Government item description, packaging characteristics, unit of issue and unit price.

### A. Catalog Maintenance

#### 1. New Items

(a) Prior to commencement of the first order, DLA Troop Support Pacific, the customer and the vendor will collaborate to identify items not found in the Schedule of Items which are to be added to the ordering catalog. Neither the vendor nor customer is permitted to add a new item to the catalog without initiating a new item request to the Contracting Officer.

(b) After ordering commencement, if a customer desires to order a Fresh Fruit and Vegetable (FF&V) item that is not part of the ordering catalog, the contractor will be allowed a maximum of twenty (20) days to source the item, obtain a stock number from DLA Troop Support Pacific (if required) and add the item to the ordering catalog via an 832 catalog transaction. These items should then become a permanent part of the contractor's inventory, dependent upon availability, after the Contracting Officer's determination of fair and reasonable pricing. The contractor shall utilize the Contracting Officer provided form when requesting all item approvals (additions and/or changes). The form is mandatory and is Attachment 2.

(c) The successful awardee shall assume the responsibility of introducing new produce items to the customers, as well as showing cost effective alternatives to their current choices.

#### 2. Catalog Pricing

(a) Schedule of Items Pricing: Items priced in the Schedule of Items (See Attachment) will be included in the ordering catalog following award. Schedule of Items will be determined fair and reasonable prior to award. The final proposed price for each item in the Schedule of Items will be the catalog price during the first week of customer ordering.

(b) Catalog Price Changes: Once an item is listed on the ordering catalog, the contracting officer will make on-going price reasonableness determinations. In accordance with clause Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model, contractors are permitted to submit a weekly EPA for items found on the catalog. For each item the vendor is requesting a price change, the contracting officer will conduct a separate price reasonableness determination. The item will be removed from the catalog until a fair and reasonable price can be determined by the Contracting Officer.

(c) Catalog Additions: Before an item is added to the catalog vendors are required to submit to the contracting officer a request of proposed catalog additions (See Attachment). The request shall include the stock number, Government item description, proposed unit price and a corresponding supplier invoice or quote, and proposed distribution price. **The request is due by 9:00 AM HST on the Monday prior to inclusion of the Wednesday catalog updates.** The contracting officer will review the catalog addition request and upon determining the price fair and reasonable will contact the contractor to indicate acceptance. The contractor shall then include the item on Wednesday's catalog update. Should the proposed price fail to be determined fair and reasonable, the contracting officer will conduct negotiations with the vendor. If after negotiations the proposed pricing still cannot be determined fair and reasonable the item will not be added to the catalog.

(d) Pricing Requirements: The final negotiated contract fixed unit price for each item delivered to all customers shall be in effect for a minimum of all orders issued during the first ordering week (from Sunday at 12:01 AM through the following Saturday until midnight). The prices shall remain in effect for all subsequent ordering weeks except as otherwise adjusted IAW clause Economic Price Adjustment –Actual Material Costs for Subsistence Delivered Price Business Model (Nov 2011).

(i) On the first week's catalog the vendor shall submit final evaluated prices as awarded using the 832 transaction unless lower market prices are available at time of award whereby the vendor shall adjust their catalog prices to provide all available lower prices to the Government. Because this award is being made as Low Price Technically Acceptable, there is no upward adjustment on the final evaluated price for the first week's catalog. For Troop Customers the vendor retains the right to limit deliveries under the first week's catalog to delivery days in the first week plus the following Monday and Tuesday.

#### 3. Rebates/Discounts and Price-Related Provisions

(a) The contractor shall employ prevailing commercial methods in the pursuit of discounts, rebates, allowances or other similar economic incentives or benefits, for the customers supported under this contract, throughout the period of performance. All NAPA discounts, food show discounts, early payment discounts (except as identified in paragraph (b) herein), and other discounts, rebates, allowances or other similar economic incentives or benefits received by the Contractor at any time during the period of performance shall be passed to the Government via a reduced catalog price. Instructions for identifying discounts, rebates, allowances or other similar economic incentives or benefits that shall be provided to the Government or retained by the contractor are set forth in the submission requirements in the Business Proposal/Pricing and in the Reports section of the Statement of Work.

(b) The contractor may retain Early Payment discounts that meet the following conditions:

- (i) the Early Payment discount is an incentive to encourage payment earlier than the normal payment due date;
- (ii) the Early Payment discount is consistent with commercial practice;

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- (iii) the Early Payment discount is routinely given by the manufacturer/growers to customers other than the Prime Vendor/Contractor at the same discount rate and under the same conditions as provided to the Prime Vendor/Contractor;
- (iv) the Early Payment discount is not established, requested, or negotiated for the purpose of avoiding giving DLA TROOP SUPPORT PACIFIC a lower cost or a rebate or in exchange for a higher invoice price;
- (v) the Early Payment discount is no more than 2 percent of the manufacturer/grower's invoice and the early payment is required within 10 days to obtain the discount; and
- (vi) the contractor actually made the required payment within the time period required to receive the discount.
- (c) Upon request the contractor shall provide to the Government any invoices, quotes, or agreements relevant to the delivered price component for existing catalog items, for any new items being added to the catalog, and for requested price changes to existing catalog items. The contractor must include detailed payment terms on each invoice or quote used to substantiate delivered price, including any applicable discounts or rebates. If there are no payment terms associated with the document, the contractor must annotate it with "No payment terms."
- (d) The government may require the contractor to submit invoices and other documentation from all subcontractor tiers or any supplier or person in the delivered price supply chain, to substantiate all discounts, rebates, allowances or other similar economic incentives or benefits. If the Contracting Officer determines, after reviewing an invoice or other documentation, that a discount, rebate, allowance or other similar economic incentive or benefit should have been passed on to the Government, or if price verifications reveal any instance of overpricing or underpricing, the Government shall be entitled to a prospective delivered price reduction and a retroactive refund for the amount of the overcharges or discounts, rebates, allowances or other similar economic incentives or benefits, including interest and the contractor shall be entitled to a credit for any undercharges. The Contracting Officer, or authorized representative, shall have the right to examine and audit all the Contractor's records relevant to the existence of discounts, rebates, allowances or other similar economic incentives or benefits, and commercial customer delivered prices. Failure to exercise this right shall not constitute a defense or alter the Government's entitlement to any other remedies by contract or by law.

## **VII. CUSTOMERS**

### **A. Adding Customers within the Oahu distribution zone.**

1. Additional customers that request DLA Troop Support Pacific produce support will be added on to the resultant Produce Long Term Contract under this solicitation, without any new acquisition or competition process, if the customer(s) is clearly within the Oahu Distribution Zone covered by this contract.
2. In this case, the contractor shall include this customer(s) at the effective contract prices applicable to that contract zone or region.
3. The decision as to whether the new customer is clearly within the contract region or zone and will be added to the contract without further competition and at existent contract prices, shall be the sole decision of the DLA Troop Support Pacific Contracting Officer.

### **B. Adding Customers outside the Contract Geographic Distribution Region/Zone that are not Covered by a Current Produce Long Term Contract.**

1. This provision applies to the following customers:
  - (a) A new DoD federal customer that is not clearly within the contract geographic distribution region/zone and for which the contractor will not accept the customer(s) at the effective contract price,
  - (b) A customer(s) located in an area that may be considered adjacent or proximal to the geographic distribution region/zone covered by more than one contractor.
  - (c) The above instances may occur when new customers request DLA Troop Support Pacific produce support or a current Contractor is no longer able to support that proximal customer installation(s). In these latter events, the DLA Troop Support Pacific will utilize this provision to expeditiously source a Contractor for the customer installation(s).
2. The customer installations described in paragraph B above, and their Produce requirements, will be added to a Contractor's contract as follows:
  - (a) Complete price proposals to support the subject new customer(s), to include distribution and delivered prices, will be requested from only existing Subsistence Produce contractors that are proximal to the new customer, i.e. close in distance. Also, the Government may use any in house records.
3. The contract maximum may not be exceeded, even with the addition of a new customer(s).
4. The decision as to which contractors are proximal to the new customer and will be requested to provide a proposal to support such customer shall be the sole decision of the DLA Troop Support Pacific Contracting Officer.

## **VIII. CUSTOMER SERVICE**

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<p>A. USDA School Lunch Program have periodic food menu board, and other types of meetings which the vendor may be required to attend. At these meetings, the customers not only review their internal business practices, but the offeror can utilize this forum to show new products, demonstrate produce preparation, and provide nutritional information.</p> <p>B. Vendors shall provide at least one (1) full time Customer Service representative to maintain continuous contact with all of the ordering activities. The name of the representative and the phone number, mobile phone number, beeper number, email address, or any other method of communicating with the representative, shall be furnished to the customer after award.</p> <p>C. The vendor shall assume the responsibility of introducing new food items to the customers, as well as to show cost effective alternatives to their choices.</p> <p>D. Since many of our customers only have access to the Government phone network, it is strongly preferred that a toll free number be provided.</p> <p><b>IX. VALUE ADDED SERVICES</b></p> <p>A. Market Forecast: The vendor is required to provide the customer and the contracting officer with a weekly produce market forecast bulletin on Friday which outlines for the following week information regarding supply availability, product quality, associated growing areas, price trends, weather conditions, and handling tips.</p> <p><b>X. ORDERING SYSTEMS</b></p> <p>A. Fresh Fruits and Vegetable Order Receipt System (FFAVORS WEB): Non-DoD customers (USDA school customers and Tribal Organizations) will utilize the Fresh Fruit and Vegetable Order Receipt System (FFAVORS) Web catalog. The successful awardee will be provided a User ID and password to Log in and receive orders through FFAVORS Web, a web-based ordering system. The vendor is responsible for establishing and maintaining the FFAVORS WEB catalog in accordance with the attachment.</p> <p>1. Accessed via the Internet. FFAVORS WEB is the Government's ordering system for USDA Customers. It is capable of accepting orders from the schools.</p> <p>2. Customers will be able to order all of their requirements through FFAVORS WEB. The system will transmit orders to the vendor and DLA-Troop Support. USDA will assume responsibility for this system beginning with school year 2013.</p> <p>3. In the event the FFAVORS WEB system is not operational, the vendor must provide alternate ways for the customer to order (e.g., by fax, by phone, pick up orders.)</p> <p>C. Public Key Infrastructure (PKI)/ External Certificate Authorities (ECA) Certificates: The Department of Defense (DoD) Public Key Infrastructure (PKI) Certificate will be required for all DoD users. A DoD PKI certificate will be required for all contractors. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.</p> <p>1. Obtaining a PKI certificate:  (a)Contractors who do not work on-site at a Department of Defense facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are vendors who provide digital certificates to DoD's industry partners who are using their own equipment or working in non – Governmental facilities. Certificate prices range from \$99 - \$115 per certificate per year, with volume discounts at some ECAs. A list of ECAs is available at: <a href="https://www.daas.dla.mil/daashome/pki_contacts.asp">https://www.daas.dla.mil/daashome/pki_contacts.asp</a>.  (b)Each contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable.</p> <p><b>XI. ORDER PLACEMENT</b></p> <p>A. Minimum order requirement for any resultant contract is \$100.00. The \$100.00 minimum order shall be based on the aggregate total of orders to all customers located within a particular base or location. See attachment for specific delivery information for the customers.</p> <p>B. School customers shall place their orders to accommodate a 3 day order/ship time. For example, the vendor downloads the order on Tuesday and prepares shipment for Friday, in effect, 3 day order/ship time. See attachment for specific delivery information for School and Reservation customers.</p> <p>C. All invoice pricing will be based upon the unit price at time of order. For example, for any item ordered on a Friday to be delivered the following week, pricing will based upon the Friday price, regardless of whether the unit price for that item changed as part of the weekly catalog update.</p> <p style="text-align: right;"><b>CONTINUED ON NEXT PAGE</b></p>		

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## **XII. ITEM AVAILABILITY**

A. Vendors must have access to items in sufficient quantities to fill all ordering activity requirements. All supplies shall be furnished on a "fill or kill" basis. The order must be filled in its entirety or canceled (killed). Partial shipments are acceptable if the customer is notified in advance and agrees to the partial shipments; however, the unfilled quantity is to be reported as not-in-stock (NIS). Offerors are required to have procedures for handling NIS situations. The contractor is required to stipulate timeframes in which the NIS item will be identified to the customer prior to delivery, in order that a substitute item may be requisitioned via a new order. Only substitutes of comparable description, quality, and price may be offered to the customer.

B. Vendors shall notify the customer within 24 hours of order placement of the non-availability of any item. Vendors shall offer the customer a substitute of equal or higher quality and at an equal or lower cost, or advise them of the not-in-stock position of the item. Substituted product shall not be delivered without prior consent by the customer. Substituted items must be noted as such on the invoice.

## **XIII. PACKAGING, PACKING, LABELING AND MARKINGS**

A. All packaging, labeling and packing shall be in accordance with good commercial practice. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.

B. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as "KEEP REFRIGERATED" shall be used on all cases when appropriate.

C. Protection during inclement weather is required. All products that are susceptible and sensitive to temperature must be protected by any means to prevent damage.

## **XIV. DELIVERY INSTRUCTIONS**

A. Vendors shall ensure all products are delivered in sanitary trucks that are of a commercially acceptable standard. All delivery trucks must be equipped with a lift gate to expedite the offloading of products. Trucks shall maintain proper temperatures, as determined through standard commercial practices. 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. The contractor shall remove all excess pallets used for delivery from the delivery point. A listing of all the delivery points per zone can be found in the attachment.

B. School delivery schedules (days and times) routes and stop-off sequence will be coordinated and verified with the customers on a post award basis by the awardee(s). In general, each school customer receives one (1) delivery per week.

C. Products for individual customers. Many of the school customers may have more than one delivery point. All products shall be segregated by drop-off point and loaded into the delivery vehicle in reverse drop sequence. The intent is to provide expeditious off-loading and delivery to the customer.

D. The offeror shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer.

## **XV. INSPECTION AND ACCEPTANCE**

A. Inspection and Acceptance of products will be performed at destination. The inspection is normally limited to identity, count and condition; however, this may be expanded if deemed necessary by either the military Veterinary Inspector, Dining Facility Manager, Food Service Advisor/Officer, or the Contracting Officer. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). In addition, the delivery vehicles will be inspected for cleanliness and condition. Supplies transported in vehicles that are not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected without further inspection.

B. The authorized receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket shall not be signed prior to the inspection of each product. All overages/shortages/returns are to be noted on the delivery ticket by the receiving official and truck driver. The authorized Government receiving official's signature and printed name on the delivery ticket is required for acceptance of the product.

C. The contractor shall forward three (3) copies of the delivery ticket with the shipment. The receiving official will use the delivery ticket as the receipt document. Two (2) copies of the signed and annotated delivery ticket will serve as the acceptance document. No electronic invoice may be submitted for payment until acceptance is verified. Additionally, upon completing the delivery (or deliveries)

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and before the carrier leaves the installation, copies of the invoices may be required to be delivered to a central "Accounting" activity on the installation.

#### **XVI. AUTHORIZED RETURNS**

- A. The contractor/vendor shall accept returns under the following conditions:
1. Products shipped in error.
  2. Products damaged in shipment.
  3. Products with concealed or latent damage.
  4. Products that are recalled.
  5. Products that do not meet shelf life requirements.
  6. Products that do not meet the minimum quality requirements as defined for the items listed in the schedule.
  7. Products delivered in unsanitary delivery vehicles.
  8. Products delivered that fail to meet the minimum/maximum specified temperature.
  9. Quantity excess as a result of order input error and/or purchase ratio factor error.
  10. Products that are not from a sanitarily approved source.
  11. Products that do not comply with DFARS 252.225-7012 Preference for Certain Domestic Commodities (Berry Amendment), if no waiver to this clause has been granted.
  12. Any other condition not specified above that is deemed by the customer to be valid reasons for return.
  13. No cost produce order cancellation policy:
    - a. Produce orders less than \$8,000. School customers may cancel orders less than \$8,000 with advance cancellation notice to the vendor by 12:00 p.m. local time, two (2) business days prior to scheduled delivery. The customer will be responsible for payment of the order if timely cancellation notice is not received by the vendor.
    - b. Produce orders greater than \$8,000. School customers may cancel orders greater than \$8,000 with advance cancellation notice to the vendor fourteen (14) business days prior to the scheduled delivery. The customer will be responsible for payment of the order if timely cancellation notice is not received by the vendor.

#### **XVII. REJECTION/RETURN PROCEDURES**

A. In the event an item is returned, the delivery ticket/invoice shall be annotated as to the item (s) rejected. These items shall then be deducted from the delivery ticket/invoice. The invoice total must be adjusted to reflect the correct dollar value of the shipment. Replacements will be authorized based on the customer's needs. On an as-needed basis, same day re-delivery of items that were previously rejected shall be made, so that the customer's food service requirements do not go unfulfilled for that day. The re-delivered items will be delivered under a separate invoice utilizing the same call number, CLIN number, and purchase order number for the discrepant line. These re-deliveries will not constitute an emergency order requirement.

B. In the event a product is rejected after initial delivery is made, the vendor will pick up the rejected product. Credit due to the ordering activity as a result of the rejected product being returned, will be handled through a receipts adjustment process in FFAVORS web. If the vendor has already been paid for the product, a claim will be issued through DLA Troop Support Pacific financial system. In all cases, one (1) copy of the credit memo is to be given to the customer and (1) copy of the credit memo is to be sent to the DLA Troop Support Pacific Contracting Officer.

C. If a customer requires a one-to-one replacement, no additional paper work is necessary; the vendor delivery ticket/invoice will show that product is a replacement for a rejected item. The invoice shall reference the call number, CLIN number, or Purchase Order Number of the originally ordered product.

It is a requirement of this solicitation that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the contractor from responsibility, nor impose liability on any of the customers, for nonconforming supplies. See clause 52.212-4, paragraph (o) and addendum to clause 52.212-4, paragraph 1.

#### **XVIII. INVOICING**

A. Each delivery will be accompanied by the contractor's delivery ticket/invoice. Three (3) copies (an original plus two) shall accompany the shipment. The customer shall sign all copies of the invoice/delivery ticket, keep one (1) copy and return the Original copy to the vendor. Any changes must be made on the face of the delivery ticket/invoice; attachments are not acceptable.

B. For all orders downloaded via DLA Troop Support Pacific's USDA customer ordering web-site FFAVORS WEB, invoicing for payment shall be done via invoice link from FFAVORS WEB homepage, <http://www.fns.usda.gov/fdd/ffavors.htm>.

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C. All invoices submitted by the vendor must be “clean”, i.e. all debits and/or credits must be reflected on the invoice prior to its submission. All vendors are required to ensure the accuracy of their invoices; the reconciliation tool provides you that medium.

D. All internal debit/credit transactions must be completed prior to the submission of the invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.

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

F. The 810 invoices do not go through a testing phase. The vendors immediately begin sending their invoices in once they have successfully sent their first 850 purchase order.

G. Any manually keyed, or emergency order, must contain the word “Emergency” in the Purchase Order field when the invoice is submitted for payment. In addition, the CALL number and CLIN numbers will be entered as “9999” on the invoice. Failure to follow this procedure may result in the rejection of your invoice.

H. For catch weight items, standard rounding methods must be observed i.e. <5, rounded down; > or =5, rounded up. All weights must be rounded to whole pounds using standard rounding methods. Any line submitted for other than whole numbers will be rejected and require correction and re-submission by the vendor. Note: Currently, no catch weight items apply to this solicitation. This does not preclude the possibility that catch weight items may be added in the future for certain items.

I. Although invoices must be submitted electronically via an 810 Electronic Invoice, the following address must appear in the “Bill To” or “Payment Will Be Made By” block of the contractor’s invoice.

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

Each invoice shall contain sufficient data for billing purposes. This includes and as applicable, but is not limited to:

Contract Number  
Call or Delivery Order Number  
Purchase Order Number;  
DODAAC  
Contract line listed in numeric sequence (also referred to as CLIN order);  
Item nomenclature;  
LSN or NSN;  
Quantity purchased per item in DLA TROOP SUPPORT PACIFIC’s unit of issue;  
Total dollar value on each invoice (reflecting changes to the shipment, if applicable).

J. Invoice transactions may be submitted to DLA Troop Support Pacific daily. All internal debit/credit transactions must be completed prior to the submission of the invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.

The vendor will have access to “un-reconciled” information, i.e., the invoice does not match the receipt because of the quantity price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review on the website by the vendor. While the vendor will not have the capability to update customer receipt information, update capability will be available for un-reconciled invoice information for approximately thirty days (30) days. It is the vendor’s responsibility to ensure accurate invoices. This tool has been developed as an additional means for your internal accounting process.

## **XIX. PRICE AUDITS**

A. Price Verification Audits. Contractors are advised that the Government may conduct price verification analysis in the following manner:

1. Monthly, an internal Price Verification Team in conjunction with the Contracting Officer may require the contractor to provide copies of specific invoices from suppliers covering up to 100 items that were previously ordered.

2. The Price Verification Team will request the above documentation in writing and the contractor will have thirty (30) days after the request to furnish the documentation.

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3. A report of overcharges and undercharges (if applicable) will be forwarded to the contractor, and the contractor will pay the Government for the net amount owed for overcharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.
4. The Government may elect to expand the scope of the price verification analysis if overcharges are discovered. The Government may also elect to reduce the scope of the price verification analysis if no overcharges are discovered.
- B. The Government reserves the right to conduct additional price audits to verify price accuracy and recoup overcharges. In such instances, contractors will be required to submit invoices and any other supporting price documentation.
- C. 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.

**XX. FILL RATE**

A. Order fill rates shall be calculated on an on-time, per order basis and tracked for monthly submission to the Contracting Officer/Account Manager. The fill rate shall be calculated as follows and shall not include substitutions, mis-picks, damaged cases or rejected product (No other method of calculating fill rate will be accepted):

**Cases Accepted X 100 = Fill Rate %**  
**Cases Ordered**

- B. Definitions:
1. Cases Accepted: Product that the customer has received and receipted not including damaged cases or rejected product, mis-picks, and product substitutions.
  2. Cases Ordered: Product requested by a customer
- C. Vendors are required to maintain at a minimum a 98.0% fill-rate without substitutions.
- D. The contractor will submit a monthly report, by customer, to the DLA TROOP SUPPORT PACIFIC Contracting Officer with the following information:
1. Fill Rate with and without Substitution
  2. List of all items that were Not in Stock, Returned, Damaged, Mis-picks and Substitutions.

**XXI. HOLIDAYS**

A. All orders are to be delivered on the specified delivery date, except for Federal and State 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.

Federal Holidays

- |                               |                  |
|-------------------------------|------------------|
| New Year's Day                | Labor Day        |
| Martin Luther King's Birthday | Columbus Day     |
| President's Day               | Veteran's Day    |
| Memorial Day                  | Thanksgiving Day |
| Independence Day              | Christmas Day    |

Note: Saturday holidays are celebrated on the preceding Friday; Sunday holidays are celebrated on the following Monday. Columbus Day is not observed by the State of Hawaii, orders scheduled for delivery on Columbus Day shall be delivered on that day.

Hawaii State Holidays

- Prince Jonah Kuhio Kalaniana'ole Day (twenty-sixth day in March)  
 Good Friday (Friday preceding Easter Sunday)  
 King Kamehameha I Day (eleventh day in June)  
 Statehood Day (third Friday in August)

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General Elections Day (first Tuesday in November following the first Monday of even-numbered years)

Note: State holidays are in addition to Federal holidays. Columbus Day is not observed as a state holiday.

## **XXII. EMERGENCY ORDERS**

A. Troop requirements can accelerate and surge during adverse weather or other conditions, therefore; last minute ordering may take place as necessary to fulfill customers' requirements.

B. Unless specified by the customer, all emergency order(s) for supplies must be same day service. Expeditious fulfillment of the emergency requirement is imperative. The vendor is responsible for providing the ordering facilities with the name of the contractor representative responsible for notification of receipt and handling of such emergency service and his/her phone number and/or cell phone number. The contractor will provide up to one emergency order per month per customer at no additional cost to the Government.

## **XXIII. FOOD DEFENSE**

A. DLA Troop Support Pacific Subsistence Office provides world-wide subsistence logistics support during peace time as well as during regional conflicts, contingency operations, national emergencies, and natural disasters. At any time, the United States Government, its personnel, resources and interests may be the target of enemy aggression to include espionage, sabotage, or terrorism. This increased risk requires DLA Troop Support Pacific to take steps to ensure measures are taken to prevent the deliberate tampering and contamination of subsistence items. The offeror must ensure that products and/or packaging have not been tampered with or contaminated throughout the growing, storage, and delivery process. The offeror must immediately inform DLA Troop Support Pacific Subsistence of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.

B. As the holder of a contract with the Department of Defense, the awardees should be aware of the vital role they play in supporting our customers. It is incumbent upon the awardees to take all necessary actions to secure product delivered to all military customers, as well as any applicable commercial destinations.

C. The Offeror will insure that all products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Offeror shall immediately notify the DLA Troop Support Pacific Subsistence Contracting Officer of any attempt or suspected attempt by any party or parties, known or unknown, to tampering with or contaminate subsistence supplies.

D. The Vendors shall have a Food Defense Plan, in accordance with the Food Defense Checklist [http://www.troopsupport.dla.mil/subs/fs\\_check.pdf](http://www.troopsupport.dla.mil/subs/fs_check.pdf) that describes what procedures are in place to prevent product tampering and contamination. After contract award, the Food Defense Plan may be reviewed / verified to ensure compliance of the Food Defense Checklist.

## **XXIV. PRODUCT QUALITY**

A. Shelf-life: All products delivered shall be as fresh as possible and within the Growers/Packers' original shelf life (i.e., Best if Used-by-Date, Expiration Date, or other markings). Applicable products shall be identified with readable open code such as "Best-Used-by-Date", "Sell-by-Date", date of production, or similar marking indicating the end of the guaranteed freshness date.

1. For Annual Pack Processed Fruits and Vegetable Items (not Applicable to fresh fruits and vegetables): Products will be from the latest seasonal pack available, unless approved in advance by the Contracting Officer. Annual Pack items shall not be older than one year from Date of Pack/Production Date upon receipt at the contractor's facility. Products must have at least 30 days shelf life remaining when delivered to the customer, unless otherwise approved by the Contracting Officer.

2. For Fresh-Cut Fresh Fruits and Vegetables/Ready-to-Eat Salads/Cole Slaw, etc.: Individual bags/containers must be marked with a 14-day shelf life from the date of production. All products must be received by the customer with at least 50% of recommended shelf life remaining. If the manufacturer recommended shelf life is less than 14-days, the Contracting Officer must be notified in advance and approve shelf life. Any deviation from these requirements must be approved prior to customer delivery, in writing, by the Contracting Officer.

B. Testing of Fresh-Cut Products:

1. Fresh-Sliced Apples: Each lot or daily production of finished bagged product must be tested for Total Aerobic (Standard) Plate Count (TPC), E.coli, Listeria, Salmonella, and Shigella. The antioxidant solution used on apples slices must be tested for TPC, E.coli, and Listeria Monocytogens daily.

2. Baby-Cut and Peeled Carrots: Each lot or daily production of finished bagged product must be tested for E.coli, Listeria Monocytogens, Salmonella, and Coagulase Positive Staph Aureus.

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C. Commercial standards shall be used to maintain temperatures appropriate for individual produce items during storage and delivery to DLA TROOP SUPPORT PACIFIC customers.

1. Level of Product Quality:

- (a) When designating an item as a match for the DOD item in the schedule of items listed in the solicitation, the item must be:
  - (i) Identical in respect to packaging when the DOD unit of issue is not described by weights (e.g. pound or ounce).
  - (ii) Equivalent in respect to grade or fabrication.

#### **XXV. QUALITY PROGRAM**

A. A Grower/Supplier selection or certification program shall be used to ensure standardized product quality for each item supplied and/or listed in the stock catalogs, regardless of grower/supplier. The product quality shall be equal to that described in the pertinent item specification and/or specified US Grade Standard.

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

1. Standardized product quality.
2. Wholesome product by veterinary standards.
3. The usage of First-In, First-Out (FIFO) principles and/or First-Expired, First-Out (FEFO).
4. Product shelf life managed and monitored (by date of pack/production of the item).
5. Items are free of damage.
6. Items are segregated in OCONUS warehouses from commercial products, if applicable.
7. Correct items and quantities are selected and delivered.
8. Ensure requirements of the Berry Amendment are met, when applicable.
9. Customer satisfaction is monitored.
10. Product discrepancies and complaints are resolved and corrective action is initiated.
11. Grower/manufacturer, FDA, or DOD initiated food recalls are promptly reported to customers and DLA Troop Support Pacific Contracting Officer.
12. Compliance with EPA and OSHA requirements.
13. Distressed or salvaged items or products shall not be used.
14. Applicable food products delivered originate from a source listed as a Sanitarily Approved Food Establishment for Armed Forces Procurement and/or listed in the USDA-AMS Good Agricultural Practices (GAP) Verification Directory or the USDA-AMS Good Handling Practices (GHP) Verification Directory for fresh fruits and vegetables, as applicable. Bulk Fresh fruits and vegetables suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory.
15. Hazard Analysis and Critical Control Point (HAACP), if applicable.
16. Commercial standards are used to maintain temperatures appropriate for individual items.

#### **XXVI. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT**

A. The shall develop and maintain a sanitation program and a stored product pest management program for the food and other co-located non-food items that comply with industry standard programs such as the Code of Federal Regulations, Title 21, Part 110, Good Manufacturing Practices (GMPs), Food Safety Modernization Act (FSMA), the Federal Insecticide, Fungicide, and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as other pertinent US federal, state and local laws and regulations (and other applicable laws n US Territories and other countries where facility is located) applicable to products and facility. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request. Any findings by the firm or its agent documenting a critical sanitation deficiency shall be reported immediately to the Contracting Officer with an attached report of corrective action.

#### **XXVII. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS**

A. Applicable food products (food products include bulk fresh fruits and vegetables), including pre-cut and packaged fruits, vegetables and salads, mushrooms, sprouts, etc., delivered to customers listed in this solicitation, as well as any customer added at a later date, shall originate either from an establishment (this includes suppliers/subcontractors or direct farm deliveries) listed in the "Directory of Sanitarily Approved Establishments for Armed Forces Procurements" or one which has been inspected under the guidance of the United States Department of Agriculture (USDA). The USDA Guidance for fresh fruits and vegetables is the USDA-AMS Good Agricultural Practices (GAP) Verification Directory or the USDA-AMS Good Handling Practices (GHP) Verification Directory for fresh fruits and vegetables, as applicable. Bulk Fresh fruits and vegetables suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory. For detailed information see Clause 52.246.9044 "Sanitary Conditions" in this solicitation. It may also be found <http://phc.amedd.army.mil/>, under "Veterinary Applications, DoD Approved Food Services" link.

#### **XXVIII. QUALITY SYSTEMS MANAGEMENT VISITS & PRODUCE QUALITY AUDITS**

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<p>A. Unannounced Quality Systems Managements Visits (QSMVs):</p> <p>1. The DLA Troop Support Pacific Quality Audit personnel may conduct unannounced Quality Systems Management Visits (QSMVs) to review the contractor's compliance with the terms of the contract. The visits will be scheduled as a result of unsatisfactory ratings received during Troop Support Produce Quality Audits, customers' complaints, requests from the Contracting Officer, or as deemed necessary by the Government. QSMVs may include visits to subcontractors, growers, and/or suppliers/food distributors used by the contractor. If DLA Troop Support Pacific deems it necessary to conduct an on-site visit with a subcontractor, grower, produce supplier, and/or food distributor used by the contractor, the contractor shall make arrangements for these visits.</p> <p>2. During the QSMV the Government will review/verify the contractor's implemented Quality Program and several or all of the following areas (this list is not inclusive) as deemed necessary: The methods and procedures used to comply with the terms of the contract; condition of storage facilities; product shelf-life management; inventory in-stock (age of product and condition, labeling, product rotation, etc.); product substitutions; control of material targeted for destruction/disposal as a result of DLA customers' returns including DLA Troop Support Pacific audit results and recalls; review of paperwork for product destroyed/condemned including but not limited to product rated Blue/Red during the last DLA Troop Support Pacific audit, customer, returns, etc.; customer's notification on product recalls (product rated Blue/Red/other reason), etc; contractor's response to customer returns/issues, and contractor's visits to customers. The QSMV may also include unannounced visits to DLA Troop Support Pacific customers served by the contractor. When the Troop Support Produce Quality Audit Team arrives at the contractor's facility, the contractor must provide the following: A copy of the current Produce Catalog for DLA customers and an inventory list of all items intended for DLA customers (identifying quantities by item, label/brand/Grower name, items Not-in-Stock, etc.) by commodity and sorted by warehouse location.</p> <p>3. The contractor's proposal will be incorporated by reference into the contract. The contractor will be responsible for complying with its proposal. Procedures and processes set forth in the contractor's proposal may be used as standards for a QSMV. If there is any conflict between the solicitation language and the contractor's proposal, the solicitation/contract/ language governs.</p> <p>4. The Contractor must take corrective action to address any concerns identified as a result of the QSMV. Concerns identified during the QSMV, or contractor failure to take corrective action in response to QSMV findings, will be grounds for terminating the contract. The government may, at its discretion, take other action to correct the concerns identified during the QSMV such as but not limited to another QSMV or Special Produce Audit. Such action will not eliminate the government's right to terminate the contract should the identified concerns or contractor failure to take corrective action continue.</p> <p>B. Produce Quality Audits:</p> <p>1. Basic Audits:</p> <p>(a) The DLA Troop Support Pacific Produce Quality Audit Program covers all produce items listed in the contractor's catalog (fresh, fruits and vegetables, fresh-cut products, etc.) and functions as a Service and Quality Assurance check for DLA Troop Support Pacific customers to ensure customers are receiving safe produce of an optimum quality level. The audit objectives focus on the following:</p> <ol style="list-style-type: none"> <li>1. Contractor's adherence to contractual requirements.</li> <li>2. Compliance with the specified US Grade or higher.</li> <li>3. The quality level of the products supplied is satisfactory and uniform.</li> <li>4. There is no product misrepresentation or unapproved substitution.</li> </ol> <p>(b)The Produce Quality Audit objectives are accomplished utilizing the expertise of the US. USDA Agricultural Marketing Service (AMS) Fresh Products Branch personnel and DLA Troop Support Pacific Quality Auditors. Representatives from the above agencies form the DLA Troop Support Pacific Produce Quality Audit Team.</p> <p>(c) Each contractor will undergo an initial audit once per contract period with the first audit occurring during the base period and other initial audits or QSMVs occurring once per option period. The Audits are conducted as a product cutting. The average cost of one Produce Quality Audit is approximately \$1,000.00 (product cost only). The contractor is expected to provide samples of the Government's choice of a cost of approximately \$1,000.00 per audit. The contractor is required to provide the following support to the DLA Troop Support Pacific Produce Quality Audit Team: Personnel and equipment to select separate/move/discard audit samples, control of samples while at the contractor facility and during the audit. Additional cost may be incurred by the contractor if additional produce samples are selected due to initial audit failure or customer complaint or if the contractor's facility does not have a facility/kitchen or the equipment needed to perform the audit and/or space to accommodate customers attending the audit. NOTE: The Government reserves the right to conduct an Unannounced QSMV in lieu of an initial audit or a follow-up audit during the base period and/or any option period if deemed in the best interest of the Government.</p> <p>2. Audit Process:</p> <p>(a) The Contractor will be given advanced notice of sixty (60) calendar days of an impending audit. Notwithstanding this, the Government reserves the right to conduct unannounced Produce Quality Audits or QSMVs.</p> <p style="text-align: right;"><b>CONTINUED ON NEXT PAGE</b></p>		

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(b) The DLA Troop Support Pacific Produce Quality Audit is typically a two (2) day process. Day one is devoted to sample selection at the contractor's warehouse and performance of the USDA's Good Agricultural Practices (GAP) & Good Handling Practices (GHP) Audits. Day two encompass the performance of the actual Produce Quality audit.

(c) Upon arrival at the contractor's facility (Day One), the DLA Troop Support Pacific Representative will provide a list of items identified for evaluation and the samples will be selected by a USDA-AMS' Auditor. This representative will accompany the USDA-AMS during the performance of the GAP/GHP Audits.

(d) Items selected for evaluation will be segregated from the contractor's regular inventory and appropriate procedures shall be used to maintain the integrity of the samples. Evidence that the contractor has replaced or tampered with samples, or otherwise interfered with the audit samples and/or audit process will result in the contractor failing the audit. One or more audit failures may be grounds for terminating the contract.

(e) During the Produce Quality Audit (Days Two), the DLA Troop Support Pacific Representative will assign an item rating based on compliance with or departure from stated requirements in the DLA Troop Support Pacific NSN catalog and the specified US Grade Standard. Items will also be audited to determine compliance with the Berry Amendment, as applicable, approved source requirements, FDA Retail Food Code, USDA Warehousing Standards, Good Manufacturing Practice, additional provisions of the Code of Federal Regulations and other applicable standards.

(f) Failure to meet the specified US Grade, deviations from the required contract or stock number requirements will be color coded and classified based on the severity of departure from requirements as follows:

1. Contractor Product Audit Ratings (Color Code Ratings Symbology):

a. ACCEPTABLE (GREEN) = Acceptable. No deviations from the contract or the item description stock number requirements.

b. MINOR NONCONFORMANCE (YELLOW) = Not fully acceptable. A Minor nonconformance is a deviation from the contract or the item description stock number requirements. This minor nonconformance is not likely to materially reduce the usability or serviceability of the item for its intended purpose and, depending on the defect, or affect is its condition and/or the continued storage of the item for further use. Products that meet the specified US Grade but exhibit product defects (decay, spoilage, skin breakdown, etc.) likely to continue affecting the condition of the product and continue deteriorating during storage and/or effecting good product if defective units are not removed from cases/containers. Examples of other minor nonconformance's: Cataloging issues; Minor or workmanship/fabrication violations (fresh pre-cut products); Minor weight violations; Minor deviations from packing, packaging, labeling and marking requirements that would not necessitate a regulatory market suspension or affect DLA Troop Support Pacific's ability to recall the item. ACTION REQUIRED: Produce with defects (decay, spoilage, skin breakdown etc.) that will continue deteriorating or condition/defects that will affect the condition of good product during storage requires attention from the contractor such as reworking and removing defective product while in-storage or prior to delivering to customers. Minor nonconformance's that will not change or further deteriorate (scars, size, weight, etc.) while product is in-storage or when delivered to the customer may be tolerated by the customer for a short period of time (until the contractor receives a new product at OCONUS but for no more than 30 days at CONUS locations).

c. MAJOR NONCONFORMANCE (BLUE) = A major nonconformance, other than critical, is a deviation from the contract, the item description stock number and/or failure to meet the specified US Grade requirements. This major nonconformance is a deviation that materially affects or is likely to have a major effect on the serviceability, usability, condition and/or continued storage of an item for further use. Examples of major nonconformance's: Grade failures; Domestic source/regulatory/approved source violations; Wrong item; Major workmanship/fabrication violations (pre-cut items); Major weight violations; Item shelf life/ expiration date violations; Not latest season pack/crop year violations; Items that exhibit temperature abuse, and/or other off condition that although not likely to result in hazardous or unsafe conditions, the defect and/or combination of defects materially affect the item serviceability for its intended purpose; and/or major deviations from packing, packaging, labeling and markings that would necessitate a regulatory market suspension or have a major effect on DLA TROOP SUPPORT PACIFIC 's ability to recall the product. ACTION REQUIRED: The contractor is required to STOP ISSUE of the item immediately, unless otherwise approved by the Contracting Officer.

d. CRITICAL NONCONFORMANCE (RED) = A critical nonconformance is a deviation that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. An item will receive a Red Rating if it contains a critical defect(s) that involve food safety issues such as wholesomeness, foreign material, contamination or adulteration issues that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. Examples of critical nonconformance's: Items with food safety concerns are those items that exhibit contamination, foreign material, and/or other conditions that render an item unfit for human consumption. ACTION REQUIRED: Contractors are required to immediately STOP ISSUE of the product and notify DLA Troop Support Pacific customers to return or dispose of the product in question, and notify grower/supplier/distributor of the product (if applicable).

2. Notes:

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<p>a. MAJOR NONCONFORMANCE (BLUE) = In OCONUS locations only, the Contracting Officer may approve continue issue of the product because of location extenuating circumstances and on a case-by-case basis. This approval is depending on the type and severity of the deviation/defect, the DLA Troop Support Pacific Quality Lead Auditor (lead Auditor that performed the audit) recommendation, customer approval, and if the substitute of equal/higher quality is Not-in-Stock at OCONUS location. Continued issue of the item may require and include contractor screening/rework of the nonconforming product (removal of defective product) and follow-up Government inspection/audit to verify action taken by the contractor (at no cost to the Government for inspection/travel costs). At CONUS/OCONUS locations, only the Contracting Officer, NOT the customer or the Lead Auditor, has the authority to accept wrong items (not meeting item description cited in DLA TROOP SUPPORT PACIFIC catalog or not meeting the specified US Grade cited in the contract, etc.). The Rating assigned to the item WILL NOT be changed by the Lead Auditor because of acceptance with a waiver/rework/repair of the product in question. The DLA TROOP SUPPORT PACIFIC Food Safety Office at the request of the Contracting Officer, may issue a restricted (to DLA TROOP SUPPORT PACIFIC customers only) a Hazardous Food Recall for all those items originating from an unapproved source and distributed to DLA Troop Support Pacific customers.</p> <p>b. CRITICAL NONCONFORMANCE (RED) = The DLA Troop Support Pacific Representative will issue a Hazardous Food Recall for all critical nonconformance's involving items with food safety concerns that render an item unfit for human consumption or may present a health hazard for DLA Troop Support Pacific customers . If applicable, the Contracting Officer should suggest growers/suppliers of the item to review shipping documents to ensure the same item was not delivered to other DOD customers.</p> <p>3. Contractor Audit Preparation:</p> <p>(a) The contractor is responsible and will bear all costs for the facility and the equipment/supplies used during the audit. Immediately upon receipt of the audit notification, the contractor shall make arrangements to use their normal product cutting room/kitchen (if adequate) or find another facility for the audit. If there is no space available at the contractor facility or the space is inadequate other arrangements must be made by the contractor. The room must be equipped with running water. To ensure accurate weight of audited items, it is highly recommended that scales used during the audit are calibrated within the 60-day notification period and an applicable set of test weights are available to verify scale accuracy. A digital scale capable of weighing small items and a scale capable of weighing full cases are required. Cleanup of the cutting area/room and continuous cleanup of equipment will be the contractor's responsibility. The contractor must contact the Lead Auditor to discuss the location, adequacy of the facility, and equipment available as soon as possible but no later than 45 Calendar days prior to the audit. The following is the list of equipment/supplies needed:</p> <ol style="list-style-type: none"> <li>1. Storage area to store samples selected. (Approximately 2 pallets).</li> <li>2. Chill storage area for samples that require refrigeration (Approximately 2 pallets).</li> <li>3. Tables for conducting the audit and demonstration.</li> <li>4. Sinks/wash area equipped with sanitizing soap for cleaning knives and equipment.</li> <li>5. Water jet spray attachment for the sink.</li> <li>6. Calibrated Scales/Test Weights: One small digital scale able to record product weights in both ounces and grams and capable of measuring down to the nearest hundredth is preferable and a set of test weights with a recommended weight range of 1.0 ounce to 1 pound; and, one scale able to record product weights for full cases with an approximate weight range of 0 -100 lb and capable of measuring down to the nearest tenth is preferable and a 25 lbs test weight.</li> <li>7. Cart to move samples around.</li> <li>8. Cutting boards (two or three).</li> <li>9. Large trash cans with bags.</li> <li>10. Power hook-up for 2 computers.</li> <li>11. Access to a copy machine.</li> <li>12. Miscellaneous supplies: Paper towels; large heavy-duty plastic trash bags; one box of large latex gloves; paper flip chart/easel with markers (RED, BLUE, ORANGE, GREEN, BLACK); cellophane tape; binder clips; and a stapler.</li> <li>13. Optional but considered highly desirable: Cloth towels and floor covering to maintain clean and sanitary floor areas.</li> </ol> <p>4. Sample List / Selection of Samples:</p> <p>(a) Sample List/Selection of Samples the DLA Troop Support Pacific Representative will provide a list of sample items upon arrival at the contractor's facility. Two-case sample for each item will be selected. An on-hand inventory quantity report (i.e. number of cases on hand) should be developed for each item after receipt of the list. Warehousing assistance will be required to pull and prepare samples for the audit. Assistance with moving samples from the storage areas to the audit area and also continuous removal of items after review will be required on audit days. Some samples may require refrigeration; an area will need to be provided for sample storage. All samples must be stored in a controlled environment to protect from temperature abuse or tampering. Fruit and Vegetable commodities will consist of 8 - 13 samples (2-case/ shipping container per item) randomly selected per each commodity depending on last audit acceptability rating for each commodity. The entire contents of the two-case samples will be examined during the audit. Additional samples may be selected at the request of the Contracting Officer due to customer complaints.</p>		

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Note: Certification/Documentation - To avoid delays/questions during the audit, the contractor should ensure that ALL products intended for DLA Troop Support Pacific's customers are derived from Approved Sources and meet the Berry Amendment requirements (unless otherwise is excluded in the contract/FAR/DFAR or authorized by the Contracting Officer). The contractor should obtain and have certification/documentation available during the sample selection (preferable) and/or during the audit should the Lead Auditor need to review documentation to verify compliance.

5. Audit Results:

(a)The audit results are performance indicators that will be used in conjunction with a contractor's past performance. DLA TROOP SUPPORT PACIFIC considers 85% acceptability for each commodity (fresh fruits and vegetables) as the minimum standard for acceptable performance. Contractors will be given a detailed report on each product reviewed. It will be the Contractor's responsibility to take immediate action to correct any deficiency uncovered during the audit. Corrective action must include action to address the deficiency and the system which allowed the deficiency to occur. Audit failures and/or failure to take corrective action will be grounds for terminating the contract.

6. Follow-Up Audits:

(a)Follow up audits may be scheduled within a one-year period of the initial audit or sooner as deemed necessary by the Government. Grounds for follow-up audits include but are not limited to failure to obtain an acceptable rating (<85%) in the Fresh Fruit & Vegetable Commodity, repetitive failures, and customer complaints. All samples, audit facility, and equipment/supplies needed for the follow-up, same as indicated above for the initial audit, are to be at the expense of the Contractor. During a follow-up audit only the commodity that failed the initial audit (scored <85%) will be audited. Also, a commodity that had an unreasonable number of items not-in-stock (more than 50% of items listed in the contractor's catalog were NIS) during the initial audit, may also be audited during a follow-up. If the follow-up audit is for failure of the USDA-AMS' GAP or GHP Audits or other non-product issue, no product will be audited during the follow-up audit.

7. Audit Failures:

(a) As noted herein, audit failures and/or failure to take corrective action will be grounds for terminating the contract. The government may, at its discretion, take other action to address the audit failure such as, but not limited to unannounced QSMVs and/or follow-up audits. Such action will not eliminate the government's right to terminate the contract should the deficiency or system which allowed the deficiency to occur remain uncorrected.

C. Markings:

1. Code Dates:

(a) Products, as applicable, shall be identified with readable open code dates clearly showing the Use by Date, Date of Pack (DOP), Expiration Date, Manufacturer Sell-by-Date, and/or similar marking. The contractor/packer's product label shall clearly identify the item(s) shelf life information (using an open code date on the exterior of each case, if required or applicable). Fresh-cut products bags must be marked with the appropriate shelf life from the Date of Production (DOP).

2. Traceability Requirements for Contractors, Contractor's Suppliers Re-Packaging and Re-Labeling Products:

(a) All fresh fruits and vegetables must be able to be traced back to the grower/supplier of the product. If the contractor or the contractor's distributor/supplier removes the produce from the grower/packer's original packaging/shipping container and re-packages/re-labels an item, documentation must be maintained to trace back to the grower/packer to verify domestic origin, approved source as applicable, and/or in case of a hazardous food recall or an item is rated Red/Critical during a DLA Troop Support Pacific Produce Quality Audit. The contractor shall maintain or request from their suppliers/distributors documentation/certificates containing the following information: Item nomenclature, name of establishment/Grower, location, country of origin, date of production/pack (DOP), lot number, etc. If packaging of the item occurred in more than one establishment, documentation for each item must also be maintained / provided. These records must maintain traceability of the item to the extent that an item can be traced back to the original grower/packer of a product. In addition; the contractor shall maintain records of quantities and when and where the re-packaged/re-labeled item(s) were shipped. The contractor must be able to show/provide DLA Troop Support Pacific Produce Quality Audit Team the documentation for samples selected during Produce Quality Audits or Unannounced QSMVs. It is the contractor's responsibility to notify and ensure their suppliers understand and comply with this requirement. The above requirements are necessary in the event of a Hazardous Food Recall (i.e., ALFOODACT) of potentially hazardous product when a recall is issued by a Regulatory Agency and for the contractor to isolate suspected items in order to notify customers in an expeditious manner whenever products are rated "Red/Critical" during a DLA Troop Support Pacific Produce Quality Audit. The above requirements serve two main purposes:

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1. To protect DLA Troop Support Pacific's customers and expeditiously notify them in case of accidental or intentional tempering/contamination and/or to prevent consumption of unsafe/hazardous Produce and

2. To maintain traceability of re-packaged/re-labeled products in order to verify country of origin, approved source requirement during the shelf life cycle of a pre-cut/package product in the contractor storage and during the customer's receipt/storage of the product and be able to expedite the recall process for all suspected products intended for DLA TROOP SUPPORT PACIFIC customers.

#### **XXIX. RECALL PROCEDURES REQUIREMENTS**

A. In the event that a product recall is initiated by the USDA, vendor, supplier or manufacturer, the vendor should follow the procedures as outlined below:

1. Immediately notify the following personnel:

- (a) Customers that have received the recalled product.
- (b) DLA Troop Support Pacific Contracting Officer.

2. Provide the following information to the DLA Troop Support Pacific Contracting Officer:

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

3. The vendor should provide a Final Status Report of Recall, when completed, to the DLA Troop Support Pacific Contracting Officer.

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

#### **XXX. PERISHABLE AGRICULTURAL COMMODITIES ACT (PACA) LICENSE**

A. All offerors must possess and maintain a valid PACA license throughout the life of contract. Failure to do so will make offeror ineligible for award and may result in termination of contract or non-renewal of an option.

#### **XXXI. NON-COMPETE PROVISION**

A. The offeror warrants that it will not actively promote, encourage, or market any of the customers on this acquisition away from a resultant DLA Troop Support Pacific contract and onto a contract of any other Government agency or commercial entity. This prohibition applies both on a pre-award and post-award basis. The Contracting Officer reserves the right not to exercise the option and to re-solicit the requirement should the vendor violate this provision.

#### **XXXII. SEASONAL ACQUISITION**

A. When seasonally available, USDA #1 or better quality and competitive price, the government's preference is for locally grown produce. The successful contractor shall utilize local produce to the maximum extent feasible. The vendor shall record and update local items on their catalog on a weekly basis. The vendor is responsible for defining local produce in their geographical area.

#### **XXXIII. MANAGEMENT REPORTS**

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

1. Product Line Grower/Supplier Listing: This report shall list all items purchased along with quantity and dollar value. It shall be sorted by Grower/Supplier and annotate whether the grower/supplier is a large business or small business and whether the grower/supplier is local or non-local.

2. Fill Rate Report: The fill-rate is calculated by dividing the number of cases accepted by the customer by the number of cases ordered. No other method of calculating fill rates should be included. Mis-picks and damaged cases or rejected product should not be included in this calculation. This report should reflect the fill-rates with and without substitutions. The report should specify fill rates per customer and an overall average fill-rate for all customers under the contract for the month being reported.

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<p>3. Rebate Reports: All rebates that have been passed along to the customer or that are due to the customers shall be summarized by listing each customer and the rebate amount. Also include the grower/supplier offering the rebate and the product usage. The total should be per customer and per order.</p> <p>4. Financial Status Reports: In order to track timely payments, an accounts receivable and/or a “days of outstanding sales” shall be submitted on a monthly basis, at a minimum. Many vendors elect to submit this report, in the form of a spreadsheet, on a weekly basis. The report should contain information on: customer, invoice number, call number, and invoice amount, amount paid, credit adjustments and balance due. It is suggested that this report contain as much information as possible to alleviate problems immediately.</p> <p>5. Customer Service Report: The Contractor shall develop and provide a report summarizing all discrepancies, complaints and all positive feedback from ordering activities and the respective resolutions by providing details of each customer service incident, including any customer service visits.</p> <p>6. Descending Dollar Value Report: Sorted by line item; each line is to contain, at a minimum: DLA Troop Support Pacific stock number, Item Description, pack or size, brand description, quantity, and total dollar value of units shipped. Dollar amounts will be totaled. This report shall be submitted by individual customer accounts and also by the total customer base in each zone.</p> <p><b>XXIV. CONTRACT ADMINISTRATION INFORMATION</b></p> <p>A. Contract Authority: The DLA Troop Support Pacific 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 DLA Troop Support Pacific Contracting Officer.</p> <p>1. In the event the vendor effects any change at the direction of any person other than the DLA Troop Support Pacific Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made. The Contracting Officer must authorize any modification or costs associated with a change.</p> <p>2. Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA Troop Support Pacific Contracting Officer.</p> <p>B. Payments: DFAS Columbus Center is the payment office for this acquisition.</p> <p>1. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (i) of Clause 52.212-4 “Contract Terms and Conditions - Commercial Items” that is incorporated by reference into this solicitation.</p> <p>2. Payment will be made in ten (10) days after the receipt of a proper invoice, however, is still subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903). All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.</p> <p>3. Vendor is responsible to make arrangements with their financial institution to obtain data, if information by the vendor is required. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.</p> <p>4. The Government intends to make payments under the resultant contract by electronic funds transfer (EFT) based on the information contained in the System for Award Management Registration (SAM). Reference Clause 52.232-33, “Payment by Electronic Funds Transfer-System for Award Management” is incorporated by reference. However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.</p> <p>C. Administration:</p> <p>1. The DLA Troop Support Pacific will perform administration of the contract.</p> <p>2. A designated representative at the ordering activity will perform administration of the individual delivery order. This includes approving product substitutions and delivery changes.</p> <p>3. The DLA Troop Support Pacific Contracting Officer must approve any changes to the resultant contract.</p>		
<p><b>Part 12 Clauses</b></p> <p><b>52.212-04 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (MAY 2014) FAR</b></p> <p style="text-align: right;"><b>CONTINUED ON NEXT PAGE</b></p>		

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<p>(a) <i>Inspection/Acceptance.</i> The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights --</p> <p>(1) Within a reasonable time after the defect was discovered or should have been discovered; and</p> <p>(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.</p> <p>(b) <i>Assignment.</i> 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.</p> <p>(c) <i>Changes.</i> Changes in the terms and conditions of this contract may be made only by written agreement of the parties.</p> <p>(d) <i>Disputes.</i> 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.</p> <p>(e) <i>Definitions.</i> The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.</p> <p>(f) <i>Excusable delays.</i> 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.</p> <p>(g) <i>Invoice.</i></p> <p>(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 --</p> <p>(i) Name and address of the Contractor;</p> <p>(ii) Invoice date and number;</p> <p>(iii) Contract number, contract line item number and, if applicable, the order number;</p> <p>(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;</p> <p>(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;</p> <p>(vi) Terms of any discount for prompt payment offered;</p> <p>(vii) Name and address of official to whom payment is to be sent;</p> <p>(viii) Name, title, and phone number of person to notify in event of defective invoice; and</p> <p>(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.</p> <p>(x) Electronic funds transfer (EFT) banking information.</p> <p>(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.</p> <p>(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.</p> <p>(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.</p>		

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<p>(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.</p> <p>(h) <i>Patent indemnity.</i> 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.</p> <p>(i) <i>Payment.</i></p> <p>(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.</p> <p>(2) Prompt Payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.</p> <p>(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.</p> <p>(4) <i>Discount.</i> 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.</p> <p>(5) <i>Overpayments.</i> 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—</p> <p>(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—</p> <p>(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);</p> <p>(B) Affected contract number and delivery order number, if applicable;</p> <p>(C) Affected contract line item or subline item, if applicable; and</p> <p>(D) Contractor point of contact.</p> <p>(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.</p> <p>(6) <i>Interest.</i></p> <p>(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period at fixed by the Secretary until the amount is paid.</p> <p>(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.</p> <p>(iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if—</p> <p>(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;</p> <p>(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or</p> <p>(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).</p> <p>(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.</p> <p>(v) Amounts shall be due at the earliest of the following dates:</p> <p>(A) The date fixed under this contract.</p> <p>(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.</p> <p>(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—</p> <p>(A) The date on which the designated office receives payment from the Contractor;</p>		

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<p>(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or</p> <p>(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.</p> <p>(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.</p> <p>(j) <i>Risk of loss.</i> 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:</p> <ol style="list-style-type: none"> <li>(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or</li> <li>(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.</li> </ol> <p>(k) <i>Taxes.</i> The contract price includes all applicable Federal, State, and local taxes and duties.</p> <p>(l) <i>Termination for the Government's convenience.</i> 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.</p> <p>(m) <i>Termination for cause.</i> 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.</p> <p>(n) <i>Title.</i> 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.</p> <p>(o) <i>Warranty.</i> 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> <p>(p) <i>Limitation of liability.</i> 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.</p> <p>(q) <i>Other compliances.</i> The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.</p> <p>(r) <i>Compliance with laws unique to Government contracts.</i> 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, <i>et seq.</i>, 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.</p> <p>(s) <i>Order of precedence.</i> Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:</p> <ol style="list-style-type: none"> <li>(1) The schedule of supplies/services.</li> <li>(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause.</li> <li>(3) The clause at 52.212-5.</li> <li>(4) Addenda to this solicitation or contract, including any license agreements for computer software.</li> <li>(5) Solicitation provisions if this is a solicitation.</li> <li>(6) Other paragraphs of this clause.</li> <li>(7) The Standard Form 1449.</li> <li>(8) Other documents, exhibits, and attachments.</li> <li>(9) The specification.</li> </ol> <p>(t) System for Award Management (SAM).</p>		
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(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 SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM 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 SAM database to ensure it is current, accurate and complete. Updating information in the SAM 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 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 SAM database;

(B) Comply with the requirements of Subpart 42.12 of the FAR;

(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.

(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 SAM 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 SAM record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM 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 SAM accessed through <https://www.acquisition.gov>.

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

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

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

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

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

(End of Clause)

#### **ADDENDUM TO 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (MAY 2014) – FAR**

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

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

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

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<p>2. Paragraph (c), Changes, is deleted in its entirety and replaced with the following:</p> <p>(c) Changes.</p> <p>(1) In addition to bilateral changes, the Contracting Officer, at his/her discretion, may unilaterally invoke any of the contingency options set forth in this contract.</p> <p>(2) The Contracting Officer may at any time, by unilateral written order, make changes within the general scope of this contract in any one or more of the following:</p> <p>(i) Method of shipment or packing;</p> <p>(ii) Place, manner, or time of delivery.</p> <p>(3) If such change causes an increase or decrease in the cost of, or time required for, performance for any part of the work under this contract, the Contracting Officer shall make equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.</p> <p>(4) The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.</p> <p>(5) Failure to agree to any adjustment shall be a dispute under the Disputes Clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract.</p> <p>3. Paragraph (m), Termination for Cause.</p> <p>Delete paragraph (m) in its entirety and substitute the following:</p> <p>(m) Termination for Cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1350.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.</p> <p>4. Paragraph (r) Compliance with laws unique to Government contracts. Is revised to include the following:</p> <p>(r)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; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under that Act; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.</p> <p><b>52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (JUN 2014)</b></p> <p>(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:</p> <p>(1) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).</p> <p>___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).</p> <p>2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).</p> <p>(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78).</p> <p>(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:</p> <p>__X__ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).</p> <p>__X__ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).</p> <p>___ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)</p> <p style="text-align: right;"><b>CONTINUED ON NEXT PAGE</b></p>		

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☒ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

☐ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

☐ (6) 52.204-14, Service Contract Reporting Requirements (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

☐ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014) (Pub. L. 111-117, section 743 of Div. C).

☒ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Aug 2013) (31 U.S.C. 6101 note).

☐ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

☒ (10) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (May 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

☐ (11) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

☐ (12) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

☐ (13) [Reserved]

☒ (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2011) (15 U.S.C. 644).

☒ (ii) Alternate I (Nov 2011).

☐ (iii) Alternate II (Nov 2011).

☐ (15)(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.

☒ (16) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)).

☐ (17)(i) 52.219-9, Small Business Subcontracting Plan (Jul 2013) (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.

☐ (iv) Alternate III (Jul 2010) of 52.219-9.

☐ (18) 52.219-13, Notice of Set-Aside of Orders (Nov 2011)(15 U.S.C. 644(r)).

☒ (19) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).

☐ (20) 52.219-16, Liquidated Damages—Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

☐ (21)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

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

☐ (22) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

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<p>___ (23) 52.219-26, Small Disadvantaged Business Participation Program— Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).</p> <p>___ (24) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657 f).</p> <p>_X_ (25) 52.219-28, Post Award Small Business Program Rerepresentation (Jul 2013) (15 U.S.C. 632(a)(2)).</p> <p>___ (26) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).</p> <p>___ (27) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).</p> <p>_X_ (28) 52.222-3, Convict Labor (June 2003) (E.O. 11755).</p> <p>_X_ (29) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jan 2014) (E.O. 13126).</p> <p>_X_ (30) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).</p> <p>_X_ (31) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).</p> <p>_X_ (32) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).</p> <p>_X_ (33) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).</p> <p>_X_ (34) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).</p> <p>_X_ (35) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).</p> <p>___ (36) 52.222-54, Employment Eligibility Verification (Aug 2013). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)</p> <p>___ (37)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA—Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)</p> <p>___ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)</p> <p>___ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).</p> <p>___ (39)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).</p> <p>___ (ii) Alternate I (Dec 2007) of 52.223-16.</p> <p>_X_ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).</p> <p>___ (41) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).</p> <p>___ (42)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (Nov 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).</p> <p>___ (ii) Alternate I (Mar 2012) of 52.225-3.</p> <p>___ (iii) Alternate II (Mar 2012) of 52.225-3.</p> <p>___ (iv) Alternate III (Nov 2012) of 52.225-3.</p> <p>___ (43) 52.225-5, Trade Agreements (Nov 2013) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).</p>		
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\_X\_ (44) 52.225-13, Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

   (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

   (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

   (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

   (48) 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)).

   (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

\_X\_ (50) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).

   (51) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

   (52) 52.232-36, Payment by Third Party (Jul 2013) (31 U.S.C. 3332).

   (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

   (54)(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 (Nov 2007) (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) (Sep 2009) (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 (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

   (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 351, et seq.).

   (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (Feb 2009) (41 U.S.C. 351, et seq.).

   (7) 52.222-17, Nondisplacement of Qualified Workers (Jan 2013) (E.O.13495).

\_X\_ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).

   (9) 52.237-11, Accepting and Dispensing of \$1 Coin (Sept 2008) (31 U.S.C. 5112(p)(1)).

(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.

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<p>(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.</p> <p>(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.</p> <p>(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—</p> <p>(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).</p> <p>(ii) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (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 \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.</p> <p>(iii) 52.222-17, Nondisplacement of Qualified Workers (Jan 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.</p> <p>(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).</p> <p>(v) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).</p> <p>(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).</p> <p>(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.</p> <p>(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).</p> <p>(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).</p> <p>___Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).</p> <p>(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (Nov 2007) (41 U.S.C. 351, et seq.).</p> <p>(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) (41 U.S.C. 351, et seq.).</p> <p>(xii) 52.222-54, Employment Eligibility Verification (Aug 2013).</p> <p>(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).</p> <p>(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.</p> <p>(xv) 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.</p> <p>(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.</p> <p>(End of clause)</p>		
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<p><b>CLAUSES ADDED TO PART 12 BY ADDENDUM</b></p> <p><b>252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991) DFARS</b></p> <p><b>52.201-9001 CONTRACTING OFFICER'S ORDERING REPRESENTATIVES UNDER THE CONTRACT (JAN 2013) DLAD</b></p> <p>****</p> <p>(e) <input type="checkbox"/> If checked, the following individuals are appointed Ordering Officers under this contract:  NAME: ASSIGNED IN FFAVORS WEB  TITLE: ASSIGNED IN FFAVORS WEB</p> <p><b>252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013) DFARS</b></p> <p><b>52.204-04 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011) FAR</b></p> <p><b>52.204-07 SYSTEM FOR AWARD MANAGEMENT (JUL 2013) FAR</b></p> <p><b>52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (JUL 2013) FAR</b></p> <p><b>252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) DFARS</b></p> <p><b>252.204-7004 ALTERNATE A, SYSTEM FOR AWRD MANAGEMENT (FEB 2014) DFARS</b></p> <p><b>52.204-9001 ELECTRONIC ORDER TRANSMISSION (NOV 2011) DLAD</b></p> <p>Supplies procured through the Defense Logistics Agency (DLA) may be ordered via electronic ordering. Offerors must check one of the following alternatives for paperless order transmission:  <input type="checkbox"/> <b>Electronic Data Interchange (EDI) transmissions</b> in accordance with ANSI X12 Standards through DLA Transaction Services approved value added network (VAN).  <input type="checkbox"/> <b>Electronic Mail (email) award notifications</b> containing Web links to electronic copies of the Department of Defense (DD) Form 1155, Order for Supplies or Services.</p> <p>****</p> <p><b>252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 2014) DFARS</b></p> <p><b>52.211-16 VARIATION IN QUANTITY (APR 1984) FAR</b></p> <p>****</p> <p>(b) The permissible variation shall be limited to:  1 Percent increase  1 Percent decrease  This increase or decrease shall apply to THE QUANTITY AT THE LINE ITEM LEVEL .</p> <p><b>52.211-9002 PRIORITY RATING (NOV 2011) DLAD</b></p> <p><b>52.211-9046 FDA COMPLIANCE - DLA TROOP SUPPORT - MEDICAL AND SUBSISTENCE (NOV 2011) DLAD</b></p> <p><b>52.214-9008 ROUNDING OFF OF OFFER AND AWARD PRICES (NOV 2011) DLAD</b></p> <p><b>52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA - MODIFICATIONS (OCT 2010) FAR</b></p> <p><b>52.216-19 ORDER LIMITATIONS (OCT 1995) FAR</b></p> <p>(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$100, 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 \$25,000 ;  (2) Any order for a combination of items in excess of \$100,000 ; or</p>		
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(3) A series of orders from the same ordering office within 7 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 1 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

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

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period ; provided, that the Contractor shall not be required to make any deliveries under this contract after 90 DAYS FROM CONTRACT COMPLETION

(End of clause)

#### **252.216-7006 ORDERING (MAY 2011) DFARS**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from DATE OF AWARD through END OF CONTRACT (54 MONTHS/4.5 YEARS) *[insert dates]*.

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#### **Economic Price Adjustment (EPA) Clause (DLAD)**

##### **Economic Price Adjustment (EPA) – Actual Material Costs for Subsistence Delivered Price Business Model**

(a) Warranties. For the portion of the schedule that is covered by this EPA clause, the Contractor warrants that—

(1) Contract unit prices covered by this contract do not include allowances for any portion of the contingency covered by this clause; and

(2) All price adjustments invoiced under this contract shall be computed in accordance with the provisions of this clause.

(b) Definitions. As used throughout this clause, the term:

(1) "Contract Unit Price" means the total price per unit charged to DLA Troop Support for a product delivered to DLA Troop Support's customers. The Contract Unit Price consists of two components: Delivered Price and Distribution Price. The unit price sum of the two component prices shall be rounded up or down as applicable, to the nearest cent to determine the final Contract Unit Price.

(2) "Delivered Price" means the most recent manufacturer, grower or private label holder commercial price per unit to the Contractor, inclusive of standard freight. The Delivered Price shall be based on free on board (f.o.b.) Destination. Delivered Price shall exclude all costs that are to be covered in the Distribution Price.

(i) Exceptions:

(A) Mandatory Source Items: The Delivered Price shall be limited to the nonprofit agency's price for product as set in accordance with applicable law, plus applicable freight.

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(B) A contiguous United States (CONUS)-based redistributor's price for a specific manufacturer's/grower's/private label holder's product (SKU) may be considered by the Government as long as the redistributor's price for the quantity ordered is equal to or lower than the manufacturer's/grower's/private label holder's published price inclusive of discounts/allowances. This exception must be approved by the Contracting Officer on a case by case basis. Supporting documentation may be required.

(3) "Product Allowance" means discounts, rebates, and allowances to be passed on to the Government. In accordance with other provisions of the contract (and subject to any exception in those provisions), all discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the manufacturer's, grower's or private label holder's invoice (referred to as "off-invoice allowances") or otherwise given to the Contractor by the manufacturer, grower or private label holder, shall be passed by the Contractor to the Government, in the form of an up-front price reduction. The total of these discounts, rebates, and allowances (Product Allowance), shall be reflected via a reduced Subsistence Total Order and Receipt Electronic System (STORES) price and Fresh Fruit and Vegetable Order Receipt System (FFAVORS), resulting in a lower invoice price to the customer. Any rebates that must be passed to the Government and which cannot be applied as an up-front price reduction must be submitted via check made to the US Treasury, with an attached itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and CLIN number.

(4) "Distribution Price(s)" means the firm fixed price portion of the Contract Unit Price, offered as a dollar amount per unit of issue, rounded up or down to the nearest cent. The Distribution Price is the only method for the Contractor to bill the Government for all aspects of contract performance other than Delivered Price; including but not limited to, the performance requirements of the SOW for the applicable SPV solicitation and resulting contract. As detailed above in (2), Delivered Price is distinct from and not to be included in the Distribution Price.

(5) "Ordering Catalog" means the electronic listing of items and their corresponding contract unit prices available for ordering under this contract.

(6) "Ordering Week" means from Sunday at 12:01 AM through the following Saturday until midnight (Hawaii Time (HT), standard or daylight as applicable).

(c) Price adjustments.

(1) General.

(i) All contract unit prices shall be fixed and remain unchanged until changed pursuant to this clause or other applicable provision of the contract. Only the Delivered Price component of the Contract Unit Price is subject to adjustment under this clause. After the first Ordering Week, if the Contractor's Delivered Price changes for any or all contract unit prices, the Contract Unit Price shall be changed in the next week's Ordering Catalog upon the Contractor's request, submitted in accordance with paragraph (iii) below, by the same dollar amount of the change in the Delivered Price, subject to the limitations in paragraph (d). The price change shall be effective at the beginning of the next Ordering Week. All Ordering Catalog Unit Prices computed in accordance with this clause and in effect when an order is placed shall remain in effect for that order through delivery. DLA Troop Support will be charged the Contract Unit Price in effect at the time of each order regardless of any changes in the unit price occurring in any subsequent Ordering Week.

(ii) Catalog Delivered Prices must be reflective of the prime vendor's last receipt price (the price of the stock most recently received into SPV Contractor's inventory).

(iii) Updates to the Delivered Price: All notices and requests for new item Delivered Prices and price changes shall be submitted weekly, no later than 12:00PM Hawaii Standard Time on Wednesday to be effective in the following Ordering Week's Ordering Catalog prices. The Delivered Price shall have any and all Product Allowance subtractions made prior to presenting the Delivered Price to DLA Troop Support. The Contractor shall notify the Contracting Officer of its notice/request in the form of an electronic data interchange (EDI) 832 transaction set. The change notice shall include the Contractor's adjustment in the Delivered Price component of the applicable Contract Unit Price. Upon the Contracting Officer's acceptance of such 832 price changes in accordance with paragraph (v) below, the price change transaction sets will post in the next week's Ordering Catalog and each Contract Unit Price shall be changed by the same dollar amount of the change in the Delivered Price in the next week's Ordering Catalog.

(iv) All price changes, and catalog contract prices, are subject to review by the Government. The Contracting Officer may at any time require the submission of supporting data to substantiate any requested price change or the requested continuation of the pre-existing price for any item, including prices applicable to prior Ordering Weeks. Upon notice from the Contracting Officer that supporting data is required, the Contractor shall promptly furnish to the Government all supporting data, including but not limited to, invoices, quotes, price lists, supplier documentation regarding rebates/allowances, and any other substantiating information requested by the Contracting Officer.

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(v) Price change requests that the Contracting Officer questions or finds to be inconsistent with the requirements of this clause shall not be posted until the Contracting Officer specifically authorizes the posting. If the Contracting Officer does not notify the Contractor by close of business, 3:00PM Hawaii Standard Time each Friday that a price or a price change request is being questioned or has been found to be erroneous, the price change(s) will post to the ordering catalog effective the beginning of the following Ordering Week. The posting of updated prices in the Ordering Catalog, calculated in accordance with this clause, constitutes a modification to this contract. No further contract modification is required to effect this change.

(vi) Should the Contracting Officer determine that, or question whether a price change request contained an erroneous unit price or price change, or cannot otherwise determine the changed price(s) to be fair and reasonable, such as when the changed price(s) is(are) higher than lower Delivered Prices for items of comparable quality which are reasonably available to the Government or Contractor from other sources, the Contracting Officer will so advise the Contractor, prior to close of business, 3:00PM Hawaii Standard Time on Friday. If the Contracting Officer cannot determine a price fair and reasonable, and the Contracting Officer and the Contractor cannot negotiate a fair and reasonable price, the Contracting Officer may reject any price change and direct in writing that the item in question be removed from the Contractor's Ordering Catalog, without Government liability. The Contracting Officer may subsequently remove any such item from the Ordering Catalog if the Contractor fails to remove it. The Government has the right to procure such removed items from any alternate source of supply, and the failure of the Contractor to supply such item will be considered a negative instance of performance.

(vii) In the event of a price change not posting or an Ordering Catalog Contract Unit Price not computed in accordance with this clause, resulting in an incorrectly increased or decreased Contract Unit Price, the Prime Vendor shall immediately notify the Contracting Officer in writing and promptly thereafter correct its Ordering Catalog and submit a refund for any amounts paid to the Contractor resulting from the erroneous price. In the event of an erroneous price decrease in the Ordering Catalog, if the Contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor, the Contractor may submit a request for equitable adjustment for consideration by the Contracting Officer.

(2) Limitations. All adjustments under this clause shall be limited to the effect on contract unit prices of actual increases or decreases in the Delivered Prices for material. There shall be no upward adjustment for—

(i) Supplies for which the delivered price is not affected by such changes;

(ii) Changes in the quantities of materials; and

(iii) Increases in unit prices that the Contracting Officer determines are computed incorrectly (i.e. not adhering to the Contract Unit Price definition in this clause) and/or increases in unit prices that the Contracting Officer determines are not fair and reasonable.

(d) Upward ceiling on economic price adjustment. The aggregate of contract Delivered Price increases for each item under this clause during the contract period inclusive of any option period(s) shall not exceed **90 percent (%)** for **Fresh Fruits and Vegetables (FF&V)** of the initial Contract Delivered Price, except as provided below:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. In the event the latest actual market price for an item would result in a contract unit price that will exceed the allowable ceiling price under the contract, then the Contractor shall immediately notify the Contracting Officer in writing or via its EDI 832 price change request and separate email no later than the time specified in paragraph (c)(1)(iii) above. With either such notification the Contractor shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If an actual increase in the delivered price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill future orders for such items, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing. After evaluation of a requested actual price increase, if the Contracting Officer authorizes the change in the contract unit price, the Contractor shall submit an EDI 832 price change. The price change shall be posted for the following week's ordering catalog.

(e) DOWNWARD LIMITATION ON ECONOMIC PRICE ADJUSTMENTS. There is no downward limitation on the aggregated percentage of decreases that may be made under this clause.

(f) Examination of records. The Contracting Officer or designated representative shall have the right to examine the Contractor's books, records, documents and other data, to include commercial sales data, that the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause. Such examination may occur during all reasonable times until the end of 3

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<p>years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR), whichever is earlier.</p> <p>(g) Final invoice. The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required or authorized by this clause.</p> <p>(h) Disputes. Any dispute arising under this clause shall be determined in accordance with the "Disputes" clause of the contract.</p> <p>(End of Clause)</p> <p><b>52.217-09 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000) FAR</b></p> <p>(a) The Government may extend the term of this contract by written notice to the Contractor within 2 DAYS [insert the period of time within which the Contracting Officer may exercise the option]; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 DAYS days [60 days unless a different number of days is inserted] before the contract expires. The preliminary notice does not commit the Government to an extension.</p> <p>(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.</p> <p>(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 54 MONTHS/4.5 YEARS (months) (years).</p> <p>(End of clause)</p> <p style="text-align: center;"><b>252.225-7993 PROHIBITION ON CONTRACTING WITH THE ENEMY (DEVIATION2014-O0008)(FEB 2014)</b></p> <p>(a) The Contractor shall exercise due diligence to ensure that none of the funds received under this contract are provided directly or indirectly to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.</p> <p>(b) The Contractor shall exercise due diligence to ensure that none of their subcontracts are associated with a person or entities listed in "NDAA FY2012 Section 841/FY2014 Section 831 Identified Entities" list posted at <a href="http://www.acq.osd.mil/dpap/pacc/cc/policy.html">http://www.acq.osd.mil/dpap/pacc/cc/policy.html</a>.</p> <p>(c) The Head of the Contracting Activity (HCA) has the authority to—</p> <p>(1) Terminate this contract for default, in whole or in part, if the HCA determines in writing that the contractor failed to exercise due diligence as required by paragraph (a) and (b) of this clause; or</p> <p>(2) Void this contract, in whole or in part, if the HCA determines in writing that any funds received under this contract have been provided directly or indirectly to a person or entity who is actively opposing or Coalition forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.</p> <p>(d) The substance of this clause, including this paragraph (d), is required to be included in subcontracts under this contract that have an estimated value over \$50,000.</p> <p>(End of clause)</p> <p><b>52.227-01 AUTHORIZATION AND CONSENT (DEC 2007) FAR</b></p> <p><b>52.227-02 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007) FAR</b></p> <p><b>52.232-17 INTEREST (OCT 2010) FAR</b></p> <p><b>52.232-9010 ACCELERATED PAYMENTS TO SMALL BUSINESS (APR 2014) DLAD</b></p> <p><b>52.242-13 BANKRUPTCY (JUL 1995) FAR</b></p> <p><b>52.242-15 STOP-WORK ORDER (AUG 1989) FAR</b></p> <p><b>252.246-7000 MATERIAL INSPECTION AND RECEIVING REPORT (MAR 2008) DFARS</b></p> <p style="text-align: right;"><b>CONTINUED ON NEXT PAGE</b></p>		

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**52.246-9007 INSPECTION AND ACCEPTANCE AT DESTINATION (AUG 2007) DLAD**

**52.246-9012 PREPARATION FOR DELIVERY AND INSPECTION OF FRESH FRUITS AND VEGETABLES (NOV 2011) DLAD**

**52.246-9039 REMOVAL OF GOVERNMENT IDENTIFICATION FROM NON-ACCEPTED SUPPLIES (NOV 2011) DLAD**

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

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

(End of Clause)

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

**52.247-9012 REQUIREMENTS FOR TREATMENT OF WOOD PACKAGING MATERIAL (WPM) (FEB 2007) DLAD**

**52.252-02 CLAUSES INCORPORATED BY REFERENCE (FEB 1998) FAR**

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

(End of Clause)

**52.253-01 COMPUTER GENERATED FORMS (JAN 1991) FAR**

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

(a) *Definition.* "Export-controlled items," as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). The term includes:

- (1) "Defense items," defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120.
- (2) "Items," defined in the EAR as "commodities", "software", and "technology," terms that are also defined in the EAR, 15 CFR 772.1.

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

- (1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*);
- (2) The Arms Export Control Act (22 U.S.C. 2751, *et seq.*);
- (3) The International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*);
- (4) The Export Administration Regulations (15 CFR Parts 730-774);
- (5) The International Traffic in Arms Regulations (22 CFR Parts 120-130); and
- (6) Executive Order 13222, as extended.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all subcontracts.

(End of clause)

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**52.212-9002 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS  
APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (APR 2014) (DLAD)**

1. ☒ FAR 52.203-3, Gratuities (APR 1984)
2. ☒ DFARS 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (SEP 2011)
3. ☒ DFARS 252.203-7003, Agency Office of the Inspector General (DEC 2012)
4. ☒ DFARS 252.203-7005, Representation Relating to Compensation of Former DoD Officials (NOV 2011)
5. ☐ DFARS 252.204-7011, Alternative Line Item Structure (SEP 2011)
6. ☒ DFARS 252.204-7012, Safeguarding of Unclassified Controlled Technical Information (NOV 2013)
7. ☐ DFARS 252.204-7013, Limitations on the Use or Disclosure of Information by Litigation Support Solicitation Offerors (FEB 2014)
8. ☐ DFARS 252.204-7014, Limitations on the Use or Disclosure of Information by Litigation Support Contractors (FEB 2014)
9. ☐ DFARS 252.204-7015, Disclosure of Information to Litigation Support Contractors (FEB 2014)
10. ☒ DFARS 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991)
11. ☐ DFARS 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country
12. ☐ DFARS 252.211-7003, Item Unique Identification and Valuation (DEC 2013)
13. ☐ DFARS 252.211-7006, Passive Radio Frequency Identification (SEP 2011)
14. ☐ DFARS 252.211-7007, Reporting of Government-Furnished Property (AUG 2012)
15. ☐ DFARS 252.215-7003, Requirements for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation (JUL 2012)
16. ☐ DFARS 252.215-7004, Requirement for Submission of Data other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation (OCT 2013)
17. ☐ DFARS 252.215-7007, Notice of Intent to Resolicit (JUN 2012)
18. ☒ DFARS 252.215-7008, Only One Offer (OCT 2013)
19. ☐ DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (AUG 2012)
20. ☐ DFARS 252.219-7004, Small Business Subcontracting Plan (Test Program) (JAN 2011)
21. ☒ DFARS 252.223-7008, Prohibition of Hexavalent Chromium (JUN 2013)
22. ☐ DFARS 252.225-7000, Buy American—Balance of Payments Program Certificate (JAN 2014)
  - a. ☐ Alternate I (DEC 2010) of 52.225-7000
23. ☒ DFARS 252.225-7001, Buy American and Balance of Payments Program (DEC 2012)
  - a. ☐ Alternate I (OCT 2010) of 252.225-7001
24. ☐ DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals (MAR 2013)
25. ☐ DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUN 2013)
26. ☐ DFARS 252.225-7010, Commercial Derivative Military Article—Specialty Metals Compliance Certificate (JUL 2009)
27. ☒ DFARS 252.225-7012, Preference for Certain Domestic Commodities (FEB 2013)
28. ☐ DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005)
29. ☐ DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (JUN 2011)
30. ☐ DFARS 252.225-7017, Photovoltaic Devices (JAN 2014)
31. ☐ DFARS 252.225-7018, Photovoltaic Devices—Certificate (JAN 2014)
32. ☐ DFARS 252.225-7020, Trade Agreements Certificate (JAN 2005)
  - a. ☐ Alternate I (DEC 2010) of 252.225-7020
33. ☐ DFARS 252.225-7021, Trade Agreements (OCT 2013)
  - a. ☐ Alternate II (OCT 2011) of 252.225-7021
34. ☐ DFARS 252.225-7023, Preference for Products or Services from Afghanistan (SEP 2013)
35. ☐ DFARS 252.225-7024, Requirement for Products or Services from Afghanistan (SEP 2013)
36. ☐ DFARS [252.225-7026](#), Acquisition Restricted to Products or Services from Afghanistan (SEP 2013)
37. ☐ DFARS 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003)
38. ☐ DFARS 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003)
39. ☐ DFARS [252.225-7029](#), Acquisition of Uniform Components for Afghan Military or Afghan National Police (SEP 2013)
40. ☐ DFARS [252.225-7031](#), Secondary Arab Boycott of Israel (JUN 2005)

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41. \_\_\_\_ DFARS [252.225-7035](#), Buy American—Free Trade Agreements—Balance of Payments Program Certificate (NOV 2012)
  - a. \_\_\_\_ Alternate I (OCT 2013) of 252.225-7035
  - b. \_\_\_\_ Alternate II (NOV 2012) of 252.225-7035
  - c. \_\_\_\_ Alternate III (JUN 2012) of 252.225-7035
  - d. \_\_\_\_ Alternate IV (NOV 2012) of 252.225-7035
  - e. \_\_\_\_ Alternate V (NOV 2012) of 252.225-7035
42. \_\_\_\_ DFARS 252.225-7036, Buy American --Free Trade Agreements--Balance of Payment Program (DEC 2012)
  - a. \_\_\_\_ Alternate I (JUN 2012) of 252.225-7036
  - b. \_\_\_\_ Alternate II (NOV 2012) of 252.225-7036
  - c. \_\_\_\_ Alternate III (JUN 2012) of 252.225-7036
  - d. \_\_\_\_ Alternate IV (NOV 2012) of 252.225-7036
  - e. \_\_\_\_ Alternate V (NOV 2012) of 252.225-7036
43. \_\_\_\_ DFARS [252.225-7037](#), Evaluation of Offers for Air Circuit Breakers (JUN 2005)
44. \_\_\_\_ DFARS [252.225-7038](#), Restriction on Acquisition of Air Circuit Breakers (JUN 2005)
45. \_\_\_\_ DFARS [252.225-7040](#), Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States (FEB 2013)
46. \_\_\_\_ DFARS [252.225-7043](#), Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (MAR 2006)
47. ☒ DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004)
48. \_\_\_\_ DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (JUN 2013)
49. \_\_\_\_ DFARS 252.227-7015, Technical Data -- Commercial Items (JUN 2013)
50. \_\_\_\_ DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2013),
51. \_\_\_\_ DFARS 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (JUN 2012)
52. \_\_\_\_ DFARS 252.232-7009, Mandatory Payment by Governmentwide Commercial Purchase Card (DEC 2006)
53. ☒ DFARS 252.232-7010, Levies on Contract Payments (DEC 2006)
54. \_\_\_\_ DFARS 252.232-7011, Payments in Support of Emergencies and Contingency Operations (MAY 2013)
55. \_\_\_\_ DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)
58. \_\_\_\_ DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)
57. \_\_\_\_ DFARS 252.239-7017, Notice of Supply Chain Risk (NOV 2013)
58. \_\_\_\_ DFARS 252.239-7018, Supply Chain Risk (NOV 2013)
59. ☒ DFARS 252.243-7002, Requests for Equitable Adjustment (DEC 2012)
60. ☒ DFARS 252.244-7000, Subcontracts for Commercial Items (JUN 2013)
61. \_\_\_\_ DFARS 252.246-7003, Notification of Potential Safety Issues (JUN 2013)
62. \_\_\_\_ DFARS 252.246-7004, Safety of Facilities, Infrastructure, and Equipment for Military Operations (OCT 2010)
63. \_\_\_\_ DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)
64. ☒ DFARS 252.247-7022, Representation of Extent of Transportation by Sea (AUG 1992)
65. ☒ DFARS 252.247-7023, Transportation of Supplies by Sea (JUN 2013).
  - a. \_\_\_\_ Alternate I (MAR 2000) of 252.247-7023.
  - b. \_\_\_\_ Alternate III (MAY 2002) of 252.247-7023
66. \_\_\_\_ DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)
67. \_\_\_\_ DFARS [252.247-7025](#), Reflagging or Repair Work (JUN 2005)
68. \_\_\_\_ DFARS [252.247-7026](#), Evaluation Preference for Use of Domestic Shipyards – Applicable to Acquisition of Carriage by Vessel for DoD Cargo in the Coastwise or Noncontiguous Trade (NOV 2008)
69. \_\_\_\_ DFARS 252.247-7027, Riding Gang Member Requirements (OCT 2011)
70. \_\_\_\_ DFARS [252.247-7028](#), Application for U.S Government Shipping Documentation/Instructions (JUN 2012)

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

1. DFARS 252.227-7013, Rights in Technical Data – Noncommercial Items (JUN 2013)

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<div>2. DFARS 252.227-7015, Technical Data – Commercial Items (JUN 2013)</div> <div>3. DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data (JUN 2013)</div> <div>4. DFARS 252.237-7010, Prohibition on Interrogation of Detainees by Contractor Personnel (JUN 2013)</div> <div>5. DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees (JUN 2013)</div> <div>6. DFARS 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUN 2013)</div> <div>7. DFARS 252.247-7023, Transportation of Supplies by Sea (JUN 2013)</div> <div>8. DFARS 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000)</div> <div>(End of Clause)</div> <div>52.246-9044 SANITARY CONDITIONS (NOV 2011) DLAD</div> <div>Attachments</div> <div>List of Attachments</div> <table><tr><td>Description</td></tr><tr><td>ATTACH.Attachment 1 - Schedule of Items</td></tr><tr><td>ATTACH.Attachment 2 - Customer List</td></tr><tr><td>ATTACH.Attachment 3 - Request New Items</td></tr><tr><td>ATTACH.Attachment 4 - FFAVORS Web Vendor User Manual</td></tr><tr><td>ATTACH.Attachment 5 - Question Form</td></tr></table> <div>Part 12 Provisions</div> <div>52.212-01 INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS (APR 2014)</div>			Description	ATTACH.Attachment 1 - Schedule of Items	ATTACH.Attachment 2 - Customer List	ATTACH.Attachment 3 - Request New Items	ATTACH.Attachment 4 - FFAVORS Web Vendor User Manual	ATTACH.Attachment 5 - Question Form
Description								
ATTACH.Attachment 1 - Schedule of Items								
ATTACH.Attachment 2 - Customer List								
ATTACH.Attachment 3 - Request New Items								
ATTACH.Attachment 4 - FFAVORS Web Vendor User Manual								
ATTACH.Attachment 5 - Question Form								
ADDENDUM TO 52.212-1 INSTRUCTIONS TO OFFERORS--- COMMERCIAL ITEMS (APR 2014)								
<div>The following paragraphs of 52.212-1 are amended as indicated below:</div> <div>1. Paragraph (b), Submission <u>of Offers</u>.</div> <div>a. See page 3, for any specific instructions on how to submit your offer if mailed or hand carried.</div> <div>b. Faxed and E-mail offers are NOT authorized for this solicitation for initial closing and final proposal revisions (if necessary). If deemed necessary by the Contracting Officer, the Government reserves the right to conduct negotiations for the subject acquisition. Initial responses to negotiations shall be in a form of communication customary in the industry for transmitting information to include phone, facsimile transmission, letter, in-person and e-mail. However, any information provided during negotiations, to include all changes to the initial offer, must be reduced to writing and transmitted to the DLA Troop Support Pacific Business Office by the time and date specified at the time of Final Proposal Revisions. Information not submitted to the DLA Troop Support Pacific Business Office by the specified date and time will not be considered by the Government during final evaluations.</div> <div>2. Paragraph (c), Period <u>for Acceptance of Offers</u>, is revised as follows:</div> <div>Period of acceptance is <u>180</u> calendar days.</div> <div>3. Paragraph (f), <u>Late Submissions, Modifications, Revisions, and Withdrawals of Offers</u>, is deleted in its entirety and replaced with the following:</div> <div>(f) Late Submissions, Modifications, Revision, and Withdrawals of Offers.</div> <div>(1) Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and:</div>								
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- (i) It was sent by mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after the receipt at the Government installation.
- (ii) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals.
- (iii) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or it is the only proposal received.
- (2) Any modification or revision of a proposal or response to requested information, including any final proposal revision, is subject to the same conditions indicated above.
- (3) Notwithstanding the above, a late modification or revision of any otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.
- (4) Proposals may be withdrawn by written notice (including facsimile) received at any time before award.

**4. Paragraph (h), Multiple Awards**, is deleted in its entirety and replaced with the following:

The Government intends to make one award, offers must be submitted for all items.

## **PROPOSAL SUBMISSION INFORMATION**

### **I. PROPOSAL REQUIREMENTS**

A. Submit one (1) hardcopy and one (1) CD version of the proposal. The CD version shall contain documents (i.e. Microsoft Excel) that are compatible with IBM type CPUs and Microsoft WORD, Microsoft EXCEL and Adobe Acrobat software. The Schedule of Items (attachment 1) loaded on the CD shall be an EXCEL file. The CD version shall be used strictly to locate specific items of information. Should there be a discrepancy between the paper copies and the CD versions, the paper copies shall govern.

B. At a minimum, the following shall be submitted in hardcopy and CD version:

1. Signed and Completed Standard Form (SF) 1449 [ALL PAGES]
2. Signed SF30 Amendments (if applicable)
3. Representations and Certifications
4. Completed Attachment 1 – Schedule of Items.

### **II. PRICING**

A. Pricing will be evaluated through the Schedule of Items Approach. The Schedule of Items Approach is a grouping of items along with the estimated quantities. The items found in the Schedule of Items represent 100% of the estimated dollar value for 18 months for all Non-DoD USDA schools. Offers are required to submit their unit price for each item, broken down into the corresponding Delivered Price and Distribution Price components.

1. Pricing will be based on the following formula:

$$\text{Contract Unit Price} = \text{Delivered Price} + \text{Distribution Price}$$

2. In accordance with DLAD Clause 52.215-9023, Reverse Auction may be used for Distribution Prices only.

B. Definitions:

1. "Contract Unit Price" See Economic Price Adjustment (EPA) Clause.
2. "Delivered Price" See Economic Price Adjustment (EPA) Clause.
3. "Distribution Price" See Economic Price Adjustment (EPA) Clause.

(a) Distribution prices shall be formatted to no more than two (2) places to the right of the decimal point, for example, \$2.50.

(b) The offeror may submit a separate distribution price for each period, however, only one (1) distribution price shall be offered for all items in each period (base period, option period 1 and option period 2).

### **III. SCHEDULE OF ITEMS: PRICING (ATTACHMENT 1)**

A. The Schedule of Items in the attachment represents 100% of the estimated dollar value of this procurement. Offerors must submit pricing information. The unit prices of all items found in the Schedule of Items will be comparatively assessed to identify any unusually high or low priced items (outliers).

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B. Estimated quantities for 18 month period are indicated next to each item and are for information and evaluation purposes only. The unit price found in the Schedule of Items will be multiplied by the estimate to calculate the aggregate against the estimated 4.5 year requirements of the ordering activities and evaluated for the lowest overall aggregate cost to the Government.

**C. Offerors are to submit the most current unit prices. These prices are effective from Sunday, June 01, 2014 through Saturday, June 14, 2014.** This unit price must be in a format that shows the delivered price and the distribution price as separate entries, then totaled. For example, if the delivered price is \$2.00 and the distribution price is \$0.50, pricing should be formulated as follows:

\$ 2.00 + \$ .50 = \$ 2.50  
(Prices used for illustrative purposes only)

1. Do Not Submit only the Unit Price; the two (2) elements must be shown separately.
2. Delivered and Distribution Prices for all items are to be submitted according to the Government's Unit of Issue (THERE ARE NO EXCEPTIONS). All items listed in the solicitation will ultimately become part of the vendor's catalog. The most recent prices submitted prior to award will be incorporated into the vendor's catalog.

#### IV. DISTRIBUTION PRICES

A. The offeror shall provide independent standard distribution pricing for each period (i.e. Base/Option) in the Schedule of Items. Each distribution price shall be a case price. One Distribution price shall be offered for all items in each period (base period, option period 1 and option period 2)

B. The distribution prices shall remain constant for the contract period (i.e. base or option). The distribution price for the base period does not have to be the same as the price of the each option period. These prices can differ or remain the same as the base contract period; but must remain constant through the length of each period.

#### V. DELIVERED PRICES

**A. For evaluation purposes the schedule of items should reflect the delivered prices effective from Sunday, June 01, 2014 through Saturday, June 14, 2014.** The offeror is required to submit pricing on all items that will meet the Government's minimum requirement.

B. As part of the evaluation process the Government reserves the right to request that the offeror substantiate their proposed delivered price with an invoice. The Item Number must be marked on each invoice so as to identify the invoice's corresponding item. The preferred documentation is the grower/supplier invoice. If invoices are not available for that time period, a written quote from the grower/supplier will be accepted. If you do not have an invoice, the offeror needs to explain why, i.e. not in season, do not carry, etc. The Government has a strong preference for invoices over market quotes. All invoices and quotes must be from sources that the offeror currently uses or plans to use to support the resultant contract. Any quote must be presented in the following manner:

1. Detailed on grower/manufacture letterhead;
2. Date price quote was supplied;
3. Time period price quote is effective; to include expiration date;
4. Quantity covered by price quote;
5. Grower/Manufacturer part number; and
6. Grower/Manufacturer's point of contact: including name, title, address, and phone numbers.

C. Prices must not extend more than two [2] places to the right of the decimal point. Standard rounding methods should be observed. For example, a delivered price of \$4.578 should be rounded to \$4.58.

D. If an offeror carries a variety of brands for the same item, the price submitted shall be for the lowest priced, technically acceptable, item that meets the Government's minimum requirements.

E. All items procured under the resultant contract are subject to all contractual clauses and regulations, including, but not limited to DFARS 252.225-7012 Preference for Certain Domestic Commodities and procured from a Sanitarily Approved Source. Proposed prices shall be for domestic Fresh Fruits and Vegetables only, no exceptions. All invoices and quotes must reflect compliance to contract terms and conditions.

F. Offerors are required to submit pricing on Attachment 1 – Schedule of Items. Column descriptions are provided below:

1. Gov't Item #: Self-explanatory
2. Item Code: Provided

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3. Item Description: Government Item Description.
4. PKG Size (LB) and Unit of Issue: Equals 1 case. For example, Gov't Item #1: 5 LB BG = 1 case
5. Estimated Quantity: Quantity provided.
6. CASE Delivered Price (DEP) Including Freight: The price you actually paid for the item, as substantiated by grower/manufacturer invoice.
7. CASE Distribution Price (DIP): Your distribution price.
8. Extended CASE Delivered Price (DEP): Estimated Quantity multiplied by CASE Delivered Price (DEP)
9. Extended CASE Distribution Price (DIP): Estimated Quantity multiplied by CASE Distribution Price (DIP)
10. CASE Price (FFAVORS Input): : CASE Delivered Price (DEP) + CASE Distribution Price (DIP)
11. Total Evaluated CASE Price: Estimated Quantity multiplied by CASE Price.

VI. SUBMISSION INFORMATION FOR PROPOSAL SPREADSHEET – Attachment 1 “Schedule of Items”

A. Please fill in the white boxes only (for base period, option period 1 and option period 2):

- 1) Vendor Name (cell B3)
- 2) CASE Delivered Price (DEP) Including Freight Column G (cells G6 to G73).
- 3) CASE Distribution Price (DIP) Column H (cells H6 to H73).

\*\*\* NOTE: The offeror may submit a separate distribution price (DIP) for each period, however, only one (1) distribution price (DIP) shall be offered for all items in each period (base period, option period 1 and option period 2). All components of the option period price must be rounded to two (2) places beyond the decimal point. If an offeror does not submit option period prices, the offeror's proposal may be rejected. Option period price increases or decreases are to be expressed in dollars and cents only. The offeror may also elect to offer no change in the distribution prices over the life of the contract. If you are not changing option period distribution pricing, all offerors are still required to fill in column H for Option Period 1 and Option Period 2 with the same distribution pricing. As a reminder, all offerors must submit ONE DISTRIBUTION PRICE per period (i.e.base/option). Multiple distribution prices within a base or option period **WILL NOT BE ACCEPTED**.

B. When preparing the spreadsheet, totals must appear in the rows titled “TOTAL BASE PERIOD EVALUATION” (Cells I74, J74 and L74), “TOTAL OPTION PERIOD 1 EVALUATION” (Cells I74, J74 and L74), and “OPTION 2 EVALUATION”, and “TOTAL OPTION PERIOD 2 EVALUATION” (Cells I74, J74 and L74). Each firm must submit a hard copy of their spreadsheet (s), for the base period and each option period, as well as the EXCEL spreadsheet file (loaded on the CD).

C. If requested to submit an invoice and the price on the invoice does not match the offered price due to a freight charge, the freight charge must be indicated on the invoice. This must appear on the invoice submitted by the offeror if requested. However, a separate freight invoice may be required as further documentation. Bulk freight charges are to be broken down by the case.

**52.212-02 EVALUATION - COMMERCIAL ITEMS (JAN 1999) FAR**

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

LOWEST PRICE TECHNICALLY ACCEPTABLE (LPTA) – THE RESULTANT CONTRACT WILL BE BASED ON THE LOWEST EVALUATED AGGREGATE PRICE OF PROPOSALS MEETING OR EXCEEDING THE ACCEPTABILITY STANDARDS FOR THE FOLLOWING NON-PRICE FACTOR:

1. TECHNICAL: THE OFFEROR TAKES NO EXCEPTIONS TO THE TERMS AND CONDITIONS IN THE SOLICITATION.
2. PRICING: PRICING IS REQUIRED FOR ALL ITEMS FOUND IN THE SCHEDULE OF ITEMS, FOR ALL PERIODS (BASE, OPTION 1 AND OPTION 2). THE GOVERNMENT WILL PERFORM AN AGGREGATE PRICE ANALYSIS ON ALL ITEMS FOUND IN THE SCHEDULE OF ITEMS. THE ESTIMATED QUANTITIES IN THE SCHEDULE OF ITEMS SHALL BE MULTIPLIED BY THE CASE PRICES TO DETERMINE THE LOWEST AGGREGATE PRICE. DELIVERED AND DISTRIBUTION PRICES WILL BE EVALUATED TO DETERMINE IF THERE ARE ANY OUTLIERS WITH THE ULTIMATE AWARD DECISION BASED ON THE LOWEST EVALUATED AGGREGATE PRICE (SUM OF BASE PERIOD, OPTION PERIOD 1 AND OPTION PERIOD 2).

IN ACCORDANCE WITH DLAD CLAUSE 52.215-9023, REVERSE AUCTION MAY BE USED FOR DISTRIBUTION PRICES ONLY AND THE LOW OFFEROR AT THE END OF THE REVERSE AUCTION MAY NOT BE THE ULTIMATE AWARDEE. AWARD DETERMINATION WILL BE BASED ON THE LOWEST EVALUATED AGGREGATE PRICE.

Technical and past performance, when combined, are NOT APPLICABLE [Contracting Officer state the relative importance of all other evaluation factors, when combined, when compared to price.]

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

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

(End of Provision)

### **52.212-03 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (MAY 2014) FAR**

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <https://www.acquisition.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (o) of this provision.

(a) Definitions. As used in this provision—

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

"Forced or indentured child labor" means all work or service—

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

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

"Inverted domestic corporation" as used in this section, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue code at 26 U.S.C. 7874.

"Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999, except—

(1) FSC 5510, Lumber and Related Basic Wood Materials;

(2) Federal Supply Group (FSG) 87, Agricultural Supplies;

(3) FSG 88, Live Animals;

(4) FSG 89, Food and Related Consumables;

(5) FSC 9410, Crude Grades of Plant Materials;

(6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) FSC 9610, Ores;

(9) FSC 9620, Minerals, Natural and Synthetic; and

(10) FSC 9630, Additive Metal Materials.

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

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

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

"Sensitive technology" –

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(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically -

(i) To restrict the free flow of unbiased information in Iran; or

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

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

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

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

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

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

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

“Subsidiary” means an entity in which more than 50 percent of the entity is owned –

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

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

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

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned business concern” means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

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

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

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

(b) (1) Annual Representations and Certifications. Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <https://www.acquisition.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), **except for paragraphs** \_\_\_\_\_.

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

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

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

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

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

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

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

(4) Small disadvantaged business concern. [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]

**The offeror represents, for general statistical purposes, that it ( ) is, ( ) is not a small disadvantaged business concern as defined in 13 CFR 124.1002.**

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

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

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

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

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

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

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

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

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

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

(10) [Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]

(i) General. The offeror represents that either—

**(A) It [ ] is, [ ] is not certified by the Small Business Administration** as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

**(B) It [ ] has, [ ] has not submitted a completed application to the Small Business Administration** or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

**(ii) [ ] Joint Ventures** under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the **joint venture**: \_\_\_\_\_.]

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

**CONTINUED ON NEXT PAGE**

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

(ii) It [ ] is, [ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

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

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

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

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

(2) Affirmative Action Compliance. The offeror represents that—

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

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

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

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

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(2) Foreign End Products:

Line Item No.	Country of Origin

(List as necessary)

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.”

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

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

Line Item No.	Country of Origin

(List as necessary)

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

**Other Foreign End Products:**

Line Item No.	Country of Origin

(List as necessary)

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

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

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

**Canadian End Products:**

Line Item No.

(List as necessary)

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

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

**Canadian or Israeli End Products:**

Line Item No.	Country of Origin

(List as necessary)

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

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

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

Line Item No.	Country of Origin
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(List as necessary)

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

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

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

**Other End Products:**

Line Item No.	Country of Origin

(List as necessary)

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

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

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

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

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

**(4) ( ) Have, ( ) have not, within a three-year period preceding this offer**, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

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

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

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

(ii) Examples.

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

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

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

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

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

**(1) Listed end products.**

Listed End Product	Listed Countries of Origin

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

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

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

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

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

(2) **( ) Outside the United States.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Taxpayer Identification Number (TIN) (26 U.S.C 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

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

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

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

( ) TIN: \_\_\_\_\_.

( ) TIN has been applied for.

( ) TIN is not required because:

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

( ) Offeror is an agency or instrumentality of a foreign government;

( ) Offeror is an agency or instrumentality of the Federal Government.

**(4) Type of organization.**

( ) Sole proprietorship;

( ) Partnership;

( ) Corporate entity (not tax-exempt);

( ) Corporate entity (tax-exempt);

( ) Government entity (Federal, State, or local);

( ) Foreign government;

( ) International organization per 26 CFR 1.6049-4;

( ) Other \_\_\_\_\_.

(5) Common parent.

( ) Offeror is not owned or controlled by a common parent;

( ) Name and TIN of common parent:  
Name \_\_\_\_\_.  
TIN \_\_\_\_\_.

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

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) Relation to Internal Revenue Code. An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.

(2) Representation. By submission of its offer, the offeror represents that –

(i) it is not an inverted domestic corporation; and

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

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

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

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

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

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

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property

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of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

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

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

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

(End of provision)

#### **52.212-03 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (NOV 2013), ALT I (APR 2011) FAR**

As prescribed in 12.301(b)(2), add the following paragraph (c)(12) to the basic provision:

(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(8) of this provision.)

**The offeror shall check the category in which its ownership falls:**

☐ Black American.

☐ Hispanic American.

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

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

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

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

#### **PROVISIONS ADDED TO PART 12 BY ADDENDUM**

#### **52.203-02 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985) FAR**

(a) The offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—

(i) Those prices;

(ii) The intention to submit an offer; or

(iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ **[insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];**

(ii) As an authorized agent, does certify that the principal(s) named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of provision)

#### **52.207-04 ECONOMIC PURCHASE QUANTITY - SUPPLIES (AUG 1987) FAR**

**(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals or quotes are requested in this solicitation is (are) economically advantageous to the Government.**

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(b) Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

**OFFEROR RECOMMENDATIONS**

**ITEM** \_\_\_\_\_

**QUANTITY** \_\_\_\_\_

**PRICE QUOTATION** \_\_\_\_\_

**TOTAL** \_\_\_\_\_

(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

(End of provision)

**252.209-7002 DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (JUN 2010) DFARS**

**252.209-7993 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW—FISCAL YEAR 2014 APPROPRIATIONS (DEVIATION 2014-OO0009) (FEB 2014)**

(a) In accordance with sections 8113 and 8114 of the Department of Defense Appropriations Act, 2014, and sections 414 and 415 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2014 (Public Law 113-76, Divisions C and J), none of the funds made available by those divisions (including Military Construction funds) may be used to enter into a contract with any corporation that—

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

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

(b) The Offeror represents that—

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

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

(End of provision)

**52.211-9009 NON-ACCEPTABILITY OF GOVERNMENT SURPLUS MATERIAL (NOV 2011) DLAD**

**52.211-9011 BUSINESS SYSTEMS MODERNIZATION (BSM) DELIVERY TERMS AND EVALUATION (MAY 2006) DLAD**

**52.215-20 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST AND PRICING DATA (OCT 2010) FAR**

(a) Exceptions from cost or pricing data.

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(1) In lieu of submitting cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following paragraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Commercial item exception. For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include—

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities;

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market;

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

(b) Requirements for cost or pricing data. If the offeror is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The offeror shall prepare and submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of provision)

#### **52.215-9007 PRE-PROPOSAL CONFERENCE (FEB 2005)(DLAD)**

A preproposal conference will be held to explain the requirements of this solicitation (SPE302-14-R-S010). No questions from the attendees will be entertained in the Pre-Proposal Conference. Prospective offerors are encouraged to attend.

To arrange attendance, prospective offerors are requested to contact:

Name: Kristopher Tom / Paul Cunanan  
Telephone: (808) 474-2945 / (808) 474-2940  
E-mail address: kristopher.tom@dla.mil / paul.cunanan@dla.mil

Only two (2) attendees per company are allowed.

The date, time, and location of the conference are provided below:

Date: August 08, 2014  
Time: 1:00 p.m. Hawaii Standard Time (HST)  
Location: Military Family Support Center  
2<sup>nd</sup> Floor, Training Room 262  
4827 Bougainville Drive  
Honolulu, HI 96818

**\*Note:** VISITOR PARKING FOR CONFERENCE. The Military Family Support Center is located off-base directly behind the Ruby Tuesday Restaurant. There is ample parking around the center, however, DO NOT park in reserved stalls. Map of the preproposal conference site can be provided upon request.

Prospective offerors are requested to submit questions regarding the solicitation in writing via electronic mail to kristopher.tom@dla.mil and paul.cunanan@dla.mil **no later than 4:00 p.m. Hawaii Standard Time (HST) on August 05, 2014** to allow their inclusion in the pre-proposal conference agenda.

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The Government will not be liable for expenses incurred by an offeror prior to contract award.

Offerors are cautioned that remarks and explanations provided at the conference shall not change the terms of this solicitation unless the solicitation is amended in writing. Offerors may obtain a copy of the conference minutes from the Contracting Officer.

(End of Provision)

**52.215-9010 ALL OR NONE (INVITATION FOR BID (IFB)/REQUEST FOR PROPOSAL (RFP) ONLY) (NOV 2011) DLAD**

(a) With respect to each item or group of items identified below, offers must be submitted for all items indicated. No award will be made for less than the full requirements shown in this solicitation for these items or groups.

GROUP (N/A)

ITEM NUMBERS 1 - 68

\*\*\* \*

**52.215-9023 REVERSE AUCTIONS (OCT 2013) (DLAD)**

The Contracting Officer may utilize on-line reverse auctioning as a means of conducting price discussions under this solicitation. If the Contracting Officer does not conduct a reverse auction, award may be made on the basis of initial offers or following discussions not using reverse auctioning as a pricing technique. If the Contracting Officer decides to use on-line reverse auctioning to conduct price negotiations, the Contracting Officer will notify offerors of this decision and the following provisions will apply.

(a) The award decision will be made in accordance with the evaluation factors as set forth in the solicitation. The reverse on-line auction will be used as a pricing technique during discussions to establish the final offered prices from each offeror. These prices will be used in conjunction with the evaluation factors stated elsewhere in the solicitation in order to make the award decision in accordance with the basis for award stated in the solicitation.

(b) Following the decision to conduct discussions using on-line reverse auctioning as a pricing technique, the Contracting Officer or his/her representative will provide offerors determined to be in the competitive range with information concerning the on-line auction process. The Government intends to use a commercial web-based product to conduct the reverse auction.

(c) Prior to or simultaneously with conducting the on-line reverse auction, the Contracting Officer may hold discussions with the offerors concerning matters appropriate for discussion, such as issues involving technical proposals or unbalanced pricing.

(d) The lowest offeror's price(s) for each round of the reverse auction will be disclosed to other offerors and anyone else having authorized access to the on-line auction. This disclosure is anonymous, meaning that each offeror's identity will be concealed from other offerors (although it will be known to the Government; only a generic identifier will be used for each offeror's proposed pricing, such as "Offeror A" or "lowest-priced offeror"). By submitting a proposal in response to the solicitation, offerors agree to participate in the reverse auction and that their prices may be disclosed, including to other offerors, during the reverse auction.

(e) The reverse auction system currently in use designates offers as "Lead," meaning the current low price in that auction, or "Not Lead," meaning not the current low price in that auction. In the event of a tie offer, the reverse auction provider's system designates the first offer of that price as "Lead" and the second or subsequent offer of that price as "Not Lead." Offerors shall not submit a tie offer, since this is inconsistent with the purpose of the reverse auction. If a tie offer is submitted, the "Not Lead" offeror that submitted the tie offer must offer a changed price; it will be ineligible for award if the final price in the auction is the tie offer price.

(f) An offeror's final auction price at the close of the reverse auction will be considered its final proposal revision. No price revisions will be accepted after the close of the reverse auction, unless the Contracting Officer decides that further discussions are needed and final proposal revisions are again requested in accordance with Federal Acquisition Regulation (FAR) 15.307, or the Contracting Officer determines that it would be in the best interest of the Government to re-open the auction.

(g) The following information is provided regarding the procedures to be followed if a reverse auction is conducted.

(1) Each offeror identified by the Contracting Officer as a participant in the reverse auction will be contacted by Defense Logistic Agency's commercial reverse auction service provider to advise the offeror of the event and to provide an explanation of the process.

(2) In order for an Offeror to participate in the reverse auction, such offeror must agree with terms and conditions of the entire solicitation, including this provision, and agree to the commercial reverse auction service provider's terms and conditions for using its service. Information concerning the reverse auction process and the commercial service provider's terms and conditions is embedded within the email notification sent by the on-line reverse auction pricing tool system administrator.

(3) Offerors shall secure the passwords and other confidential materials provided by the commercial reverse auction service provider or the Government and ensure they are used only for purposes of participation in the reverse auction. Offerors shall keep their own and other offerors' pricing in confidence until after contract award.

(4) Any offeror unable to enter pricing through the commercial reverse auction service provider's system during a reverse auction must notify the Contracting Officer or designated representative immediately. The Contracting Officer may, at his/her sole discretion, extend

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or re-open the reverse auction if the reason for the offeror's inability to enter pricing is determined to be without fault on the part of the offeror and outside the offeror's control.

(5) The reverse auction will be conducted using the commercial reverse auction service provider's website as embedded in the email notification. Offerors shall be responsible for providing their own computer and internet connection.

(6) Training:

(i) The commercial reverse auction service provider and/or a Government representative will provide familiarization training to offerors' employees; this training may be provided through written material, the commercial reverse auction service provider's website, and/or other means.

(ii) An employee of an offeror who successfully completes the training shall be designated as a 'trained offeror.' Only trained offerors may participate in a reverse auction. The Contracting Officer reserves the right to request that offerors provide an alternate offeror employee to become a 'trained offeror.' The Contracting Officer also reserves the right to take away the 'trained offeror' designation from any trained offeror who fails to abide by the solicitation's or commercial reverse auction service provider's terms and conditions.

(End of Provision)

#### **52.216-01 TYPE OF CONTRACT (APR 1984) FAR**

The Government contemplates award of a FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT (FP WITH EPA), INDEFINITE DELIVERY, INDEFINITE QUANTITY (IDIQ) contract resulting from this solicitation.

(End of provision)

#### **52.217-05 EVALUATION OF OPTIONS (JUL 1990) FAR**

#### **52.233-9000 AGENCY PROTESTS (NOV 2011) DLAD**

#### **52.233-9001 DISPUTES - AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (NOV 2011) DLAD**

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**(c) The offeror should check here to opt out of this clause:**

[ ]. Alternate wording may be negotiated with the contracting officer.

#### **52.252-01 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998) - FAR**

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

<http://www.dla.mil/Acquisition> and <http://farsite.hil.af.mil/> .

(End of Provision)

#### **52.233-02 SERVICE OF PROTEST (SEP 2006) FAR**

(a) Protests, as defined in section 31.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from DLA TROOP SUPPORT PACIFIC, 440 FULLER WAY BLDG 280, PEARL HARBOR, HI 96860-4967. [Contracting Officer designate the official or location where a protest may be served on the Contracting Officer.]

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Clause)