

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT**

1. CONTRACT ID CODE

**PAGE 1 OF 3**

2. AMENDMENT/MODIFICATION NO. 0003		3. EFFECTIVE DATE	4. REQUISITION/PURCHASE REQ. NO. See Block 14	5. PROJECT NO. (If applicable)
6. ISSUED BY DLA TROOP SUPPORT DIRECTORATE OF SUBSISTENCE 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096		CODE SPE300	7. ADMINISTERED BY (If other than Item 6) CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)			(X)	9A. AMENDMENT OF SOLICITATION NO. SPE30019R0076
			<input checked="" type="checkbox"/>	9B. DATED (SEE ITEM 11) 2020 MAR 30
			<input type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ORDER NO.
				10B. DATED (SEE ITEM 13)
CODE	FACILITY CODE			

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

- (a) By completing Items 8 and 15, and returning 1 copies of the amendment;
- (b) By acknowledging receipt of this amendment on each copy of the offer submitted;
- or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

**13. THIS APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.  
IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
<input type="checkbox"/>	
<input checked="" type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc. ) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

**E. IMPORTANT:** Contractor  is not,  is required to sign this document and return 1 copies to issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

See Attached Continuation Sheet(s).

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA
 (Signature of person authorized to sign)			 (Signature of Contracting Officer)
			16C. DATE SIGNED

SUPPLIES/SERVICES:  
MFR. CAGE: 3RFQ3 P/N: SEESOW

ITEM DESCRIPTION:

CAGE/PN: 3RFQ3 / SEESOW

PUBLIC RFQ HQ DLA PROCUREMENT  
SYSTEMS  
CAMERON STATION  
ALEXANDRIA VA 22304-6100  
USA

Phone: (703)274-786

NO EXCEPTION DATA

ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	CAGE/PN: 3RFQ3 SEESOW Institutional Feeding Div-Philadelphia	1.000	EA	\$ _____	\$ _____

PRICING TERMS: Firm Fixed Price

QTY VARIANCE: PLUS 0% MINUS 0%

Destination

PREP FOR DELIVERY:

PKGING DATA-QUP:001  
SHALL BE PACKAGED STANDARD IN ACCORDANCE WITH ASTM D 3951.

All DLA Master List of Technical and Quality Requirements take precedence over ASTM D3951.  
Mark and label all packaging and packing in accordance with MIL-STD-129.  
The Unit of Issue (U/I) and Quantity per Unit Pack (QUP) will be as specified in the contract/purchase order.

PARCEL POST ADDRESS:

FOR TRANSPORTATION SEE DLAD DLAD PROC NOTE C19. FOR FIRST DESTINATION TRANSPORTATION SEE DLAD PROC NOTE C20 AND CONTRACT

FREIGHT SHIPPING ADDRESS:

GOVT USE

ITEM	PR	PRLI	PR	External	External	External	Customer RDD/ Need Ship Date
0001	1000080997	0001	N/A	N/A	N/A	N/A	N/A

\* \* \* \* \*

**Attachments****List of Attachments**

File Name	Description
ATTACH_Amendment_0003	SPV Korea (SPE300-19-R-0076) 000
ATTACH_SOW_0003	SPV Korea SOW 0003 Final.pdf

**This amendment contains revisions to Attachment 1, Statement of Work (SOW) requirements.**

- 1. On page 5 of Attachment, Statement of Work, replace row 5 as follows:**

Prepare and return all proposals through DIBBS using the instructions in Amendment 0002.

- 2. Throughout the Statement of Work replace all references to Christina Bennis with Jacob Slotnick. In addition, replace the e-mail address [Christina.Bennis@dla.mil](mailto:Christina.Bennis@dla.mil) with [Jacob.Slotnick@dla.mil](mailto:Jacob.Slotnick@dla.mil) . Please note that any Past Performance surveys that have already been submitted DO NOT need to be resubmitted.**

**All other terms and conditions remain the same.**

ADMINISTRATIVE DATA/DELIVERY SCHEDULE

CONTINUATION OF THE BLOCKS ON PAGE 1 (SF 1449)

**BLOCK 8** (continued)

OFFER DUE DATE/LOCAL TIME: June 4, 2020, 12:00 NOON. US EASTERN TIME

NOTE: "For offers from Joint Ventures or Partnerships, this solicitation and any amendments must be signed by each party to the Joint Venture or Partnership and must be submitted along with the offer. Only one originally signed copy of this solicitation document is required for submission.

All offers are required to be uploaded to the DLA Internet Bid Boards System (DIBBS). Please visit the DIBBS website to submit your proposal: <https://www.dibbs.bsm.dla.mil>.

**BLOCK 9** (continued):

**NOTE: Facsimile and E-mail Offers are not acceptable forms of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal Revision(s).**

**BLOCK 17A** (Continued):

OFFERORS: SPECIFY

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

TYPE OF OFFEROR: (Circle one) Individual doing business as a firm, Partnership, Corporation, Joint Venture, or Other (please explain) \_\_\_\_\_

FOREIGN BUSINESS: (Circle.....YES – OR – NO)

PRIMARY COMPANY POC/NEGOTIATOR: \_\_\_\_\_

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

E-MAIL ADDRESS: \_\_\_\_\_

**BLOCK 17B** (CONTINUED)

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

Offeror's assigned DUNS Number: \_\_\_\_\_

**AUTHORIZED NEGOTIATORS:**

Subsistence Prime Vendor Republic of Korea

**SPE300-19-R-0076 -0003**

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

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**BLOCKS 19-24 (CONTINUED):** Statement of Work

**CAUTION NOTICE**

**NOTICE TO OFFERORS**

**The Government reserves the right to cancel this solicitation at any time. If this should occur, the Government will not be liable for any proposal preparation costs or any other costs that offerors may have incurred related to this solicitation.**

**In accordance with FAR 52.225-25, each offeror must certify that the offeror, and any person owned or controlled by the offeror, does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act. Each offeror shall update its System for Award Management (SAM) certifications and/or by submission of an offer, make the above certification (See FAR 52.212-3, paragraph (o)).**

**DLA Troop Support Point of Contact:**

**Jacob.Slotnick@dla.mil and Donovan.Mahoney@dla.mil**

**CONTRACTOR CODE OF BUSINESS ETHICS (OCT 2015) DLA TROOP SUPPORT**

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).

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.

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**CAUTION NOTICE**

**\*\*\*\*PRE-PROPOSAL QUESTIONS\*\*\*\***

**DLA Troop Support will entertain Pre-Proposal questions to further clarify and discuss the requirements of this solicitation and to respond to general questions raised by prospective offerors.**

DUE DATE FOR THE QUESTIONS IS WEDNESDAY, APRIL 8, 2020, 12:00 NOON, US EASTERN TIME.

The Government will not be liable for expenses incurred by an offeror prior to contract award. Offerors are cautioned that remarks and explanations provided in response to questions received do not change the terms of this solicitation unless the solicitation is amended in writing.

If you plan to submit questions, please send an e-mail with the following information:

- Name of Firm
- Name and Title of Representative
- Address of Firm
- E-Mail Address
- Phone Number
- Size of Business
- Questions

**Pre-proposal questions may be e-mailed to Jacob Slotnick and Donovan Mahoney at [Jacob.Slotnick@dla.mil](mailto:Jacob.Slotnick@dla.mil) and [Donovan.Mahoney@dla.mil](mailto:Donovan.Mahoney@dla.mil)**

**NOTE: Offerors are encouraged to carefully review the solicitation before developing questions for submission. Answers to questions will be provided via amendment.**



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***Did You Remember To:***

Number	Reminder	Check
1	Print and distribute the past performance questionnaire to your contract holders?	
2	Identify your authorized negotiators above as required? Did you identify which negotiator will serve as the primary point of contact?	
3	Submit a list of all your affiliates / subsidiaries / partially or wholly-owned companies that will be utilized for this contract, see below addendum to FAR 52.212-1 Instructions to Offerors.	
4	Use the Market Basket spreadsheet for submission of your pricing information?	
5	<b>Prepare and return all proposals through DIBBS using the instructions in Amendment 0002.</b>	
6	<b>Submit (1) digital copy of each MANUFACTURER’S quote using the official DLA Price Documentation sheet of this Attachment for every item listed on Attachment 1; tab “Market Basket” (ONE COPY OF THE QUOTE FOR EACH INDIVIDUAL ITEM IN THE MARKET BASKET)? Identify the item number from the Market Basket that it supports on the quote sheet? Submit the quotes in item number sequence? Submit quotes that are dated no earlier than March 30, 2020. Was each line on the Official DLA Price Documentation sheet completed by the manufacturer? Are FOB Origin Terms clearly identified on the quote? Is the NAPA discount clearly identified on the quote and removed from the Product Price? Refer to solicitation for actual requirements. Is the item clearly identified as an MPA Item?</b>	
7	Submit a list of CONUS and OCONUS “Distribution Facility(s)” or “Places of Performance(s)” that will directly support the proposed customers (Factor I)? Warehouses functioning as backups should be designated as such.	
8	The DOD Office of Small Business Programs lists the following information as it pertains to subcontracting goals: FY 2018 Small Business – 33% HubZone Small Business – 3% Service Disabled Veteran-Owned Small Business – 3% Small Disadvantaged Business – 5% Women-Owned Small Business – 5%	
9	<b>Limit your technical proposal to no more than 75 pages. An additional 50 pages will be allowed for supporting documentation such as lease and carrier agreements. Font must be Times New Roman size 12. Pages must be single sided.</b>	
10	Submit your best offer?	

**CAUTION:** The above list of proposal submission requirements is for convenience purposes only. This list is not intended to be all-inclusive. Offerors are responsible for carefully reviewing the entire Solicitation to ensure they submit all information required by the solicitation.

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**I. Contract Terms and Conditions**

**INVITED CONTRACTOR OR TECHNICAL REPRESENTATIVE STATUS  
UNDER U.S. - REPUBLIC OF KOREA (ROK)**

Invited Contractor (IC) and Technical Representative (TR) status shall be governed by the U.S.- ROK Status of Forces Agreement (SOFA) as implemented by United States Forces Korea (USFK) Reg 700-19, which can be found under the “publications” tab on the US Forces Korea homepage <http://www.usfk.mil>

(a) Definitions. As used in this clause—

“U.S. – ROK Status of Forces Agreement” (SOFA) means the Mutual Defense Treaty between the Republic of Korea and the U.S. of America, Regarding Facilities and Areas and the Status of U.S. Armed Forces in the Republic of Korea, as amended

“Combatant Commander” means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161. In Korea, the Combatant Commander is the Commander, United States Pacific Command.

“United States Forces Korea” (USFK) means the subordinate unified command through which US forces would be sent to the Combined Forces Command fighting components.

“Commander, United States Forces Korea” (COMUSK) means the commander of all U.S. forces present in Korea. In the Republic of Korea, COMUSK also serves as Commander, Combined Forces Command (CDR CFC) and Commander, United Nations Command (CDR UNC).

“USFK, Assistant Chief of Staff, Acquisition Management” (USFK/FKAQ) means the principal staff office to USFK for all acquisition matters and administrator of the U.S.-ROK SOFA as applied to US and Third Country contractors under the Invited Contractor (IC) and Technical Representative (TR) Program (USFK Reg 700-19).

“Responsible Officer (RO)” means a senior DOD employee (such as a military E5 and above or civilian GS-7 and above), appointed by the USFK Sponsoring Agency (SA), who is directly responsible for determining and administering appropriate logistics support for IC/TRs during contract performance in the ROK.

(b) IC or TR status under the SOFA is subject to the written approval of USFK, Assistant Chief of Staff, Acquisition Management (FKAQ), Unit #15237, APO AP 96205-5237.

(c) The Contracting Officer will coordinate with HQ USFK/FKAQ, IAW FAR 25.8, and USFK Reg 700-19. FKAQ will determine the appropriate contractor status under the SOFA and notify the Contracting Officer of that determination.

(d) Subject to the above determination, the contractor, including its employees and lawful dependents, may be accorded such privileges and exemptions under conditions and limitations as specified in the SOFA and USFK Reg 700-19. These privileges and exemptions may be furnished during the performance period of the contract, subject to their availability and continued SOFA status. Logistics support privileges are provided on an as-

available basis to properly authorized individuals. Some logistics support may be issued as Government Furnished Property or transferred on a reimbursable basis.

(e) The contractor warrants and shall ensure that collectively, and individually, its officials and employees performing under this contract will not perform any contract, service, or other business activity in the ROK, except under U.S. Government contracts and that performance is IAW the SOFA.

(f) The contractor's direct employment of any Korean-National labor for performance of this contract shall be governed by ROK labor law and USFK regulation(s) pertaining to the direct employment and personnel administration of Korean National personnel.

(g) The authorities of the ROK have the right to exercise jurisdiction over invited contractors and technical representatives, including contractor officials, employees and their dependents, for offenses committed in the ROK and punishable by the laws of the ROK. In recognition of the role of such persons in the defense of the ROK, they will be subject to the provisions of Article XXII, SOFA, related Agreed Minutes and Understandings. In those cases in which the authorities of the ROK decide not to exercise jurisdiction, they shall notify the U.S. military authorities as soon as possible. Upon such notification, the military authorities will have the right to exercise jurisdiction as is conferred by the laws of the U.S.

(h) Invited contractors and technical representatives agree to cooperate fully with the USFK Sponsoring Agency (SA) and Responsible Officer (RO) on all matters pertaining to logistics support and theater training requirements. Contractors will provide the assigned SA prompt and accurate reports of changes in employee status as required by USFK Reg 700-19.

(i) Theater Specific Training. Training Requirements for IC/TR personnel shall be conducted in accordance with USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK. IC/TR personnel shall comply with requirements of USFK Reg 350-2.

(j) Except for contractor air crews flying Air Mobility Command missions, all U.S. contractors performing work on USAF classified contracts will report to the nearest Security Forces Information Security Section for the geographical area where the contract is to be performed to receive information concerning local security requirements.

(k) Invited Contractor and Technical Representative status may be withdrawn by USFK/FKAQ upon:

(1) Completion or termination of the contract.

(2) Determination that the contractor or its employees are engaged in business activities in the ROK other than those pertaining to U.S. armed forces.

(3) Determination that the contractor or its employees are engaged in practices in contravention to Korean law or USFK regulations.

(l) It is agreed that the withdrawal of invited contractor or technical representative status, or the withdrawal of, or failure to provide any of the privileges associated therewith by the U.S. and USFK, shall not constitute grounds for excusable delay by the contractor in the performance of the contract and will not justify or excuse the contractor defaulting in the performance of this contract. Furthermore, it is agreed that withdrawal of SOFA

status for reasons outlined in USFK Reg 700-19, Section II, paragraph 6 shall not serve as a basis for the contractor filing any claims against the U.S. or USFK. Under no circumstance shall the withdrawal of SOFA Status or privileges be considered or construed as a breach of contract by the U.S. Government.

(m) Support.

(1) Unless the terms and conditions of this contract place the responsibility with another party, the COMUSK will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations when sufficient or legitimate civilian authority does not exist.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical or emergency dental treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(n) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel supporting U.S Armed Forces in the Republic of Korea as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

United States, host country, and third country national laws;  
Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Orders, directives, and instructions issued by the COMUSK relating to force protection, security, health, safety, or relations and interaction with local nationals. Included in this list are force protection advisories, health advisories, area (i.e. “off-limits”), prostitution and human trafficking and curfew restrictions.

(o) Vehicle or equipment licenses. IAW USFK Regulation 190-1, Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations. All contractor employees/dependents must have either a Korean driver’s license or a valid international driver’s license to legally drive on Korean roads, and must have a USFK driver’s license to legally drive on USFK installations. Contractor employees/dependents will first obtain a Korean driver’s license or a valid international driver’s license then obtain a USFK driver’s license.

(p) Evacuation.

(1) If the COMUSK orders a non-mandatory or mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national contractor personnel.

(2) Non-combatant Evacuation Operations (NEO).

(i) The contractor shall designate a representative to provide contractor personnel and dependents information to the servicing NEO warden as required by direction of the Responsible Officer.

(ii) If contract period of performance in the Republic of Korea is greater than six months, non emergency essential contractor personnel and all IC/TR dependents shall participate in at least one USFK sponsored NEO exercise per year.

(q) Next of kin notification and personnel recovery.

(1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is missing, captured, or abducted.

(2) In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DOD Directive 2310.2, Personnel Recovery.

(3) IC/TR personnel shall accomplish Personnel Recovery/Survival, Evasion, Resistance and Escape (PR/SERE) training in accordance with USFK Reg 525-40, Personnel Recovery Procedures and USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK.

(r) Mortuary affairs. Mortuary affairs for contractor personnel who die while providing support in the theater of operations to U.S. Armed Forces will be handled in accordance with DOD Directive 1300.22, Mortuary Affairs Policy and Army Regulation 638-2, Care and Disposition of Remains and Disposition of Personal Effects.

(s) USFK Responsible Officer (RO). The USFK appointed RO will ensure all IC/TR personnel complete all applicable training as outlined in this clause.

**CONTINUANCE OF PERFORMANCE DURING ANY STATE OF EMERGENCY  
IN THE REPUBLIC OF KOREA (ROK)**

Invited Contractor (IC) and Technical Representative (TR) status shall be governed by the U.S.- ROK Status of Forces Agreement (SOFA) as implemented by United States Forces Korea (USFK) Reg 700-19, which can be found under the “publications” tab on the US Forces Korea homepage <http://www.usfk.mil>

(a) Definitions. As used in this clause—

“U.S. – ROK Status of Forces Agreement” (SOFA) means the Mutual Defense Treaty between the Republic of Korea and the U.S. of America, Regarding Facilities and Areas and the Status of U.S. Armed Forces in the Republic of Korea, as amended

“Combatant Commander” means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161. In Korea, the Combatant Commander is the Commander, United States Pacific Command.

“United States Forces Korea” (USFK) means the subordinate unified command through which US forces would be sent to the Combined Forces Command fighting components.

COMUSK means the commander of all U.S. forces present in Korea. In the Republic of Korea, COMUSK also serves as Commander, Combined Forces Command (CDR CFC) and Commander, United Nations Command (CDR UNC).

“USFK, Assistant Chief of Staff, Acquisition Management” (USFK/FKAQ) means the principal staff office to USFK for all acquisition matters and administrator of the U.S.-ROK SOFA as applied to US and Third Country contractors under the Invited Contractor (IC) and Technical Representative (TR) Program (USFK Reg 700-19).

“Responsible Officer” (RO) means A senior DOD employee (such as a military E5 and above or civilian GS-7 and above), appointed by the USFK Sponsoring Agency (SA), who is directly responsible for determining and administering appropriate logistics support for IC/TRs during contract performance in the ROK.

“Theater of operations” means an area defined by the combatant commander for the conduct or support of specified operations.

“Uniform Code of Military Justice” means 10 U.S.C. Chapter 47 (b) General.

(1) This clause applies when contractor personnel deploy with or otherwise provide support in the theater of operations (specifically, the Korean Theater of Operations) to U.S. military forces deployed/located outside the United States in—

(i) Contingency operations;

(ii) Humanitarian or peacekeeping operations; or

(iii) Other military operations or exercises designated by the Combatant Commander.



(2) Contract performance in support of U.S. military forces may require work in dangerous or austere conditions. The Contractor accepts the risks associated with required contract performance in such operations. □The contractor will require all its employees to acknowledge in writing that they understand the danger, stress, physical hardships and field living conditions that are possible if the employee deploys in support of military operations.

(3) Contractor personnel are not combatants and shall not undertake any role that would jeopardize their status. Contractor personnel shall not use force or otherwise directly participate in acts likely to cause actual harm to enemy armed forces.

(c) Support.

(1) Unless the terms and conditions of this contract place the responsibility with another party, the COMUSK will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations when sufficient or legitimate civilian authority does not exist.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(d) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel supporting U.S Armed Forces in the Republic of Korea as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

(i) The Military Extraterritorial Jurisdiction Act may apply to contractor personnel if contractor personnel commit crimes outside the United States.

(ii) Under the War Crimes Act, United States citizens (including contractor personnel) who commit war crimes may be subject to federal criminal jurisdiction.

(iii) When Congress formally declares war, contractor personnel authorized to accompany the force may be subject to the Uniform Code of Military Justice.

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Orders, directives, and instructions issued by the COMUSK relating to force protection, security, health, safety, or relations and interaction with local nationals. Included in this list are force protection advisories, health advisories, area (i.e. “off-limits”), prostitution and human trafficking and curfew restrictions.

(e) Pre-deployment/departure requirements. The Contractor shall ensure that the following requirements are met prior to deploying/locating personnel in support of U.S. military forces in the Republic of Korea. Specific requirements for each category may be specified in the statement of work or elsewhere in the contract.

(1) All required security and background checks are complete and acceptable.

(2) All contractor personnel meet the minimum medical screening requirements and have received all required immunizations as specified in the contract. In the Republic of Korea, all contractor employees subject to this clause shall comply with the same DoD immunization requirements applicable to Emergency Essential DoD civilians—INCLUDING ANTHRAX IMMUNIZATION. The Government will provide, at no cost to the Contractor, any Korean theater-specific immunizations and/or medications not available to the general public.

(3) Contractor personnel have all necessary passports, visas, and other documents required to enter and exit a theater of operations and have a Geneva Conventions identification card from the deployment center or CONUS personnel office—if, applicable.

(4) Country and theater clearance is obtained for contractor personnel. Clearance requirements are in DOD Directive 4500.54, Official Temporary Duty Abroad, DOD 4500.54-G, DOD Foreign Clearance Guide, and USFK Reg 1-40, United States Forces Korea Travel Clearance Guide. Contractor personnel are considered non-DOD personnel traveling under DOD sponsorship.

(f) Processing and departure points. Deployed contractor personnel shall—

(1) Under contingency conditions or under other conditions as specified by the Contracting Officer, process through the deployment center designated in the contract, prior to deploying. The deployment center will conduct deployment processing to ensure visibility and accountability of contractor personnel and to ensure that all deployment requirements are met;

(2) Use the point of departure and transportation mode directed by the Contracting Officer; and

(3) If processing through a deployment center, process through a Joint Reception Center (JRC) upon arrival at the deployed location. The JRC will validate personnel accountability, ensure that specific theater of operations entrance requirements are met, and brief contractor personnel on theater-specific policies and procedures.

(g) Personnel data list.

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(1) The Contractor shall establish and maintain with the designated Government official a current list of all contractor personnel that deploy with or otherwise provide support in the theater of operations to U.S. military forces as specified in paragraph (b)(1) of this clause. The Synchronized Predeployment and Operational Tracker (SPOT) is the designated automated system to use for this effort. This accountability requirement is separate and distinct from the personnel accountability requirement listed in the U.S–ROK SOFA’s Invited Contractor/Technical Representative Program (as promulgated in USFK Regulation 700-19).

(2) The Contractor shall ensure that all employees on the list have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official.

(h) Contractor personnel.

(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements of this clause. Contractors shall replace designated personnel within 72 hours, or at the Contracting Officer’s direction. Such action may be taken at the Government’s discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(2) The Contractor shall have a plan on file showing how the Contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment. The Contractor shall keep this plan current and shall provide a copy to the Contracting Officer and USFK Sponsoring Agency (see USFK Reg 700-19) upon request. The plan shall—

- (i) Identify all personnel who are subject to U.S. or Republic of Korea military mobilization;
- (ii) Identify any exemptions thereto;
- (iii) Detail how the position would be filled if the individual were mobilized; and
- (iv) Identify all personnel who occupy a position that the Contracting Officer has designated as mission essential.

(i) Military clothing and protective equipment.

(1) Contractor personnel supporting a force deployed outside the United States as specified in paragraph (b)(1) of this clause are prohibited from wearing military clothing unless specifically authorized in writing by the COMUSK. If authorized to wear military clothing, contractor personnel must wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures and the Geneva Conventions.

(2) Contractor personnel may wear military-unique organizational clothing and individual equipment (OCIE) required for safety and security, such as ballistic, nuclear, biological, or chemical protective clothing.

(3) The deployment center, the Combatant Commander, or the Sponsoring Agency shall issue OCIE and shall provide training, if necessary, to ensure the safety and security of contractor personnel.

(4) The Contractor shall ensure that all issued OCIE is returned to the point of issue, unless otherwise directed by the Contracting Officer.

(j) Weapons.

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(1) If the Contractor requests that its personnel performing in the theater of operations be authorized to carry weapons, the request shall be made through the Contracting Officer to the COMUSK. The COMUSK will determine whether to authorize in-theater contractor personnel to carry weapons and what weapons will be allowed.

(2) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the COMUSK regarding possession, use, safety, and accountability of weapons and ammunition.

(iv) The use of deadly force by persons subject to this clause shall be made only in self-defense, except:

(v) Persons subject to this clause who primarily provide private security are authorized to use deadly force only as defined in the terms and conditions of this contract in accordance with USFK regulations and policies (especially, USFK Regulation 190-50).

(vi) Liability for the use of any weapon by persons subject to this clause is solely the responsibility of the individual person and the contractor.

(3) Upon redeployment or revocation by the COMUSK of the Contractor's authorization to issue firearms, the Contractor shall ensure that all Government-issued weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(k) Evacuation.

(1) In the event of a non-mandatory evacuation order, unless authorized in writing by the Contracting Officer, the Contractor shall maintain personnel on location sufficient to meet obligations under this contract.

(l) Theater Specific Training. Training Requirements for IC/TR personnel shall be conducted in accordance with USFK Reg 350-2 Theater Specific Required Training for all Arriving Personnel and Units Assigned to, Rotating to, or in Temporary Duty Status to USFK.

(m) USFK Responsible Officer (RO). The USFK appointed RO will ensure all IC/TR personnel complete all applicable training as outlined in this clause.

(n) Changes. In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(o) Subcontracts. The Contractor shall incorporate the substance of this clause, including this paragraph, in all subcontracts that require subcontractor personnel to be available to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed/stationed outside the United States in—

(1) Contingency operations;

(2) Humanitarian or peacekeeping operations; or

(3) Other military operations or exercises designated by the Combatant Commander.

(p) The Contracting Officer will discern any additional GFE, GFP or logistical support necessary to facilitate the performance of the enhanced requirement or necessary for the protection of contractor personnel. These items will be furnished to the Contractor at the sole discretion of the Contracting Officer and may be provided only on a reimbursable basis.

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

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

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

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

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

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

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

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

(g) *Invoice.*

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

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- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

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

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

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

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

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

(i) Payment.

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

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

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

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

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

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

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

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

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

(D) Contractor point of contact.

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

(6) Interest.

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

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

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

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



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

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

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

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

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges

the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

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

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

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

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

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

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

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

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause.
- (3) The clause at 52.212-5.
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Reserved

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End 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.

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

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

**ADDENDUM TO FAR 52.212-4 – Contract Terms and Conditions – Commercial Items**

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

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

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

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

(c) *Changes.*

(1) The Contracting Officer, at his/her discretion, may unilaterally invoke any of the contingency options set forth in this contract.

(2) The Contracting Officer may at any time, by unilateral written order, make changes within the general scope of this contract in any one or more of the following:

- (i) method of shipment or packing;
- (ii) place, manner, or time of delivery.

(3) If such change causes an increase of decrease in the cost of, or time required for, performance for any part of the work under this contract, the Contracting Officer shall make equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(4) The Contractor must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

3. Paragraph (m), *Termination for cause*, is deleted in its entirety and replaced with the following:

(m) *Termination for cause.*

The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases. The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1350.00 as payment in 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. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

4. Paragraph (o), *Warranty*, is revised to add the following:

“In the event that a product recall is initiated by the contractor, supplier or manufacturer, the contractor should follow the procedures as outlined below:

(1) Immediately notify the following personnel:

- (i) Customers that have received the recalled product
- (ii) DLA Troop Support Contracting Officer
- (iii) DLA Troop Support Integrated Supply Team (IST) Chief

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- (iv) DLA Troop Support Contract Specialist
- (v) DLA Troop Support Tailored Vendor Logistic Specialist
- (vi) DLA Troop Support Consumer Safety Officer

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

- (i) Reason for recall
- (ii) Level of recall, i.e. Type I, II or III
- (iii) Description of product, including specific manufacturer's lot numbers
- (iv) Amount of product
- (v) List of customers that have received product
- (vi) Name and phone number of responsible person (Recall Coordinator)

(3) The Prime Vendor should provide a Final Status Report of Recall, when completed, to the DLA Troop Support Consumer Safety Officer.”

(4) The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the contractor gives to any customer. The supplies and the rights and remedies provided therein are in addition to, and do not limit, any rights afforded to the Government by Clause 52.212-4(o) “Warranty”, “Contract Terms and Conditions-Commercial Items” and an addendum contained in the solicitation.

5. Paragraph (s), *Order of precedence* is revised to add the following:

(a) Performance of this contract by the Contractor shall be conducted and performed in accordance with detailed obligations to which the Contractor committed itself in its Technical Proposal in response to this solicitation.

(b) The technical volume(s) of the Contractor's proposal is incorporated by reference and hereby made subject to the provisions of the "ORDER OF PRECEDENCE" (FAR 52.215-8) clause of this contract. Under the "ORDER OF PRECEDENCE" clause, the technical volume of the Contractor's proposal referenced herein is hereby designated as item (10) of the clause, following "the specification" in the order of precedence.

6. Paragraph (t), System for Award Management (SAM) is revised to add the following:

(5) Definitions.

“System for Award Management (SAM) Database” means the primary Government repository for contractor information required for the conduct of business with the Government.

“Commercial and Government Entity (CAGE) Code” means—

- (a) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or
- (b) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code”.

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

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

“Registered in the SAM Database” means that—

- (a) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 numbers, into the CCR database;
- (b) The Contractor’s CAGE code is in the CCR database; and
- (c) The Government has validated all mandatory data fields and has marked the records “Active”.

**52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items FAR (JAN 2020)**

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

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

X (2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(5) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(6) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEP 2006), with *Alternate I* (OCT 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

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X (2) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (41 U.S.C. 3509).

X (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

X (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2018) (Pub. L. 109-282) (31 U.S.C. 6101 note).

\_\_\_ (5) [Reserved]

\_\_\_ (6) 52.204-14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

\_\_\_ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

X (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101 note).

X (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) (41 U.S.C. 2313).

\_\_\_ (10) [Reserved]

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

\_\_\_ (ii) Alternate I (NOV 2011) of 52.219-3.

\_\_\_ (12)(i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

\_\_\_ (ii) Alternate I (JAN 2011) of 52.219-4.

\_\_\_ (13) [Reserved]

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

X (ii) Alternate I (NOV 2011).

\_\_\_ (iii) Alternate II (NOV 2011).

\_\_\_ (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).

\_\_\_ (ii) *Alternate I* (OCT 1995) of 52.219-7.

\_\_\_ (iii) *Alternate II* (MAR 2004) of 52.219-7.

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- (16) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and (3)).
- (17)(i) 52.219-9, Small Business Subcontracting Plan (AUG 2018) (15 U.S.C. 637(d)(4)).
- (ii) Alternate I (NOV 2016) of 52.219-9.
- (iii) Alternate II (NOV 2016) of 52.219-9.
- (iv) Alternate III (NOV 2016) of 52.219-9.
- (v) Alternate IV (AUG 2018) 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 (JAN 2017) (15 U.S.C. 637(a)(14)).
- (20) 52.219-16, Liquidated Damages—Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (OCT 2019) (15 U.S.C. 657f).
- (22) 52.219-28, Post Award Small Business Program Rerepresentation (JUL 2013) (15 U.S.C. 632(a)(2)).
- (23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015) (15 U.S.C. 637(m)).
- (24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015) (15 U.S.C. 637(m)).
- (25) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).
- (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JAN 2020) (E.O. 13126).
- (27) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
- (28)(i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).
- (ii) Alternate I (Feb 1999) of 52.222-26.
- (29)(i) 52.222-35, Equal Opportunity for Veterans (OCT 2015)(38 U.S.C. 4212).
- (ii) Alternate I (July 2014) of 52.222-35.
- (30)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).
- (ii) Alternate I (July 2014) of 52.222-36.



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X (31) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

X (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

X (33)(i) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).

   (ii) *Alternate I* (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

   (34) 52.222-54, Employment Eligibility Verification (Oct 2015). (E. O. 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.)

   (35)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

   (ii) *Alternate I* (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

   (36) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

   (37) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

   (38)(i) 52.223-13, Acquisition of EPEAT<sup>®</sup>-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

   (ii) *Alternate I* (OCT 2015) of 52.223-13.

   (39)(i) 52.223-14, Acquisition of EPEAT<sup>®</sup>-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

(ii) *Alternate I* (Jun 2014) of 52.223-14.

X (40) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

   (41)(i) 52.223-16, Acquisition of EPEAT<sup>®</sup>-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

   (ii) *Alternate I* (Jun 2014) of 52.223-16.

X (42) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)

   (43) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).

   (44) 52.223-21, Foams (JUN 2016) (E.O. 13693).

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   (45)(i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

   (ii) Alternate I (JAN 2017) of 52.224-3.

  X (46) 52.225-1, Buy American—Supplies (MAY 2014) (41 U.S.C. chapter 83).

   (47)(i) 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.

   (ii) Alternate I (MAY 2014) of 52.225-3.

   (iii) Alternate II (MAY 2014) of 52.225-3.

   (iv) Alternate III (MAY 2014) of 52.225-3.

   (48) 52.225-5, Trade Agreements (OCT 2019) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

  X (49) 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).

   (50) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

   (51) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).

   (52) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).

   (53) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002) (41 U.S.C.4505, 10 U.S.C. 2307(f)).

   (54) 52.232-30, Installment Payments for Commercial Items (JAN 2017) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).

  X (55) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (OCT 2018) (31 U.S.C. 3332).

   (56) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (31 U.S.C. 3332).

   (57) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

   (58) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

   (59) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).

X (60)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

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

\_\_\_ (iii) Alternate II (Feb 2006) of 52.247-64.

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

\_\_\_ (1) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495).

\_\_\_ (2) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

\_\_\_ (3) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (5) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

\_\_\_ (6) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).

\_\_\_ (7) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).

\_\_\_ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).

\_\_\_ (9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).

\_\_\_ (10) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792).

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

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

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any

shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

(ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (AUG 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (OCT 2018) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(vi) 52.222-17, Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(vii) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

(viii) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).

(ix) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(x) 52.222-36, Equal Opportunity for Workers with Disabilities (July 2014) (29 U.S.C. 793).

(xi) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

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- (xii) 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.
- (xiii) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).
- (xiv) \_\_ (A) 52.222-50, Combating Trafficking in Persons (JAN 2019) (22 U.S.C. chapter 78 and E.O. 13627).  
\_\_ (B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
- (xv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) (41 U.S.C. chapter 67).
- (xvi) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) (41 U.S.C. chapter 67).
- (xvii) 52.222-54, Employment Eligibility Verification (Oct 2015) (E. O. 12989).
- (xviii) 52.222-55, Minimum Wages Under Executive Order 13658 (DEC 2015).
- (xix) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706).
- (xx)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).  
(B) Alternate I (JAN 2017) of 52.224-3.
- (xxi) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
- (xxii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
- (xxiii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
- (2) While not required, the Contractor May include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

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

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

- FAR: <https://www.acquisition.gov/far/index.html>;
- DFARS: <http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>
- DLAD: <https://www.dla.mil/HQ/Acquisition/Offers/DLAD.aspx>

*The following additional clauses are incorporated by reference:*

<u>CLAUSE NUMBER</u>	<u>TITLE/ DATE</u>
252.201-7000	Contracting Officer's Representative DFARS (DEC 1991)
52.203-3	Gratuities FAR (APR 1984)
252.203-7000	Requirements Relating to Compensation of Former DOD Officials DFARS (SEP 2011)
252.203-7002	Requirement to Inform Employees of Whistleblower Rights DFARS (SEP 2013)
252.203-7003	Agency Office of the Inspector General DFARS (SEP 2013)
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper FAR (MAY 2011)
52.204-7	System for Award Management FAR (OCT 2018)
52.204-9	Personal Identity Verification of Contractor Personnel FAR (JAN 2011)
52.204-13	System for Award Management Maintenance FAR (OCT 2018)
52.204-16	Commercial and Government Entity Code Reporting FAR (JUL 2016)
52.204-17	Ownership or Control of Offeror FAR (JUL 2016)
52.204-18	Commercial and Government Entity Code Maintenance FAR (JUL 2016)
52.204-19	Incorporation by Reference of Representations and Certifications FAR (DEC 2014)
52.204-20	Predecessor of Offeror FAR (JUL 2016)
252.204-7003	Control of Government Personnel Work Product DFARS (APR 1992)
252.204-7004	Level I Antiterrorism Awareness Training for Contractors DFARS (FEB 2019)
252.204-7008	Compliance with Safeguarding Covered Defense Information Controls (OCT 2016)
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting DFARS (OCT 2016)
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support DFARS (MAY 2016)
52.204-9000	Contractor Personnel Security Requirements DLAD (JUL 2015)
252.205-7000	Provision of Information to Cooperative Agreement Holders DFARS (DEC 1991)
252.207-4	Economic Purchase Quantity—Supplies DFARS (AUG 1987)
52.208-9	Contractor Use of Mandatory Sources of Supply or Services FAR (MAY 2014)
52.209-7	Information Regarding Responsibility Matters FAR (OCT 2018)
252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Country That is a State Sponsor of Terrorism DFARS (MAY 2019)
52.211-17	Delivery of Excess Quantities FAR (SEPT 1989)
252.211-7006	Passive Radio Frequency Identification DFARS (MAR 2018)
252.211-7007	Reporting of Government-Furnished Property DFARS (AUG 2012)
52.212-1	Instructions to Offerors -- Commercial Items FAR (OCT 2018)
52.212-2	Evaluation -- Commercial Items FAR (Oct 2014)
52-222-29	Notification of Visa Denial FAR (APR 2015)
52.222-56	Certification Regarding Trafficking in Persons Compliance Plan FAR (MAR 2015)
52.225-14	Inconsistency Between English Version and Translation of Contract FAR (FEB 2000)
52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certification FAR (AUG 2018)
252.225-7001	Buy American and Balance of Payments Program DFARS (DEC 2017)
252.225-7002	Qualifying Country Sources as Subcontractors DFARS (DEC 2017)

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<u>CLAUSE NUMBER</u>	<u>TITLE/ DATE</u>
252.225-7005	Identification of Expenditures in the United States DFARS (JUN 2005)
252.225-7012	Preference for Certain Domestic Commodities DFARS (DEC 2017)
252.225-7021	Trade Agreements—Basic DFARS (AUG 2019)
252.225-7040	Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States DFARS (OCT 2015)
252.225-7041	Correspondence in English DFARS (JUN 1997)
252.225-7042	Authorization to Perform DFARS (APR 2003)
252.225-7048	Export-Controlled Items DFARS (JUN 2013)
252.225-7975	252.225-7975 Additional Access to Contractor and Subcontractor Records (DEVIATION 2020-O0001) (NOV 2019)
252.225-7976	Contractor Personnel Performing In Japan (DEVIATION 2018-O0019) (AUG 2018)
252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns DFARS (APR 2019)
52.228-3	Workers' Compensation Insurance (Defense Base Act) FAR (JUL 2014)
52.228-5	Insurance -- Work on a Government Installation FAR (JAN 1997)
52.229-6	Taxes -- Foreign Fixed-Price Contracts FAR (FEB 2013)
252.229-7000	Invoices Exclusive of Taxes or Duties DFARS (JUN 1997)
52.232-17	Interest FAR (MAY 2014)
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports DFARS (DEC 2018)
252.232-7008	Assignment of Claims (Overseas) DFARS (JUN 1997)
252.232-7010	Levies on Contract Payments DFARS (DEC 2006)
52.233-2	Service of Protest FAR (SEP 2006)
52.233-3	Protest after Award FAR (AUG 1996)
252.233-7001	Choice of Law (Overseas) DFARS (JUN 1997)
52.233-9001	Disputes – Agreement to Use Alternative Dispute Resolution (DEC 2016)
52.242-13	Bankruptcy FAR (JUL 1995)
52.242-15	Stop-Work Order FAR (AUG 1989)
252.243-7001	Pricing of Contract Modifications DFARS (DEC 1991)
52.245-1	Government Property FAR (JAN 2017)
52.245-9	Use and Changes FAR (APR 2012)
252.245-7001	Tagging, Labeling, and Marking of Government-Furnished Property DFARS (APR 2012)
252.245-7002	Reporting Loss of Government Property DFARS (DEC 2017)
252.245-7003	Contractor Property Management System Administration DFARS (APR 2012)
252.245-7004	Reporting, Reutilization, and Disposal DFARS (DEC 2017)
252.246-7004	Safety of Facilities, Infrastructure, and Equipment for Military Operations DFARS (OCT 2010)
52.247-34	F.O.B. Destination FAR (NOV 1991)
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels FAR (FEB 2006)
252.247-7022	Representation of Extent of Transportation by Sea DFARS (AUG 1992)
252.247-7023	Transportation of Supplies by Sea DFARS (FEB 2019)
52.251-1	Government Supply Sources FAR (APR 2012)
252.251-7000	Ordering From Government Supply Sources DFARS (AUG 2012)

<u>CLAUSE NUMBER</u>	<u>TITLE/ DATE</u>
52.252-2	Clauses Incorporated by Reference FAR (FEB 1998)
52.253-1	Computer Generated Forms FAR (JAN 1991)

The following additional clauses are set forth in full text:

**52.212-3 Offeror Representations and Certifications -- Commercial Items FAR (DEC 2019)**

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

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

*Covered telecommunications equipment or services* has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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

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

- (1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

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

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

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

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

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



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

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

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

*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*—

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

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

*Service-disabled veteran-owned small business concern*—

(1) Means a small business concern—

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

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

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

*Small business concern* 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.

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

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

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

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

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

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

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

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(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 in SAM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) *Certification Regarding Payments to Influence Federal Transactions (31 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

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award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

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

(1) 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—Supplies.”

(2) Foreign End Products:

Line Item No.: \_\_\_\_\_

Country of Origin: \_\_\_\_\_

(List as necessary)

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

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

(i) 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, Panamanian, 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—Free Trade Agreements—Israeli Trade Act.”

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

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

Line Item No.	Country of Origin
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[List as necessary]		

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

Canadian End Products:

Line Item No.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(List as necessary)

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

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

Canadian or Israeli End Products:

Line Item No.

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Country of Origin

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*(List as necessary)*

(g)(4) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate III.* If Alternate III 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 Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

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

Line Item No.		Country of Origin

[List as necessary]

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

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

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

Other End Products:



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Line Item No.		Country of Origin
[List as necessary]		

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

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

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

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

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

(4) Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 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

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Listed Countries of Origin

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

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

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

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

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

(2)  Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards.*

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

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

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

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

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

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

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- (i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;
- (ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));
- (iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and
- (iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

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

- (i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and
- (ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(1) *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 SAM to be eligible for award.)

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

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

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

TIN: \_\_\_\_\_.

TIN has been applied for.

TIN is not required because:

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

- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 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) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

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

- (i) It  is,  is not an inverted domestic corporation; and
- (ii) It  is,  is not a subsidiary of an inverted domestic corporation.

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(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email 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 \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

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

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

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

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

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

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

Immediate owner CAGE code: \_\_\_\_\_.

Immediate owner legal name: \_\_\_\_\_.

*(Do not use a “doing business as” name)*

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

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

Highest-level owner CAGE code: \_\_\_\_\_.

Highest-level owner legal name: \_\_\_\_\_.

*(Do not use a “doing business as” name)*

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(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.* (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

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

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

(2) The Offeror represents that—

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

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

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

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

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

Predecessor CAGE code: \_\_\_\_ (or mark “Unknown”).

Predecessor legal name: \_\_\_\_.

(Do not use a “doing business as” name).

(s) [Reserved]

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

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

(2) *Representation.* [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner) [ ] does, [ ] does not publicly disclose greenhouse gas emissions, *i.e.*, makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

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

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

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

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

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

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (*e.g.*, agency Office of the Inspector General).

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

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

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



**52.212-3 Offeror Representations and Certifications -- Commercial Items, Alternate I FAR (Oct 2014)**

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

**52.216-19 Order Limitations FAR (Oct 1995)**

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$250, 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 \_\_\_ N/A \_\_\_ [insert dollar figure or quantity];
- (2) Any order for a combination of items in excess of \_\_\_ N/A \_\_\_ [insert dollar figure or quantity]; or
- (3) A series of orders from the same ordering office within \_\_\_ N/A \_\_\_ days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

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

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

**52.216-22 Indefinite Quantity FAR (OCT 1995)**

(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 the last day of the contract.

**252.216-7006 Ordering DFARS (SEP 2019)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from the first day of the contract through the last day of the contract.

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

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

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

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

**52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment FAR (DEC 2019)**

The Offeror shall not complete the representation in this provision if the Offeror has represented that it “does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument” in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v) of the provision at 52.212-3, Offeror Representations and Certifications—Commercial Items.

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

*Covered telecommunications equipment or services, critical technology, and substantial or essential component* have the meanings provided in clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.* Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractors are not prohibited from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

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

(d) *Representation.* The Offeror represents that it [ ] will, [ ] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(e) *Disclosures.* If the Offeror has represented in paragraph (d) of this provision that it “will” provide covered telecommunications equipment or services”, the Offeror shall provide the following information as part of the offer—

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

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

(3) For services, the entity providing the covered telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known); and

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

(End of provision)

**52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment FAR (AUG 2019)**

(a) Definitions. As used in this clause—

“Covered foreign country” means The People’s Republic of China.

“Covered telecommunications equipment or services” means–

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment;  
or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

“Critical technology” means–

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

“Substantial or essential component” means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) Prohibition. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in Federal Acquisition Regulation 4.2104.

(c) Exceptions. This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

(d) Reporting requirement.

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of provision)

**52.204-26 Covered Telecommunications Equipment or Services-Representation (Dec 2019)**

(a) Definitions. As used in this provision, “covered telecommunications equipment or services” has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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

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

(End of provision)

**252.203-7005 Representation Relating to Compensation of Former DoD Officials DFARS (NOV 2011)**

(a) *Definition.* “Covered DoD official” is defined in the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the offeror, and who are expected to undertake activities on behalf of the offeror for any resulting contract, are presently in compliance with all post-employment restrictions covered by 18 U.S.C. 207, 41 U.S.C. 2101-2107, and 5 CFR parts 2637 and 2641, including Federal Acquisition Regulation 3.104-2.

**252.204-7008 Compliance with Safeguarding Covered Defense Information Controls DFARS (OCT 2016)**

(a) *Definitions.* As used in this provision—  
“Controlled technical information,” “covered contractor information system,” “covered defense information,” “cyber incident,” “information system,” and “technical information” are defined in clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting.

(b) The security requirements required by contract clause 252.204-7012, shall be implemented for all covered defense information on all covered contractor information systems that support the performance of this contract.

(c) For covered contractor information systems that are not part of an information technology service or system operated on behalf of the Government (see 252.204-7012(b)(2)—

(1) By submission of this offer, the Offeror represents that it will implement the security requirements specified by National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 “Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations” (see <http://dx.doi.org/10.6028/NIST.SP.800-171>) that are in effect at the time the solicitation is issued or as authorized by the contracting officer not later than December 31, 2017.

(2)(i) If the Offeror proposes to vary from any of the security requirements specified by NIST SP 800-171 that are in effect at the time the solicitation is issued or as authorized by the Contracting Officer, the Offeror shall

submit to the Contracting Officer, for consideration by the DoD Chief Information Officer (CIO), a written explanation of—

- (A) Why a particular security requirement is not applicable; or
- (B) How an alternative but equally effective, security measure is used to compensate for the inability to satisfy a particular requirement and achieve equivalent protection.

(ii) An authorized representative of the DoD CIO will adjudicate offeror requests to vary from NIST SP 800-171 requirements in writing prior to contract award. Any accepted variance from NIST SP 800-171 shall be incorporated into the resulting contract.

**252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information DFARS (OCT 2016)**

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

“Compromise” means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

“Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

“Covered defense information” means unclassified controlled technical information or other information (as described in the Controlled Unclassified Information (CUI) Registry at <http://www.archives.gov/cui/registry/category-list.html>) that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is—

- (1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or
- (2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

“Cyber incident” means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

“Media” means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips, and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

“Technical information” means technical data or computer software, as those terms are defined in the clause at DFARS 252.227-7013, Rights in Technical Data-Noncommercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Restrictions.* The Contractor agrees that the following conditions apply to any information it receives or creates in the performance of this contract that is information obtained from a third-party’s reporting of a cyber incident pursuant to DFARS clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting (or derived from such information obtained under that clause):

- (1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Government in support of the Government’s activities related to clause 252.204-7012, and shall not be used for any other purpose.
- (2) The Contractor shall protect the information against unauthorized release or disclosure.
- (3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.
- (4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Government and Contractor, as required by paragraph (b)(3) of this clause.
- (5) A breach of these obligations or restrictions may subject the Contractor to—
  - (i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and
  - (ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

(c) *Subcontracts.* The Contractor shall include this clause, including this paragraph (c), in subcontracts, or similar contractual instruments, for services that include support for the Government’s activities related to safeguarding covered defense information and cyber incident reporting, including subcontracts for commercial items, without alteration, except to identify the parties.

**52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law FAR (FEB 2016)**

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

- (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 an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
- (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 an agency has considered suspension or debarment of



the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(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; and

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

**52.215-6 Place of Performance FAR (OCT 1997)**

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

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

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

**Procurement Note L09 Reverse Auction (OCT 2016)**

The Contracting Officer may utilize reverse auctioning to conduct price discussions. If the Contracting Officer does not conduct a reverse auction, award may be made on—initial offers or following discussions. If the Contracting Officer decides to use line reverse auctioning to conduct price negotiations, the Contracting Officer will notify Offerors of this decision and the following applies:

(1) The contracting officer may use reverse auction as the pricing technique during discussions to receive the final offered prices from each offeror.

(2) During each round of reverse auction, the system displays the lowest offer price(s) unless the auction instructions are different. All offerors and authorized auction users see the displayed lowest price(s). This disclosure is anonymous and a generic identifier displays for the offeror. Generic identifiers include designators such as “offer 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.

(3) An offeror's final auction price at the close of the reverse auction is considered its final price 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 price 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.

(4) The contracting officer identifies participants to the DLA commercial reverse auction service provider. To be eligible for award and participate, the offeror must agree with terms and conditions of the entire solicitation and the commercial reverse auction service. The reverse auction pricing tool system administrator sends auction information in an email. The reverse auction system 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." If a tie offer is submitted and no evaluation factors other than price were identified in the solicitation or a low-price technically acceptable source selection is being used, the "Not Lead" offeror that submitted the tie offer must offer a changed price; otherwise its offer will be ineligible for award. If evaluation factors in addition to price were listed in the solicitation and a tradeoff source selection is being used, tie offers that are "Not Lead" will be considered and evaluated.

(5) Offerors 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 their sole discretion, extend 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.

(6) Training. The commercial reverse auction service provider or government representative conducts training for offerors. Offerors receive training through written material, the commercial reverse auction service provider's website, or other means. Trainers name employees successfully completing the training as a "Trained Offeror." Only trained offerors may engage in a reverse auction. The contracting officer reserves the right to remove the "trained offeror" title from anyone who fails to obey the solicitation or commercial reverse auction service provider terms and conditions.

**Procurement Note: L01 Electronic Award Transmission (SEP 2016)**

Notice of awards are provided to suppliers by either:

(1) Electronic email containing a link to the electronic copy of the Department of Defense (DD) Form

1155, Order for Supplies or Services, on the DIBBS; or

(2) Electronic Data Interchange (EDI) 850 utilizing American National Standards Institute (ANSI) X12 Standards through a DLA transaction services approved Value Added Network (VAN).

Information regarding EDI, ANSI X12 transactions and DLA transaction services approved Value Added Networks (VANs) can be obtained at <https://www.transactionservices.dla.mil/daashome/edi-vanlistdla.asp>.

**Procurement Note: L02 Electronic Order Transmission (SEP 2016)**

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

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( ) American National Standards Institute (ANSI) X12 Standards through a DLA transaction services approved value added network (VAN).

( ) Electronic mail (email) award notifications containing web links to electronic copies of the Department of Defense (DD) Form 1155, Order for Supplies or Services.

Email notification requires registration on the DLA internet bid board system (DIBBS) home page at <https://www.dibbs.bsm.dla.mil/> .

If the offeror elects ANSI/VAN order transmission, DLA will send Electronic Data Interchange (EDI) transaction sets at time of award. The contractor shall acknowledge receipt of transaction sets with a functional acknowledgement or order receipt message within 24 hours. If the award transaction set is received on a weekend or Federal holiday, the acknowledgement must be received on the next working day. This acknowledgement will confirm that the contractor's interface with the system is working as needed for contract ordering.

Note: Information regarding EDI, ANSI X12 transactions, and DLA transaction services approved VANs can be obtained from the DAAS web site by going to <https://www.transactionservices.dla.mil/daashome/edi-vanlist-dla.asp>.

**Procurement Note: L06 Agency Protests (DEC 2016)**

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

**Procurement Note: C03 Contractor Retention of Supply Chain Traceability Documentation (SEP 2016)**

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

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

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

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

(4) The contractor shall immediately make available documentation upon request of the contracting officer. The contracting officer determines the acceptability and sufficiency of documentation. If the contractor fails to retain or provide the documentation or the contracting officer finds the documentation to be unacceptable, corrective action may be taken including, but not limited to, cancellation of undelivered orders or rejection of delivered supplies.

**52.216-1 Type of Contract FAR (APR 1984)**

The Government contemplates award of a Indefinite Delivery/Indefinite Quantity /Fixed Price with Economic Price Adjustment contract resulting from this solicitation

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

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

FAR: <https://www.acquisition.gov/?q=browsefar>

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

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

**52.252-6 Authorized Deviations in Clauses FAR (APR 1984)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.

(b) The use in this solicitation or contract of any Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

**252.229-7001 Tax Relief – Basic DFARS (SEP 2014)**

(a) Prices set forth in this contract are exclusive of all taxes and duties from which the United States Government is exempt by virtue of tax agreements between the United States Government and the Contractor’s government. The following taxes or duties have been excluded from the contract price:

NAME OF TAX: \_\_\_\_\_ RATE (PERCENTAGE): \_\_\_\_\_

(b) The Contractor’s invoice shall list separately the gross price, amount of tax deducted, and net price charged.

(c) When items manufactured to United States Government specifications are being acquired, the Contractor shall identify the materials or components intended to be imported in order to ensure that relief from import duties is obtained. If the Contractor intends to use imported products from inventories on hand, the price of which includes a factor for import duties, the Contractor shall ensure the United States Government’s exemption

from these taxes. The Contractor may obtain a refund of the import duties from its government or request the duty-free import of an amount of supplies or components corresponding to that used from inventory for this contract.

**252.243-7002 Requests for Equitable Adjustment DFARS (DEC 2012)**

- a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.
- (b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:  
I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.  
(Official's Name)  
(Title)
- (c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including:
  - (1) Certified cost or pricing data, if required, in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and
  - (2) Data other than certified cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if certified cost or pricing data are not required.
- (d) The certification requirement in paragraph (b) of this clause does not apply to:
  - (1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or
  - (2) Final adjustments under an incentive provision of the contract.

**FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESALE MEAT ACT**

- (a) The Contractor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act and regulations promulgated there under. This warranty will apply regardless of whether or not the supplies have been:
  - (1) Shipped in interstate commerce,
  - (2) Seized under either Act or inspected by the Food and Drug Administration or Department of Agriculture.
  - (3) Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said Acts and regulations promulgated there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.

(b) The Government shall have six months from the date of delivery of the supplies to the government within which to discover a breach of this warranty. Notwithstanding the time at which such breach is discovered, the Government reserves the right to give notice of breach of this warranty at any time within this six-month period or within 30 days after expiration of such period, and any such notice shall preserve the rights and remedies provided herein.

(c) Within a reasonable time after notice to the Contractor of breach of this warranty, the Government may, at its election:

(1) Retain all or part of the supplies and recover from the Contractor, or deduct from the contract price, a sum the Government determines to be equitable under the circumstances;

(2) Return or offer to return all or part of the supplies to the Contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the supplies are seized under either Act or regulations promulgated there under, such seizure, at Government option, shall be deemed a return of supplies within the meaning of this clause and thereby allow the government to pursue the remedy provided herein. Failure to agree to any deduction or recovery provided herein shall be a dispute within the meaning of the clause of this contract entitled "Disputes".

(d) The rights and remedies provided by this clause shall not be exclusive and are in addition to other rights and remedies provided by law or under this contract, nor shall pursuit of a remedy herein or by law either jointly, severally or alternatively, whether simultaneously or at different times, constitute an election of remedies.

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

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

**STATEMENT OF WORK**

**II. INTRODUCTION**

This solicitation seeks offers for Subsistence Prime Vendor support to military and other federally funded customers located throughout the Republic of Korea.

The Defense Logistics Agency-Troop Support (DLA-Troop Support) intends to enter into a Fixed Price Indefinite Delivery Indefinite Quantity Contract (IDIQ), with Economic Price Adjustment (EPA), with a full line food distributor who will act as a Prime Vendor responsible for the supply and delivery of semi-perishable and perishable food items as well as non-food Food Service Operating Supply (FSOS) items. The Prime Vendor must be capable of supplying all chilled products, semi perishable food product, frozen fish, meat and poultry, other frozen foods (fruits, vegetables, prepared foods, etc.), dairy and ice cream products, fresh and frozen bakery products, beverage base & juices (for dispensers), beverages & juices (non- dispenser), fresh fruits and vegetables, non-food items and Government Furnished Material (GFM) such as Unitized Group Rations (UGR's,) Meals Ready to Eat (MRE's,) Health and Comfort packs (HCP's) and other operational rations items (either currently in existence or to be introduced during the term of this contract).

The Prime Vendor will be required to support all authorized DLA customers, located in Korea. Other customers, including non-Department of Defense (DOD) customers may also be added as required over the life of any resultant contract. As previously stated, these customers include military or other federally funded customers. Though the solicitation describes existing customers known to the Contracting Officer at the time of the solicitation's issuance, other customers, including military, DOD, or non-DOD, may be added as necessary during the life of any resultant contract. The addition of said customers located within the solicitation's specified region will be at no additional cost to the Government.

The Government intends to make one award. The contract will be for a term of 60 months, with three separate pricing tiers. The first tier will be for a 24-month period (inclusive of an up to six month ramp-up period followed by, at least, a 18-month period depending on the length of ramp-up). The second tier will be a 18-month period immediately following the first tier. The third tier will be for a 18-month period immediately following the second tier.

The price for all aspects of performance detailed in the Statement of Work ("SOW") below must be included in the offeror's fixed Distribution Price(s). Offeror's are reminded that fixed price type contracts place the maximum risk and responsibility for all costs, and resulting profit or loss, on the contractor. Distribution Price(s) will remain fixed for the life of the contract and an offeror's failure to consider the full cost of performance and/or the risks of performing in this region will not serve as a basis to adjust Distribution Price(s). As detailed below, Product Price(s) are distinct from the aforementioned Distribution Price(s) and therefore should not be included in any way in the latter.

Notes:

- The term "Ordering Facilities" or "Ordering Activities," as used throughout this solicitation, will refer to all of the delivery points under this solicitation.
- The terms "Contractor" and "Prime Vendor," as well as the terms "purchase order" and "delivery order" are used interchangeably throughout this Statement of Work.
- Prices are to be submitted in an offeror's proposal, and payment will be made for performance under any resultant contract in U.S. dollars.

**II. ESTIMATED VALUE/GUARANTEED MINIMUM/MAXIMUM QUANTITY**

The estimated dollar value of this solicitation is \$160,000,000.00 inclusive of all tiered pricing periods. The maximum dollar value will be \$320,000,000.00 inclusive of all tiered pricing periods and surge requirements. The guaranteed minimum will be 10% of the Total Estimated Dollar Value, which equates to \$16,000,000.00. The Government's legal obligation under this contract will only be for that guaranteed minimum and will be satisfied once purchases for that amount have been made.

This solicitation includes multiple ordering facilities (i.e. customers), as listed in the Customer Deliveries section of this solicitation. Ordering facilities within the region covered by this solicitation can be added and/or subtracted as conditions warrant. As previously described, said additions/subtractions will occur at no additional cost to the Government.

**III. CONTRACT IMPLEMENTATION PHASE**

The contract implementation phase is defined as a ramp-up and/or ramp down period which begins immediately after award and ends when each individual customer supported under the contract has placed its first order under the new contract.

**A. CONTRACT IMPLEMENTATION PHASE – RAMP UP**

1. In the event that a follow-on contract is awarded to the incumbent Prime Vendor, the contract implementation phase will be utilized to establish fully functional catalogs in accordance with the terms and conditions of the new contract. The following terms shall apply:

- i. Within 6 months after award, the Prime Vendor shall be fully prepared to support all customers under the terms and conditions of the new contract. New and fully functional catalogs must be established during this time.
- ii. The incumbent Prime Vendor shall first use existing inventory that is stored at its facility or in the pipeline prior to establishing the new catalog(s) for the follow-on contract. Any such items shall be placed on the new catalog(s) at the product price as defined by the prior contract and the distribution price as defined by the new contract. The Prime Vendor shall use the existing product before new product is ordered.
- iii. New product that is ordered during the implementation phase shall only be ordered to replenish old product or to bring in new items requested and approved by the Government. This product must be ordered and cataloged at the product price defined by the new contract.
- iv. Product prices shall be updated on the new catalogs in accordance with the terms and conditions of the new contract.

2. In the event that a follow-on contract is awarded to a firm other than the incumbent Prime Vendor, the contract implementation phase will be utilized to ramp-up the new Prime Vendor and ramp down the incumbent. Ramp up/down planning shall begin immediately after award.



The ramp up/down process is expected to be completed within 6 months after award. The following terms shall apply:

i. Within fifteen (15) days after the incumbent Prime Vendor is notified that it has not received the contract awarded pursuant to this solicitation, the incumbent Prime Vendor is expected to submit a proposed ramp-down schedule to the Contracting Officer. Upon receipt and after review and discussion, the Contracting Officer intends to provide the new Prime Vendor with the incumbent contractor's weekly Supply Chain Fitness Reports to aid forecasting levels and begin the ramp-up phase. This information will be provided to the new Prime Vendor for informational purposes only, and with no guarantees of demand, accuracy, or otherwise. The new Prime Vendor will remain responsible for making its own demand planning and procurement decisions during contract implementation at its own risk and cost.

ii. The incumbent Prime Vendor may remain the principal source of food and non-food supplies for the entire 180 day implementation period.

iii. The incumbent Prime Vendor may have stocked product available for sale to the new Prime Vendor. If available, the new Prime Vendor is required to procure the available product offered for sale from the incumbent Prime Vendor. Any such sale shall be in accordance with the following terms and conditions. Any additional terms beyond those specified below must be agreed upon between the two parties and will be considered a commercial agreement separate from the requirements of this solicitation and resulting contract.

- In accordance with the average demand history for each item, quantities sold to the new Prime Vendor shall be a minimum of 2 months of stock (where available) and shall not exceed 8 months of stock, unless otherwise approved by the Contracting Officer, which would account for a total pipeline (stock on-hand and receipted replenishment quantities to include stock levels for surge and sustainment requirements). Products shall be sold to the new Prime Vendor at the "Product Price" as defined by Defense Logistics Agency Directive Procurement Note Economic Price Adjustment – Actual Material Costs for Subsistence Product Price Business Model). The estimated value for the maximum 8 months of stock (product price only) is \$15.4M. The new Prime Vendor shall request and obtain supporting invoice documentation from the incumbent contractor for all items purchased for traceability and price verification purposes.
- The new Prime Vendor shall inspect all products prior to accepting the product into its inventory. The following products may be excluded from any required purchase transaction.
  - Product that fails to meet minimum contractual requirements (i.e. proper storage, shelf life remaining, etc.);
  - Product that does not have sufficient anticipated demand; and or
  - Product that is sourced from Outside Contiguous United States (OCONUS) contractors (i.e. fresh fruits and vegetables, etc.)

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- The new contractor shall be responsible for purchasing the residual stock unless one of the above exceptions apply.
- Once the new Prime Vendor and the incumbent Prime Vendor have agreed upon the products that will be purchased, the new Prime Vendor shall pick-up those products from the incumbent Prime Vendor’s primary warehouse facility for inspection and acceptance.
- All products purchased by the new Prime Vendor at the “Product Price” as defined by Procurement Note Economic Price Adjustment – Actual Material Costs for Subsistence Product Price Business Model shall be used to establish fully functional catalogs under the new contract and provide initial support to the customers under the terms and conditions of the new contract. See below section - Prime Vendor 832 Catalogs.
- The new Prime Vendor will only be entitled to 50% of its distribution price for product purchased from the incumbent Prime Vendor in accordance with this section and ultimately delivered to customers under the resulting contract. The incumbent Prime Vendor will not be paid for any product that remains unpurchased.

iv. All Government Furnished Material (GFM), that meets minimum contractual requirements shall be delivered by the incumbent Prime Vendor to the new Prime Vendor’s warehouse(s). GFM product shall be cataloged by the new Prime Vendor at a \$0 product price and the applicable distribution price for GFM in accordance with this section and ultimately delivered to customers under the resulting contract.

v. It is the Government’s intent to have all orders placed and delivered under the new contract 6 months after award, however, the Government reserves the right to phase in customer ordering points when it is in the best interest of the Government.

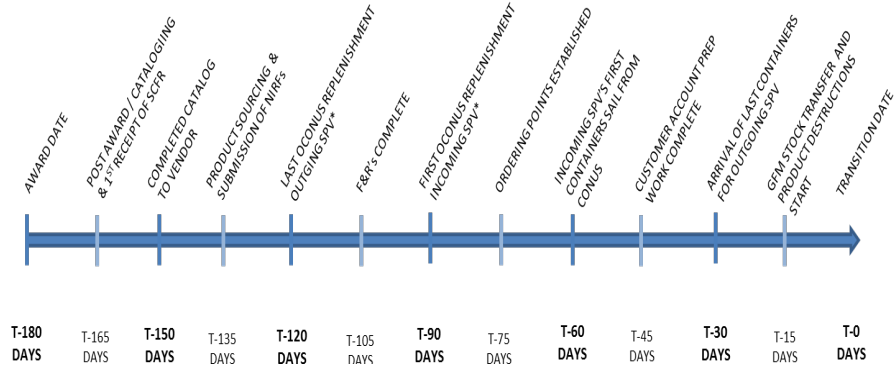
Sample Implementation Phase

Note: The implementation timeline begins on the contract award date and ends 6 months thereafter. If a stop work order is issued during the implementation, the Prime Vendor will be required to stop work and will not be able to perform unless the stop work order is rescinded. If the stop work order is rescinded, the Prime Vendor will resume the implementation schedule from the date that the stop work order was issued. The 6 month period will not re-start from the beginning. For example:

Contract Award Date:	March 30, 2022
Stop Work Order Issued:	April 30, 2022
Stop Work Order Rescinded:	June 30, 2022
Implementation Timeline:	March 30, 2022–April 30, 2022 and June 30, 2022–Nov 30, 2022

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**B. CONTRACT TRANSITION OUT– RAMPDOWN**

1. As part of this contract, the Prime Vendor will be required to participate in a contract ramp-down/transition out. DLA Troop Support anticipates that a follow-on contract will be awarded at least 6 months before the expiration of this contract to allow for a coordinated ramp-down of the existing Prime Vendor and ramp-up of the follow-on Prime Vendor. The Prime Vendor will be required to coordinate all aspects of its ramp-down with the Contracting Officer and provide a ramp-down schedule, if requested.
2. During this ramp-down/transition out period, the Prime Vendor shall continue replenishment of all items to allow for sufficient stock on hand and in the pipeline to support the customer requirements at that time. The Prime Vendor shall submit Total Asset Visibility Reports and/or other supply chain information on a weekly basis to the Contracting Officer, or in the frequency otherwise requested. The Prime Vendor consents to the disclosure of this information to the follow-on contractor. The Prime Vendor may be required to sell the OCONUS inventory to the new contractor at the conclusion of the performance period. The Prime Vendor will be responsible for disposing of its remaining residual stock that is not ultimately purchased by the follow-on contractor. The Prime Vendor is responsible for all costs associated with that residual product, including disposal costs (i.e. product price, distribution price, etc.).
3. DLA Troop Support anticipates that the Prime Vendor will remain the principal source of food supplies for the first several months of any follow-on contract's implementation phase. During this period, the Prime Vendor shall maintain its contractually required fill-rate. Notwithstanding other provisions in the contract, performance failure during the follow-on contract implementation phase, just as during other periods of performance, may result in termination for cause and/or the Prime Vendor receiving administrative admonishment via negative past performance ratings in the Contract Performance Assessment Reporting System (CPARS) record, and/or any other remedy available to the Government.

**IV. PRODUCT SOURCING AND PRICING**

**A. PRICE DEFINITIONS AND PROVISIONS**

1. Reference Procurement Note Economic Price Adjustment- Actual Material Costs for Subsistence Product Price Business Model:

\*\* The contracting officer may, on a case by case basis, accept a CONUS based manufacturer/grower/private label holder's product pricing which is a national priced. National Pricing is further clarified as a CONUS based manufacturer, grower or private label holder's product price, inclusive of transportation costs to a Subsistence Prime Vendor CONUS distribution point.

In general, the Contracting Officer will consider national pricing only for items that are sold nationally, have comparable commercial sales, and when the manufacturer/grower/private label holder's commercial practice is to offer pricing only on a nationally priced basis (i.e. a fixed price that is f.o.b. destination to any CONUS location). The contracting officer has the sole discretion to determine whether to accept national pricing, and the contracting officer's decision whether to accept national pricing will be final.

**Procurement Note Economic Price Adjustment – Actual Material Costs For Subsistence Product Price Business Model**

(a) Warranties: For the portion of the schedule that is covered by this economic price adjustment (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: Product Price and Distribution Price as identified in the schedule of items. The sum of the two component prices shall be rounded to the nearest cent to determine the final Contract unit price.

(2) DLA Troop Support "Manufacturer's Price Agreement" (MPA) means an agreement between DLA Troop Support and manufacturers which identifies a fixed Product Price for specific items that will be cataloged by the prime vendor.

(3) "Product Price" is the most recent DLA Troop Support MPA price or the most recent manufacturer, grower or private label holder commercial price per unit to the Contractor, exclusive of standard freight.

(i) Exceptions:

(A) Fresh fruits and vegetables (FF&V):

(1) The product is listed in the Distribution Category for prime vendor fresh fruits and vegetables (FF&V) {10, 11, and 15}; and

(2) It is necessary for the product to be transported into the local market of the importer, as otherwise approved under the contract, from a foreign country because local supply does not exist or it is insufficient to meet demand requirements; and

(3) The importer that establishes the Product Price is the firm that actually performs the FF&V import service, including, but not limited to: procurement, storage, consolidation, pallets, and palletizing as it applies to the importer's normal commercial sales, and the importer has comparable commercial sales in the market that is the point of import.

(B) A contiguous United States (CONUS) based manufacturer, grower or private label holder's product pricing which is a national price inclusive of transportation costs to a Distribution Point shall be supported by documentation and may be considered by the Government on a case by case basis, upon concurrence of the Contracting Officer.

(C) Mandatory source items: The Product Price shall be limited to the nonprofit agency's price for product as set in accordance with applicable law. The Product Price shall be based on f.o.b. origin/nonprofit agency. (Prices set in accordance with applicable law (f.o.b. origin/nonprofit agency).).

(D) Prime vendor table displays/decorations only: For products listed in category [n/a] prime vendor table displays/decorations only, the Product Price shall be based on f.o.b. origin/point of the manufacturer's distributor because the manufacturer will not sell directly to the prime vendor. This exception must be approved by the Contracting Officer on a case by case basis. Support documentation is required.

(E) A CONUS-based redistributor's price for a specific manufacturer's product (also known as a stock keeping unit (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 published price inclusive of discounts/allowances. This exception must be approved by the Contracting officer on a case by case basis. Support documentation may be required.

(4) "Product allowance" is discounts, rebates, and allowances to be passed on to the Government. In accordance with other provisions of the contract, 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 (or product allowance), shall be reflected via a reduced subsistence total order and receipt electronic system (STORES) price, 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 United States (U.S.) Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and contract line-item number (CLIN).

(5) "Distribution Price(s)" means the firm fixed price portion of the Contract unit price, offered as a dollar amount per unit of measure, 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 Product Price, including but not limited to, the performance requirements of this Statement of Work (SOW). Product Price is distinct from and not to be included in the Distribution Price. The Distribution Price may be further segregated into pricing segments covering discrete, solicitation-specific performance requirements.

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

(7) "Ordering month" means from Sunday 12:01 AM of the first full week in a calendar month through the last Saturday 11:59 PM that precedes the Sunday of the first full week in the next calendar month (eastern time (ET), standard or daylight as applicable).

(8) "United States Defense Transportation System (DTS) Ocean Shipping Costs:" DTS ocean transportation costs (for shipping the product from the Prime Vendor's CONUS facility(s) to the prime vendor's OCONUS facility(s), aka "point to point" delivery via DTS), shall be excluded from the Distribution Price. The Defense Transportation System is responsible for point-to-point delivery.

(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 Product Price component of the Contract unit price is subject to adjustment under this clause. After the first ordering month, if the Contractor's Product Price changes for any or all contract unit prices, the Contract unit price shall be changed in the next month'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 Product Price, subject to the limitations in paragraph (d). The price change shall be effective at the beginning of the next ordering month. 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 month.

(ii) Catalog Product Prices must be reflective of the prime vendor's last receipt price (the price of the stock most recently received into the OCONUS inventory). For all Distribution Categories, when multiple sources are being utilized and more than one manufacturer's product is receipted prior to a catalog update, the Contractor shall establish the Product Price based on the mix of invoices received after the previous changes period. The Product Price would be derived as follows:

Supplier A –	40% x \$5.70 = \$2.28
Supplier B –	30% x \$5.90 = \$1.77
Supplier C –	30% x \$6.30 = \$1.89
Product Price	= \$5.94

(iii) Updates to the Product Price: All notices and requests for new item Product Prices and price changes shall be submitted monthly, no later than 12:00 pm local Philadelphia, Pennsylvania, United States (U.S.) time one week prior to the first day of the next ordering month, to be effective in the next ordering month's catalog prices. The Product Price shall have any and all product allowance subtractions made prior to presenting the Product 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 Product Price component of the applicable Contract unit price. Upon the Contracting Officer's acceptance of such electronic data interchange (EDI) 832 price changes in accordance with (v) below, the price change transaction sets will post in the next month's ordering

catalog and each Contract unit price shall be changed by the same dollar amount of the change in the Product Price in the next month'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 months. 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.

(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 local Philadelphia, Pennsylvania, U.S. time on the Wednesday immediately following the Monday 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 month. 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 Product 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 local Philadelphia, Pennsylvania, U.S. time on the Friday immediately following the Monday. 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 Product Prices for material. There shall be no upward adjustment for

--

(i) Supplies for which the Product Price is not affected by such changes;

(ii) Changes in the quantities of material; 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 Product Price increases for each item under this clause during the contract period inclusive of any option period(s) or tiered pricing period(s) shall not exceed **20% (140% for fresh fruits and vegetables (FF&V))** of the initial Contract Product 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 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 reference 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 the EDI 832 price change. The price change shall be posted for the following month'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 record: 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, 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 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.

(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.

(h) Disputes: Any dispute arising under this clause shall be determined in accordance with the "Disputes" clause of the contract.

## **B. DISTRIBUTION CATEGORIES**

1. The supplies and services to be procured and/or performed under this contract have been broken down into 27 Distribution Categories; 22 categories with 5 subcategories (see table below.) This list of 27 categories is used for all customers.

All offerors will be required to submit Distribution Prices for each category below.



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Category Number	Category Description	UoM
1	CONUS DRY CS	CS
1A	CONUS DRY CS (For Product Price Exceptions B, C, D, or E)	CS
2	CONUS DRY CO (UOM for EA = 1 CO)	EA
2A	CONUS DRY CO (For Product Price Exceptions B, C, D, or E) (UOM for EA = 1 CO)	EA
3	CONUS FZN CS	CS
3A	CONUS FZN CS (For Product Price Exceptions B, C, D, or E)	CS
4	CONUS FZN LB	LB
4A	CONUS FZN LB (For Product Price Exceptions B, C, D, or E)	LB
5	CONUS CHILLED CS	CS
5A	CONUS CHILLED CS (For Product Price Exceptions B, C, D, or E)	CS
6	OCONUS DRY CS	CS
7	OCONUS FZN CS	CS
8	OCONUS CHILLED CS	CS
9	OCONUS CHILLED LB	LB
10	OCONUS FF&V LB (For Product Price Exception A)	LB
11	OCONUS FF&V PG (For Product Price Exception A)	PG
12	OCONUS Water CS (Potable - Bottled)	CS
13	Disposal (Incl. Trans; Approved at the Contracting Officer's Discretion)	CS
14	Restocking Price for Orders Over \$10K (Approved at the Contracting Officer's Discretion)	CS
15	CONUS FF&V LB	LB
16	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (Single Case/Box) CS	CS
17	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (2 Cases per Module) EA = 2 cases	EA
18	GFM Inspection, Storage, Rework, Relabel, Distribution, Dry (3 Cases per Module) EA = 3 cases	EA
19	GFM Inspection, Storage, Rework, Relabel, Distribution, FZN CS	CS
20	Food Service Operating Supplies (FSOS) (Non-Food) CS	CS
21	Food Service Operating Supplies (FSOS) (Non-Food) EA	EA
22	Emergency Orders > 5 per month (Approved at the Contracting Officer's Discretion) (UOM of EA = one (1) Emergency STORES Purchase Order)	EA

2. At no time during the life of this contract will additional money be paid for transportation, customs, certificates, etc. The offered Distribution Prices, must cover all costs associated with deliveries to any customer in this solicitation.
3. At any point during contract performance, should there be a change in pack size for an item, the Contractor must notify the Contracting Officer. As a change in pack size change is considered to be a "New Item," the Prime Vendor must follow the procedures for new items outlined in this solicitation. For reductions in overall case size a new subcategory will be established within that Category (e.g., subcategory 1B) and the Distribution Price will be adjusted downward proportionally based on the total overall case weight, with no further negotiation. There will be no upward adjustment for increased pack sizes. Two examples are provided below:

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- An item in Category 1/A1 (CONUS Dry) changes from 24/12 oz cans to 12/12 oz cans, the Distribution Price would change from \$6.00 per case for 288 total oz to \$3.00 per case for 144 total oz. Category 1B; CONUS Dry would be added for \$3.00 with a UOM of CS.
- An item in Category 1/A1 (CONUS Dry) changes from 24/12 oz cans to 12/16 oz cans, the Distribution Price would change from \$6.00 per case for 288 total oz to \$4.00 per case for 192 total oz. Category 1B; CONUS Dry would be added for \$4.00 with a UOM of CS.

**C. DOMESTIC ITEM PREFERENCE**

1. In accordance with United States Government’s policy to acquire domestic end products for use outside the United States (see DFARS 225.7501) the Government’s preference under this solicitation remains for domestic product. All offerors, as well as the resulting Prime Vendor, must certify at the time of proposal or contract performance the offering of all non-domestic end products. The certification must be made in the Buy American Act – Balance of Payments Program Certificate – Basic (DFARS 252.225-7000).
2. The source restrictions of the Berry Amendment, 10 U.S.C. 2533a as implemented in DFARS 225.70 and 252.225-7012 and included in this solicitation, are applicable to the procurement of food items. In general, the Berry Amendment requires that food items procured and delivered under this contract be grown, manufactured, reprocessed, or produced in the United States. Several exceptions to that requirement may apply to performance under this contract. One such exception, the “perishable foods” exception, can be found at DFARS 225.7002-2(e). That exception permits the delivery of perishable foods (i.e. fresh fruits and vegetables (FF&V), fresh milk, fresh bread, etc.) that are not sourced from the United States. This exception applies to deliveries to customers throughout the region outlined in this solicitation. As such, this solicitation includes requirements for local market ready items, i.e. locally sourced FF&V, fresh milk, fresh bread, etc. The Prime Vendor must be able to locally source, purchase and/or perform deliveries for highly perishable products. A second applicable exception, referred to as the “contingency operation” exception, may apply to certain customers outlined in this solicitation. With that designation, deliveries of all non-domestic food items, not just perishable items, are permitted. This exception is subject to change based on changes to contingency operation designations. At this time there are no contingency operation designations for the areas outlined in this solicitation, however, designations may change throughout the life of this contract. Please note that even with these exceptions, it is still the Government’s preference to provide domestic items to the maximum extent possible.
3. The Prime Vendor shall request approval, in writing, from the Contracting Officer prior to adding any non-domestic items to the ordering catalogs. Non-domestic items will not be added to the catalog without the prior approval of the Contracting Officer. Note: As discussed above, local market ready items that are required to be purchased from local OCONUS approved sources are excluded from this domestic item preference.
4. In some instances, the Contracting Officer may direct the Prime Vendor to source a domestic equivalent item locally at no additional cost to the Government.

**D. LOCAL MARKET READY ITEMS:**

1. The Prime Vendor must have the ability to procure and perform delivery of the local market ready (LMR) items (i.e. FF&V; local, perishable, ethnic foods; fresh dairy; and fresh baked product) from local approved sources within areas outlined in this solicitation.

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2. Based on customer requirements reflected during cataloging, the Prime Vendor will select LMR vendors when required from the listing of Sanitarily Approved Establishments and/or the Worldwide Directory of Sanitarily Approved Establishments for Armed Forces Procurement listing for approved Republic of Korea contractors. If no LMR vendor is identified for a particular requirement, the Prime Vendor shall identify and request Veterinary or United States Army Public Health Center (USAPHC) inspection for its designated local source. Vendor inspections are conducted in coordination with APHC procedures. The Prime Vendor shall verify that its vendors are approved on the aforementioned listings. All LMR items will be inspected for quality upon receipt by the customer.
3. During the life of the contract, the Prime Vendor will be required to purchase LMR items; the Distribution Price Category Worksheets include tabs for the offeror to identify pricing with LMR items.
4. Estimated local market ready items and their usage quantities are identified in the schedule of items and are included in the total estimated annual sales dollar values.
5. If requested by the customer and approved by the Contracting Officer, FF&V items that are unavailable in the Korean Local Market; i.e., red apples, golden/yellow apples, pears, russet potatoes and various specialty FF&V items that are required for holidays, must be purchased by the Prime Vendor from sources within the Continental United States (CONUS) and shipped via the Defense Transportation System (DTS).
6. For CONUS procured FF&V only, the Prime Vendor is responsible for all freight forwarding services upon DTS' delivery of all FF&V containers to the port. The Prime Vendor is responsible for: FF&V agriculture clearance; FF&V customs clearance; FF&V Army Vet inspections; FF&V stripping, sorting and stuffing; FF&V destruction (when/as needed); FF&V re-work of moldy/damaged produce; and cold storage warehousing. A detailed description of the work required is as follows:
  - a. General
    - i. Basic Services: The required service shall encompass drayage of loaded reefer containers from designated port in Republic of Korea to a bonded cold storage facility, drayage of returned empty reefer containers to the ocean carrier at the port in Republic of Korea, performance of agriculture clearance service, cargo stripping, sorting and stuffing, and destruction, if required (due to spoilage or infestation, or following re-work services), plus transportation Prime Vendor's distribution facility.
      - a) U.S. Government will prepare and execute Republic of Korea customs documents (USFK Form 95EK or the equivalent) for all shipments moving in the Defense Transportation System (DTS).
    - ii. Re-work services: If required, the Prime Vendor will be required to perform additional sorting, based upon the Army Veterinary Inspector's initial cursory inspection. When requested, this service must be provided within four (4) hours of the request. When the additional sorting is required, the Prime Vendor shall be responsible to perform the following:
      - a) Open top boxes on each pallet and/or produce commodities designated by the Army Veterinary Inspectors and inspect boxes for moldy/damaged/spoiled produce.
      - b) Remove the moldy/damaged/spoiled produce and place it to the side for counting or

weighing purposes.

- c) Adjust the boxes of acceptable product to evenly distribute the decreased weight and mark the box to identify the reason for the decrease.
- iii. Description of Services:
- a) Warehouse Storage: The Prime Vendor shall move FF&V in reefer containers from the port in Pusan, Korea to a bonded cold storage warehouse in Pusan, Korea where the cargo will be stripped and placed into refrigerated rooms. The FF&V shall be stored in the bonded facility throughout the agricultural clearance process and during the sorting process; in the sorting process the FF&V must be stored at its proper temperatures. The storage facility must have enough floor space to accomplish the sorting. A hanging thermostat shall be kept in the cold room at all times. The facility that is being used must be a Sanitarily Approved Food Establishment as described on the U.S. Army Medical Department website and must be listed within the directory located on <https://vets.health.mil/86257B8D004A4B6C/Korea> . The Prime Vendor or subcontractors must use a licensed Customs Bonded Facility and must provide verifying documentation, when requested by the Government.
  - b) Delivery to Prime Vendor Distribution Warehouse: After reefer container contents have been cleared for delivery, the Prime Vendor shall load shipment into reefer trucks or refrigerated delivery containers and deliver to the Prime Vendor distribution warehouse, if required. The commodities shall be maintained at the temperature specified on the distribution manifest during transport. Should the Prime Vendor use an ocean container as the conveyance for delivery to the consignee, the Prime Vendor shall absorb all costs associated with such utilization. This may include, but is not limited to all fees and costs of entry and customers duty paid for each container, expenses for blocking, bracing, and container pre-tripping and inspections.
  - c) Temperature Requirements: The temperature of refrigerated delivery trucks/containers shall be set at the proper temperatures depending on the temperature requirements of the commodity(ies) being transported. FF&V loads that consist of commodities requiring the same temperature setting shall be set at that temperature. Temperatures are set by the TRANSCOM carrier in accordance with the vendor shipping instructions. When mixed loads are to be transported to consignee(s) in a single refrigerated truck (or refrigerated delivery container) the Prime Vendor shall utilize barrier walls or other devices such that separate multiple temperatures can be maintained at all times. Prime Vendor shall be fully liable for commodity spoilage/damage caused by improper temperature control. The Prime Vendor shall keep records of the temperature readings recorded by the monitors in the refrigerated trucks or containers and shall make them available for the Contracting Officer's Representative (COR) and other Government personnel upon their request.
- iv. Container Availability: Container availability shall commence from the time the ocean carrier makes the ocean container available for pick-up. It is expected that the ocean carrier will notify the Prime Vendor when the ocean container is available for pick-up; however, it is the responsibility of the Prime Vendor to monitor vessel arrival time and container availability. Lack of knowledge of container availability will not exempt the Prime Vendor from assessment of liquidated damages.

v. Weekly Status Report: The Prime Vendor shall provide the Contracting Officer and COR a weekly status report, indicating the date/time of vessel arrival, container availability, receipt at cold storage facility, delivery truck departure from cold storage facility and consignee delivery, to include any problems or irregularities in the shipment schedule and an inventory of any undelivered commodities.

In the event of any emergency situation, the Prime Vendor shall immediately notify the Contracting Officer and/or the COR.

b. Transportation Services

i. Drayage Service. The Prime Vendor shall assume all costs and risks for moving the loaded refrigerated containers from the ocean carrier's facility to the Prime Vendor's warehouse facility, and for the return of the empty containers to the ocean carrier's facility. The Prime Vendor shall record the internal temperature(s) of the container, which is set and recorded on the container's internal temperature gauges, prior the acceptance from ocean carrier. The Prime Vendor shall be responsible for maintaining temperature gauges at the appropriate settings from the pick-up until cargo is off-loaded. The Prime Vendor shall also be responsible for maintenance and fueling of the reefer container's refrigeration unit and/or generator set required to maintain the proper temperature.

ii. Inland Line Haul Service. The Prime Vendor shall assume all costs and risks for loading, bracing and blocking FF&V for safe transport between the bonded, inspection cold storage facility and the Prime Vendor's distribution warehouse receiving dock. Prime Vendor shall provide accurate temperature monitors to ensure that the required temperature settings are maintained. A record of the temperature readings shall be provided upon request.

iii. Delivery. The Prime Vendor shall be responsible for delivery of the cargo from the bonded inspection warehouse to the Prime Vendor's distribution warehouse.

iv. TIR/ EIR Agreements. The Prime Vendor shall be responsible for executing all proper interchange agreements with the affected ocean carriers.

c. Custom of the Trade

i. Wherever the standard of performance by either party under the provisions of a resulting contract is not stated herein, then the "Custom of the Trade" will be used as the standard of performance outside any Port Area. This phrase means the established practice generally accepted by the trucking, rail and marine shipping industries for transportation service in the geographic area where the service is performed or is to be performed.

d. Data

i. Temperature Monitor Records. The Prime Vendor shall maintain refrigerated delivery temperature monitor readings.

**E. DIRECT VENDOR DELIVERIES WITHIN KOREA**

Customers under this solicitation may require direct vendor deliveries for certain items (e.g., FF&V, water, bakery, soda, etc.) from approved local Korean sources. The Prime Vendor shall sub-contract with the approved Korean source(s) to fulfill these direct vendor delivery requirements.

When the Prime Vendor utilizes sub-contractors to perform direct vendor delivery services to the customers under this solicitation, the following price formula shall apply:

$$\text{Contract Unit Price} = \text{Product Price} + 50\% \text{ of the Distribution Price}$$

Categories 6, 7, 8, 9, 10, 11, and 12 are subject to this pricing. This reduction will be accomplished by reducing the existing distribution price category by 50% and submitting an 832 Price Change that reflects the reduced price. It will be the Prime Vendor's responsibility to notify the Contracting Officer if the subcontractor changes and is no longer a direct delivery.

**F. BRAND NAME ITEMS**

The current Market Basket includes numerous brand name items which are based on the ordering habits of the customers listed in this solicitation. These are items which customers have expressed a preference for, and expect to be included in the catalog at the customer's request after review by the Contracting Officer. This does not preclude future catalog changes during the life of the contract to add competing products based on added value to the customer. Changes or additions in brand name products must be approved and authorized by the customer as well as the Contracting Officer.

**G. NATIONAL CONTRACT TYPE CONTRACTS**

During the performance of this contract, DLA Troop Support may issue Indefinite Delivery Type Contracts (IDTCs) for specific food items to be sourced, cataloged and delivered by the Prime Vendor as part of their normal inventory. The Prime Vendor will be required to obtain the specific products identified in the IDTCs from the sources identified by the Government. The price charged by the Prime Vendor to the ordering activity will not exceed that cited in the IDTC, plus the Prime Vendor's applicable distribution price. At the time of award, and at other times when applicable, DLA Troop Support will provide the Prime Vendor with a list of all IDTCs awarded and their respective terms and conditions. The Prime Vendor shall have 30 days to implement the terms and conditions of the awarded IDTCs; when the item is new, the new item lead time will apply; replacement items will be phased in according the Prime Vendors supply chain. Although the Prime Vendor must utilize the National Contracts for items approved by the customers, there are times when the Prime Vendor may need to purchase alternate products. These instances will be reviewed on a case by case basis and must be approved, in writing, by the Contracting Officer.

**H. DLA TROOP SUPPORT MANUFACTURER'S PRICING AGREEMENT PROGRAM:**

1. DLA Troop Support Manufacturer's Pricing Agreement (MPA) Program has been developed to maximize the leverage of DLA Troop Support's buying power and to obtain fair and reasonable product pricing under Subsistence Prime Vendor contracts for the customers of DLA Troop Support. The agreements between DLA Troop Support and manufacturers shall identify a fixed Product Price for specific items that

will be cataloged by the Prime Vendor. The Prime Vendor will be responsible for purchasing MPA items from the MPA holders at the Product Price established by the MPA.

2. The list of MPA holders, the specific items under agreement, and the fixed product prices for those items will be provided during contract implementation (ramp-up/ramp-down).
3. The Prime Vendor will be required to establish commercial agreements with the MPA holders for all MPA items cited for cataloging during the ramp-up phase of the contract.
4. Post implementation, the Prime Vendor must have a MPA Holder commercial agreement in place before a new MPA item may be added to the catalog. For existing cataloged items that are added to the MPA Program, the Prime Vendor must establish the MPA Holder commercial agreement within 30 days of receiving notice from the Contracting Officer. The Prime Vendor shall immediately bring to the attention of the Contracting Officer the names of MPA Holder(s) unwilling or unable to enter into a commercial agreement with the Prime Vendor, including an explanation for each. All MPA items are required to be placed on the catalog at the MPA established prices, unless otherwise approved by the Contracting Officer.
5. It is anticipated that MPA prices will remain fixed for a minimum of 30 days and a maximum of six months. Updated MPA listing will be issued to the Prime Vendor monthly via e-mail. The new MPA product prices shall be updated on the contractor catalog during the scheduled catalog update that immediately follows receipt of the new product into the Prime Vendor's inventory.
6. Information on the DLA Troop Support MPA Program is located at the following website:  
<http://www.dla.mil/TroopSupport/Subsistence/FoodServices/mpanapa/mpa.aspx>

#### **H. MANDATORY ITEMS (MANDATORY FOOD PRODUCTS AND NON-FOOD ITEMS)**

1. The website for general information on Mandatory Food and Non-Food Items is:  
<http://www.dla.mil/TroopSupport/Subsistence/FoodServices/AbilityOne.aspx>
2. Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from nonprofit agencies participating in the AbilityOne Program, which is governed by the U.S. AbilityOne Commission ("the Commission"), formerly known as the Committee for Purchase from People Who Are Blind or Severely Disabled ("the Committee") under the authority of the Javits-Wagner-O'Day (JWOD) Act (41 U.S.C. 8501-8506).
3. The mandatory products are required to be purchased from the Non Profit Agency manufacturers listed on the website identified above. The listing of required mandatory products and Non Profit Agency manufacturers are subject to change when directed by the Committee. The Prime Vendor is required to expeditiously catalog the mandatory products and remove any commercial equivalent product with "essentially the same" (see paragraph H.16., below) product characteristics. If the removal and replacement will take longer than 30 days after notification by the Contracting Officer, the approval of the Contracting Officer must be obtained for the extension.
4. Any other commercial equivalent product with "essentially the same" product characteristics cannot be sold to the DLA Troop Support customers under this contract.
5. The Prime Vendor must ensure that, at a minimum, 90 days stock of mandatory products are on hand to satisfy anticipated customer demand taking into account lead times for delivery from the designated mandatory source to the Prime Vendor. If the Prime Vendor is notified that any of the below products are not available from the designated mandatory source, the Prime Vendor must notify the Contracting Officer immediately.

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6. The Prime Vendor is not authorized to submit catalog changes containing other commercial equivalent products with “essentially the same” product characteristics as the identified mandatory items.
7. If the Prime Vendor is requested to carry other commercially equivalent products with “essentially the same” product characteristics but with a unique packaging requirement that is not currently provided by the mandatory source, the Prime Vendor must notify the mandatory source and the Contracting Officer in order to provide the designated mandatory source with the opportunity to satisfy the unique packaging requirement being requested. Included in the Prime Vendor’s notification to the designated mandatory source and Contracting Officer, must be the customer’s justification for the unique packaging requirement.
8. Price and delivery information for the mandatory products are available directly from the Designated Sources listed on the aforementioned website. Payments shall be made directly to the Designated Source making delivery. The current procurement list F.O.B. Origin prices as established by the Committee for Purchase are included in the website for the food and non-food products.
9. To allow the proper flow of order and billing information through the DoD ordering, financial, and other operating systems, stock numbers have been assigned for individual containers where necessary to permit the sale of individual containers in lieu of case quantities.
10. All changes to the DLA Troop Support Subsistence Prime Vendor AbilityOne Mandatory Product List (MPL) will be made on the DLA Troop Support Subsistence AbilityOne webpage.
11. The DLA Troop Support Subsistence Prime Vendor AbilityOne MPL webpages will be updated for the following changes in: prices, ordering information, contractor locations, items (additions and deletions), AbilityOne approved contractors, and purchase exceptions.
12. The Prime Vendor will be notified via e-mail. The e-mail notification will identify the changes to the MPL and alert the Prime Vendor to check the DLA Troop Support Subsistence AbilityOne Program webpage. Additionally, changes to the MPL will be bolded for easy identification. The Prime Vendor shall confirm receipt of this e-mail notification.
13. In certain circumstances, there may be a delay in posting and/or email notification to the Prime Vendor. When this occurs, an MPL provider may issue the Prime Vendor a notification letter from the AbilityOne Commission, included on AbilityOne Commission Letterhead, as proof of an applicable price or other change. The Prime Vendor shall treat such notification from the AbilityOne Commission as if the notification had been provided by DLA Troop Support.
14. The Prime Vendor is required to expeditiously catalog the mandatory products and remove any commercial equivalent product with “essentially the same” product characteristics. Within 30 days of notification by the Contracting Officer, the Prime Vendor must provide the Contracting Officer with current details of issues (i.e. outstanding orders, product in the pipeline, etc.) and provide the date when the catalogs will be updated. The Contracting Officer will notify the Subsistence AbilityOne Team.
15. Any other commercial equivalent product with “essentially the same” product characteristics cannot be sold to DLA Troop Support customers under this contract. The Prime Vendor is not authorized to submit catalog changes containing other commercial equivalent products with “essentially the same” product characteristics as those items on the MPL.
16. The following criteria should be used in determining if a commercial product is “essentially the same” as an AbilityOne MPL item:
  - i. It has effectively the same form, fit and function.
  - ii. The AbilityOne and commercial products may be used for the same purpose.



- iii. The AbilityOne and commercial products are relatively the same size and a change in size will not affect the use or performance.
- iv. The appearance, color, texture, or other characteristic of the AbilityOne product and commercial product are not significantly different from one another

17. The only potential exception to this requirement is identified as follows:

If the Prime Vendor is requested to carry items commercially equivalent to MPL items but with unique packaging requirements provided by the supplier but not currently provided by the MPL source, the Prime Vendor must notify the Contracting Officer. The Contracting Officer will notify the Subsistence AbilityOne Team.

18. Payments shall be made directly to the MPL designated source.

19. Monthly MPL Compliance Reports are issued for each active Prime Vendor catalog. The monthly MPL Compliance Reports are sent to the Prime Vendor for its catalogs and to the administering Contracting Officer. These reports are to be reviewed to ensure active catalogs include the MPL items. The Prime Vendor will be notified of non-compliances.

## **I. NATIONAL ALLOWANCE PROGRAM AGREEMENT (NAPA)**

1. Definitions:

- i. Agreement Holder: The supplier or manufacturer that has agreed to offer discounts to DLA Troop Support on product under DLA Troop Support Subsistence Prime Vendor contracts.
- ii. National Allowance Program: The program implemented by DLA Troop Support to maximize the leverage of DLA Troop Support's buying power and reduce the overall Product Price under contracts to the customers of DLA Troop Support.
- iii. National Allowance Program Agreements (NAPAs): The agreements between DLA Troop Support and suppliers/manufacturers that identify product category allowances. These allowances or discounts apply only to the product/invoice price of the product. The NAPA does not affect the Prime Vendor's Distribution Price in any way.

2. DLA Troop Support has implemented a NAPA Program as part of the Subsistence Prime Vendor Program. Under the NAPA Program, DLA Troop Support will enter into agreements with suppliers/manufacturers offering domestic products.

3. Under the NAPA Program, agreement holders will:

- i. Authorize and consent to allow the Prime Vendor(s) to distribute its products to ordering activities under the Subsistence Prime Vendor Program.
- ii. Offer discounts on the Product Price of the product ordered under Subsistence Prime Vendor contracts, in the form of deviated allowances, whereby the price to the customer includes the discount. The deviated price is the price that will be submitted via the 832 catalog transaction.

4. NAPAs neither obligate the Prime Vendor to carry, nor the ordering activity to purchase, any of the agreement holder's products; however, NAPA terms will apply to any order placed by the customer for products covered by a NAPA, in which case the invoice price must reflect the NAPA price.

5. If a Prime Vendor has a pricing agreement/arrangement with more favorable terms and/or pricing structure than those offered under the NAPA, then it is required to pass on these savings to the customer.

6. Under a contract resulting from this solicitation:
  - i. The Prime Vendor agrees to bill the invoice price to the Government as specified by the NAPA allowance and initiates a bill-back to the agreement holder, if any activity orders any product covered by a NAPA. The agreement holder will reimburse allowances to the Prime Vendor within a time period mutually agreeable to the Prime Vendor and the agreement holder. Other off invoice or bill back arrangements may exist between the Prime Vendor and the agreement holder, but the Prime Vendor's catalog price must be specified by the NAPA allowance.
  - ii. Any disputes involving the NAPA between the Prime Vendor and the agreement holder will be resolved between them according to their own commercial practice. However, DLA Troop Support will attempt to facilitate a resolution of any such disputes.
7. NAPA Tracking Program: The Prime Vendor agrees to comply with the requirements of DLA Troop Support's Tracking Program for NAPAs and shall provide the required product information to support the NAPA allowance and sales tracking website. Data shall be submitted as follows:
  - i. Format: The required information shall be formatted in an Excel spreadsheet, flat ASCII file or a delimited file. Each transmission must be of the same format. Request to change from one format to another must be forwarded to the Contracting Officer for approval.
  - ii. Transmission of Data: The information shall be submitted electronically via-  
Email to [data@one2oneus.com](mailto:data@one2oneus.com). Include contract number(s) in email title.
  - iii. Frequency of Submission: The information shall be submitted as often as the data may change but no more than once weekly.
  - iv. Contents of the data File: The contents of the data file shall include the information shown below for all of the products, NAPA and non-NAPA that are shipped to the Government. All of the fields for each item must be populated with information unless otherwise stated.

Field Number	Field Description	Field Name	Width	Format	Note
1	Prime Vendor Part Number	PVPARTNO	15	Alpha-Numeric	
2	Product Description	DESC	45	Alpha-Numeric	
3	Unit of Measure	UOM	03	Alpha-Numeric	
4	Manufacturer SKU or UPC	MFGNO	15	Alpha-Numeric	Note 1

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Field Number	Field Description	Field Name	Width	Format	Note
5	Brand Label or Manufacturer Name	MFG	45	Alpha-Numeric	Note 2
6	Unit Allowance Amount	ALLOW	12	999999.99	Note 3
7	Allowance UOM	ALLUOM	03	Alpha-Numeric	Note 4
8	Allowance to Ship Conversion	ALLCONV	12	999999.99	Note 5
9	Prime Vendor Markup Amount	PVMARKUP	12	999999.99	Note 6

v. Fields 6, 7, and 8 relate to NAPA. If a product is NOT subject to a NAPA allowance then fields 6, 7, and 8 can be left blank or zero.

vi. Notes:

- a) Field #1 - This field represents the manufacturer's part number of the product. If a valid case UPC is available, you should use the case UPC. The UPC check digit is optional. In the case where a UPC is not available, then you must use the manufacturer's part number (SKU number) as designated by the manufacturer. All leading zeros are required. All characters such as dashes are also required if the manufacturer uses the character in their part number identifier.
- b) Field #4 - This field needs to identify the manufacturer (not necessarily the supplier) of the product. If your item master has a valid case UPC and you send the UPC in field 4 there is no need to provide this field. If you do not have a valid case UPC, please indicate the manufacturer or brand name or some code indicating the same. If you use a code, please provide an additional listing of those codes and their description. Please note, this is the manufacturer of the product not necessarily who supplied you the product.
- c) Field #6 - This is the off-invoice allowance amount. It can be found in the NAPA table. If the product is not subject to a NAPA allowance then please set this field to zero.
- d) Field #7 - This is the allowance UOM. It can be found in the NAPA table. If the product is not subject to a NAPA allowance then please leave this field blank.
- e) Field #8 - Conversion to the Unit of Issue UOI. The conversion factors to equalize the allowance UOM to the unit of issue UOI. For example, if the unit of issue UOI is "CS", for case, and the allowance UOM is "CS", for case, the conversion factor would be set to 1. However, in the case where the Unit of Issue is "CS" and the allowance UOM is "LB", for pounds, this conversion factor may be fifty (50) because there are 50 lbs in a case. If the product is not subject to a NAPA allowance then please set this field to zero.
- f) Field #9 - For each item, provide the applicable markup amount. As previously negotiated with DLA Troop Support, you have assigned a markup amount to each food category or to

each item. This amount should correspond to the unit of issue measurement. This is required in order to insure that a NAPA allowance was provided off-invoice.

- vii. The NAPA Program is for the exclusive use of DLA Troop Support customers purchasing product under the resultant contract.

Note: For information on NAPA items holders, refer to the following website:

<http://www.dla.mil/TroopSupport/Subsistence/FoodServices/mpanapa/napa.aspx>

## **J. REBATES/DISCOUNTS AND PRICE-RELATED PROVISIONS**

1. The Prime Vendor 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. For all items, the contractor warrants, on a continuing basis throughout the period of performance, that its Product Price under this contract is equal to or lower than its Product Price to its commercial customer accounts. All NAPA discounts, food show discounts, early payment discounts (except as identified in paragraph (2) herein), and other discounts, rebates, allowances or other similar economic incentives or benefits received 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 are set forth in the submission requirements in the Price (Business) Proposal/Pricing and in the Reports section of the Statement of Work.
2. The Prime Vendor 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
  - iii. the Early Payment discount is routinely given by the manufacturer/growers to customers other than the Prime Vendor at the same discount rate and under the same conditions as provided to the Prime Vendor;
  - iv. the Early Payment discount is not established, requested, or negotiated for the purpose of avoiding giving DLA Troop Support 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 price and the early payment is required within 10 days to obtain the discount; and
  - vi. the Prime Vendor actually made the required payment within the time period required to receive the discount.
3. Upon request the Prime Vendor shall provide to the Government any invoices, quotes, or agreements relevant to the Product 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 Prime Vendor must include detailed payment terms on each invoice or quote used to substantiate product price(s), including any applicable discounts or rebates. If there are no payment terms associated with the document, the Prime Vendor must annotate it with "No payment terms."
4. The Government may require (as needed) the Prime Vendor to submit invoices and other documentation from all subcontractor tiers or any manufacturer/grower or person in the Product Price supply chain, to substantiate that all discounts, rebates, allowances or other similar economic incentives or benefits have

been applied to the Product Price charged to the Government and/or to substantiate that product prices under this contract are equal to or lower than product prices that are given to its commercial customers. 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 Product 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 Prime Vendor shall be entitled to a credit for any undercharges. Likewise, if the Contracting Officer determines that a Product Price was not equal to or lower than that given to the Prime Vendor's or sub-contractor's commercial customer accounts, the Government shall be entitled to a prospective Product Price reduction and a retroactive refund for the difference between the Product Price charged to the Government and the Product Price charged to the Prime Vendor's or sub-contractor's commercial customers, including interest. The Contracting Officer, or authorized representative, shall have the right to examine and audit all the records (as defined at FAR 52.215-2(a)) relevant to the existence of discounts, rebates, allowances or other similar economic incentives or benefits, and commercial customer product 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.

5. The Government may review/audit the Prime Vendor's electronic purchasing system to confirm that the Product Price of a product sold at a given time to a DLA Troop Support customer is identical to the Product Price used by the Prime Vendor to determine the price of such product sold at the same time to its other customers. Should the Government identify evidence of incorrect pricing, or should other pricing issues arise, the Government reserves the right to conduct more frequent and extensive reviews/audits. 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.

#### K. ITEM AVAILABILITY

1. Items must be stocked in sufficient quantities to fill all ordering activity requirements. When the Prime Vendor determines its supply chain management, factors such as fluctuations, increases, decreases, surges in demand, stocking procedures and lead times from CONUS to OCONUS all must be taken into consideration.
2. The Prime Vendor shall maintain a **minimum of sixty (60) days of supply (DOS) on hand on a line item basis** in order to fill all ordering activity requirements and meet the surge and sustainment requirements of this contract.
3. If an item with an established demand (12 weeks of historical demand data) is not properly managed by the Prime Vendor, and a not in stock (NIS) situation occurs that is projected to last for more than 21 days, the Prime Vendor will be required to commercially airlift the product from CONUS at the Prime Vendor's own expense. The Defense Transportation System (DTS) may be used for airlift at the Contracting Officer's discretion; however, the Prime Vendor will be responsible for reimbursing the Government for all DTS airlift costs.

#### L. SURGE AND SUSTAINMENT

1. The primary mission of the Defense Logistics Agency (DLA) is to support the military in peace and during contingencies. The ability to ramp-up quickly to meet early requirements, and to sustain an increased pace throughout the contingency are critical to the execution of U.S. military strategy. DLA's designation

as a Combat Support Agency makes it directly responsible for the timely support of critical supplies to the Combatant Commanders in support of their operational requirements. Because of DLA's unique role, surge and sustainment capability is a primary consideration in all acquisitions. All DLA contractors are accountable for surge and sustainment performance, ensuring surge capability actually exists and validating surge capability through surge testing. Therefore, surge testing will be required under the resultant contracts of this solicitation for the life of the contract.

2. DLA defines surge as the ability to ramp up quickly to meet early requirements normally needed within the first 45 days of a contingency. Sustainment is defined as the ability to sustain an increased pace throughout the contingency(s) for six months or longer. The spectrum of possible contingencies includes major theatre and smaller scale contingency operations. Examples of various contingencies are as follows:

Joint Chiefs of Staff (JCS) Logistics Exercises – The Contractor must have the ability to support short term surges in demands, which may increase three times the pre-surge average weekly demands (based on an average of the most recent 52 week period). There may be occasions where large increases in quantity will be necessary for short periods of time and on short notice. A surge situation is defined as an increase in military feeding of 300% of peacetime demand for a period of up to 30 days. Rarely, there is sufficient advance notice as to when exercise surges will occur. The Contractor will be required to meet the surge demand in the normal contractual lead times. For the resultant contract from this solicitation the Contractor will be required to have the ability to sustain surges of 300% of pre-surge demand levels for 30 days without advance notice. If, for example, an item has a pre-surge demand of 100 cases per week, the Contractor is expected to be able to support 300 cases per week for 30 days during the surge period.

Military Operations – The Prime Vendor must have the ability to support surges in demand, which may be needed for an extended period of time on short notice. For this type of scenario, the capability to ramp-up quickly to meet early requirements, as well as sustainment for an extended period of time is essential.

Mobilization – A full scale military mobilization or a national emergency could increase demand for supplies of those items and quantities listed in the contractor catalog. This increase in quantity may be needed for a six-month period or longer. Normal mobilization strategies provide lead times of at least 30 days to build to the necessary support level. The Prime Vendor must have the ability to support this increased level of supply for an extended period of time.

## **M. FOOD SERVICE OPERATING SUPPLIES (FSOS)**

Definition: consumable or disposable products associated with the preparation of serving food. This includes, but is not limited to, plastic, foam, paper goods and cleaning supplies. The Contractor may be required to supply FSOS items to the customers.

## **N. DISPENSING SUPPLIES AND SERVICES**

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1. When requested, the Prime Vendor is required to furnish beverage dispensing machines and beverage products, as specified herein. The cost and upkeep of the machines consisting of, but not limited to, labor, transportation, and supplies required to repair and maintain the equipment, shall be the sole responsibility of the Prime Vendor.
2. The Prime Vendor shall furnish mechanically refrigerated dispensing machines and heads suitable for use with the contractor's bag-in-the-box juices and drinks. A sufficient number of machines and dispensing heads shall be installed in the customer's facility to accommodate the specific needs of each ordering activity.
3. The Prime Vendor will provide a technically qualified service representative to perform monthly maintenance and quality control inspections on each dispensing system. If more frequent maintenance is deemed necessary, the Prime Vendor must provide the additional service at no additional cost to the Government.
4. Any equipment or material furnished by the Prime Vendor will remain the property of the Prime Vendor and will be returned to the Prime Vendor at the conclusion of the contract in the same condition in which it was received, minus normal wear and tear.
5. The Prime Vendor must furnish upon request by the customer, hot soup, ice cream, and cereal dispensers for applicable items as requested by the customer. Maintenance or replacement shall be in accordance with normal commercial practice. The Prime Vendor will be responsible for the cost of the dispensers.
6. The estimated number of required dispensers is identified on the following table. These estimates are based on current usage; however, the customer location, type and/or quantity of the required dispensers may change based on actual customer demand.

Classification	Vendor	Quantity
Ice Cream Machine	Pasmo and Tylor	24
Lipton Ice Tea Machine	Unilever	30
Soup Kettle	Unilever	20
Juice Dispensers	Vitality	64
Regular Coffee Machine	Nestle	31
Barista Coffee Machine	Nestle	45
Cereal Dispenser	General	20
Cereal Rack	Kellogg's	20

**O. DISPOSAL OF PRODUCTS**

All products, Prime Vendor owned and GFM, shall be properly managed by the Prime Vendor to avoid the need for disposal. In general, the Government shall not be liable for any disposal costs under this contract. The Government will only be liable for disposal costs associated with specific direction provided by the Contracting Officer. Any request for disposal payment must be accompanied by supporting documentation provided by the Prime Vendor. An example of a Contracting Officer directed disposal is identified below:

The Contracting Officer orders delivery of 100 cases of product (GFM) to the Prime Vendor's OCONUS warehouse. The GFM is properly stored and managed by the Prime Vendor, but never ordered by the customer and the shelf life of the 100 cases expire. In this scenario, the Government is responsible for the disposal costs of the 100 cases.

Disposal of expired GFM material at the Government Owned Contractor Operated (GOCO) facilities must be coordinated with the Department of Public Works in Busan and the Contracting Officer. The Prime Vendor will prepare expired GFM material for disposal and coordinate with the Department of Public Works in Busan and the Contracting Officer. The Government will coordinate payment of disposal directly with the Department of Public Works for GFM material only. The Prime Vendor will not be paid the distribution price, category 12, for the disposal of GFM at the GOCO facilities.

**P. TITLE**

Title of all products purchased for the Government remains with the Prime Vendor during the shipment, and title passes to the Government when products are inspected and accepted at the Prime Vendor's final delivery point (e.g. Dining Facility, Navy Ship, etc.).

**V. TRANSPORTATION**

**A. BEST SERVICES**

AS THE GOVERNMENT RESERVES THE RIGHT TO USE THE SYSTEM THAT PROVIDES THE BEST SERVICES TO ITS CUSTOMERS (READINESS INCLUDED AS A FACTOR) THE FOLLOWING APPLIES:

1. The Prime Vendor will be required to ship the products from the United States using the United States Defense Transportation System (DTS). The Prime Vendor will use contracts established by United States Transportation Command (USTRANSCOM) for those shipments. The Prime Vendor will contact the Defense Logistics Agency Distribution, New Cumberland Transportation Operations via the following e-mail address: [oceancontainers@dla.mil](mailto:oceancontainers@dla.mil) to request bookings. The DLA Distribution Transportation Operations team will book or provide authorization/instruction to the Prime Vendor in order to book the required transportation with the authorized carrier. The USTRANSCOM contracted carrier will be responsible for the transportation of the Prime Vendor's products from the specified CONUS manufacturer or CONUS distribution facility to the Prime Vendor's OCONUS distribution facilities. This transportation method is known as "Point to Point" delivery.
2. The DLA Distribution Representative, in coordination with the Prime Vendor representative, will ensure the necessary arrangements are made for ocean transportation, bookings and freight forwarding to the Prime Vendor's OCONUS facility, unless otherwise specified in the contract.
3. Shipping Instructions for the Prime Vendor will be sent via e-mail. The Prime Vendor will be required to provide DLA Distribution with a packing list two hours after loading the container and provide the ocean carrier with any USDA health certificates, commercial packing lists, commercial invoices, or other documentation required for transit through any country along the shipping route. The Prime



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Vendor may also be required to provide documentation that will be used to identify that the products being shipped by the Prime Vendor via the carrier are for "U.S. Armed Forces." The Prime Vendor is responsible for timely submission of its packing lists for the containers. Within two (2) hours of loading the container, the Prime Vendor will send the packing lists to DLA Distribution for preparation of the shipping documents. Prime Vendors that fail to follow this process will not receive future bookings until the matter is resolved. If the cargo has to be returned for any problem caused by the Prime Vendor, the import back into the U.S. is the responsibility of the Prime Vendor and the original transportation charges shall be reimbursed to DLA.

4. For all shipments to OCONUS Distribution Facility(s), all products are required to be palletized at least 80% of cube or weight of usable space in a container.

Maximum cube/weight utilization is encouraged for all shipping containers; however, the below chart lists the minimum acceptable container utilization for any OCONUS shipment.

80% Usable Container Capacity

Container Type	20' Containers		40' Containers	
	Cube	Weight	Cube	Weight
Dry	760	31,360	1,600	35,200
Reefer	659	27,920	1,346	31,840
Insulated	760	31,360	1,600	35,200
High Cube Dry	920	31,360	1,782	34,960
High Cube Reefer	920	31,360	1,578	31,440
High Cube Insulated	920	31,360	1,782	34,960

All shipments to OCONUS Distribution Facility(s) shall be shipped in 40' containers. Information concerning 20' containers is only provided in the event that the Contracting Officer instructs the Prime Vendor of a requirement to ship products in 20' containers. Any exceptions to meeting the 80% minimum require prior approval from the Contracting Officer and/or Contracting Officer Representative (as delegated). The Government reserves the right to bill the Prime Vendor for underutilized containers.

5. When a carrier is utilized pursuant to a USTRANSCOM contract, the applicable Government designated Ocean carrier will provide sea vans and transport them to the specified CONUS manufacturer or CONUS distribution facility. The Prime Vendor will load the vans at their distribution facility in accordance with the terms outlined in Section "Packaging/Packing."

Note: All containers are considered live load. During the live load, the Prime Vendor will have four (4) hours free time to load the container before detention charges accrue. The applicable detention rates will be defined in the carrier's USTRANSCOM contract and charged to the Prime Vendor.

The Government-designated Ocean carrier will then pick up the loaded vans and transport them to the applicable Port for subsequent shipment. Upon arrival at the OCONUS Port(s), the freight forwarded shipment will be transported to the Prime Vendor's OCONUS Distribution Facility(s) by a USTRANSCOM carrier.

6. In order to enforce this requirement, the Prime Vendor shall assign a customer representative to the contract, which will be solely responsible for overseeing this process.

7. Under the DTS transportation method of delivery, the Prime Vendor will be responsible for properly loading and contacting the ocean carrier for drayage of the loaded container to the embarkation port. The carrier will have the reefer container set at the required temperature when it arrives. The Prime Vendor must ensure that the temperature is set as required and the unit is cooling upon receipt. Temperature setting should be photographed by the Prime Vendor so that discrepancies can be later verified. The Prime Vendor will be responsible for making a visual inspection of the container to ascertain that it is intact and that equipment appears to be operable. The Prime Vendor will be responsible for any detention charges and arranging the return of empty containers to the Government designated ocean carrier, but will not be responsible for return drayage. The Prime Vendor must advise the DLA Distribution Representative of any new supplier locations well in advance of the supplier being operational so that available line haul rates can be ensured.
8. The Prime Vendor may submit a request to the Contracting Officer requesting a specific carrier and provide a written justification for the request. The Contracting Officer retains sole discretion to approve or deny the request. The Prime Vendor is responsible for ensuring proper inventory including managing varying transit times.
9. DLA Troop Support has been advised by USTRANSCOM that the “Point to Point” delivery time to Korea from the Eastern and Western U.S. coasts averages forty-sixty (60) days depending upon the point of embarkation. The delivery time for new items can range from eighty (80) to one-hundred and twenty (120) days when taking into consideration the fact that the item must be sourced, ordered and then shipped. However, these timeframes are estimates and the Prime Vendor must be aware that delays in excess of these timeframes may occur. The Prime Vendor is solely responsible for maintaining sufficient stock levels in its OCONUS facility(s) to cover any such delays in transport. Any Prime Vendor claims for cost relating to delays in transportation or other transportation-related issues, such as loss or damage to goods, lie against the USTRANSCOM contracted carrier. The Government has no liability for late delivery or damage to goods in transit. The terms and conditions of the USTRANSCOM contract with the designated carrier govern carrier liability for any loss or damage to products during “Point to Point” transportation, and the Prime Vendor is solely responsible for developing and presenting any claims for delay, loss, or damage to the USTRANSCOM designated carrier when applicable. The Prime Vendor is cautioned that in some instances the USTRANSCOM contract carrier may have limited or no liability under the terms of the USTRANSCOM contract (see B. Insurance/Liability and Claims, below). It is important for all offerors to familiarize themselves with said contracts and agreements for purposes of proposing on this solicitation and consider those limitations and the associated risks when preparing offers.
10. Palletization requirements for all Overseas Shipments: All Wood Packaging Material (WPM) acquired by DoD must meet requirements of International Standards for Phytosanitary Measures (ISPM) 15, “Guidelines for Regulating Wood Packaging Materials in International Trade.” DoD shipments inside and outside of the United States must meet ISPM 15 whenever WPM is used to ship DoD cargo, or when wood is being acquired by DLA for future use as packaging material. WPM is defined as wood pallets, skids, load boards, pallet collars, wooden boxes, reels, dunnage, crates, frame, and cleats.

Note: Failure to comply with these requirements may result in frustrated cargo and rejection at the point of entry.

I. Additional Packaging and Marking Requirements:

(a) Prohibited cushioning and wrapping materials: Use of asbestos, excelsior, newspaper, shredded paper (all types, including wax paper and computer paper), and similar hygroscopic or non-neutral materials and all types of loose-fill materials, including polystyrene, is prohibited for

application such as cushioning, fill, stuffing, and dunnage. In addition, the use of yellow wrapping or packaging material is prohibited except where used for the containment of radioactive material.

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

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

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

(3) Bulk petroleum, oil and lubricant products delivered by pipeline; or tank car, tanker and tank trailer for which the container has a capacity greater than 450 L (119 gallons) as a receptacle for a liquid; a maximum net mass greater than 400 kg (882 pounds) and a capacity greater than 450 L (119 gallons) as a receptacle for a solid; or a water capacity greater than 454 kg (1000 138 pounds) as a receptacle for a gas.

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

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

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

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

## II. Requirements for Treatment of Wood Packaging Material (WPM)

Assets packed in or on wood pallets, skids, load boards, pallet collars, wood boxes, reels, 152 dunnage, crates, frames, and cleats must comply with the Heat Treatment (HT) or Heat Treatment/Kiln Dried (HT/KD) (continuous at 56 degrees Centigrade for 30 minutes) standard in 6 6 DoD Manual 4140.65-M "Compliance for Defense Packaging: Phytosanitary Requirements for Wood 155 Packaging Material (WPM)". WPM must be stamped or branded with the appropriate certification 156 markings as detailed in DOD 4140.65-M and be certified by an accredited American Lumber Standards Committee (ALSC)-recognized agency. The WPM certification markings must be easily visible, especially in pallet loads, to inspectors.

III. Palletization shall be in accordance with MD00100452, REVISION C, DATED 09/2016161 found at:

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

11. Container Management. The Prime Vendor shall be responsible for managing the flow of containers from the port through the warehouse and into the theater. Planned and unplanned delays such as supply route blackouts, local holidays and border closures must be considered in the schedule for container movement. Although the Government is not liable for any costs related to such delays in transportation/container movement of Prime Vendor product, the Prime Vendor should use its best efforts to eliminate detention charges and reduce port storage fees while ensuring containers carrying

“Not- in-Stock (NIS)” items are pulled first, followed by special meal containers. The Prime Vendor must consider all factors impacting the supply chain when making their supply chain management decisions. The Prime Vendor is solely responsible for ensuring its supply chain is properly managed to satisfy contract requirements. The Government is liable for such transportation costs for containers of GFM product, the Prime Vendor should use its best efforts to eliminate detention charges and reduce port storage fees. The Prime Vendor will be responsible for all additional DTS costs incurred by the USG as a result of the Prime Vendor’s performance/decisions.

## **B. INSURANCE/LIABILITY AND CLAIMS**

1. As discussed above, the Prime Vendor will transmit its transportation requirements to DLA Distribution, which will arrange Government-funded transportation through DTS or other system, as appropriate orders against the USC or other TRANSCOM contract as applicable. The Prime Vendor's products will be shipped through DTS via commercial carriers receiving USTRANSCOM contract awards. Although these carriers are responsible for any loss or damage to the products they transport, such responsibility or liability may be limited by the terms of the applicable USTRANSCOM contract, as well as maritime law, customs, and practices, e.g., Carriage of Goods by Sea (COGSA) limitations 46 U.S. App. § 1300 et. seq.; Force Majeure; Carmack Amendment 49 USC § 14706; etc. It is, therefore, highly recommended that the offeror, prior to submitting an offer, review the current USTRANSCOM carrier contract(s). ***An offeror may contact the Contracting Officer for a copy of the USTRANSCOM carrier contract prior to submitting an offer.***
2. Prior to or during the implementation period of the contract, the Prime Vendor shall enter into an agreement and work with the USTRANSCOM carriers handling routes within the Prime Vendor's geographical responsibility to develop a claims process involving the Prime Vendor and the USTRANSCOM contractor(s). The purpose of such an agreement is to establish a working relationship between the Prime Vendor and the USTRANSCOM contractor(s) in order to facilitate the transportation of product and to establish points of contact in order to resolve any issues that may arise during the performance of this contract. Such an agreement shall address issues such as claims processing and dispute resolution for losses and damage to Prime Vendor cargo by the USTRANSCOM carrier(s) and for the resolution of claims by the USTRANSCOM carrier(s) against the Prime Vendor for detention of carrier containers, port storage for detained containers, and maintenance provided by a carrier for detained refrigerated containers. The Prime Vendor and the USTRANSCOM carrier(s) will be responsible to each other, directly, for the payment and resolution of any claims. For example, the Prime Vendor shall pay the USTRANSCOM carriers directly for any dry runs, diversions, re-bookings caused by incorrect requests, short stops not at the request of the Government, detention, port storage or maintenance charges incurred by the Prime Vendor. The Prime Vendor shall provide the Contracting Officer with a copy of such carrier agreements, as well as any contact information that it receives from the USTRANSCOM contractor(s). The Prime Vendor shall update this information as necessary and provide the Contracting Officer with any changes made to such agreements. The Prime Vendor claims procedure developed for handling any claims between the Prime Vendor and the USTRANSCOM contractor(s) shall also be provided to the Contracting Officer. During the implementation period and/or as a requirement for offeror submission as defined in the solicitation, the Prime Vendor shall contact the USTRANSCOM designated carrier(s) for the routes within the Prime Vendor's geographical responsibility. The Prime Vendor shall copy the Contracting Officer with the contact information that it receives from the carrier(s) and shall update this information as necessary. During the implementation period and/or as required for offeror submission for the solicitation, the Prime Vendor and the carrier(s) shall develop a claims procedure for the handling of any claims that may arise between the Prime Vendor and the carrier(s) for the products

shipped by the carrier(s). This procedure shall be the basis for the resolution of any claims for loss or damage, as well as any other issues that may arise. A copy of this procedure, and any changes or updates, shall be promptly furnished to the Contracting Officer.

3. The Prime Vendor should consider that substantive terms and conditions of the USTRANSCOM contract and this contract may be relevant to the agreement and procedures negotiated with the USTRANSCOM carrier(s) concerning claims procedures, dispute resolution procedures, etc. Also, the Prime Vendor should consider in negotiating any agreement or procedures that the USTRANSCOM carrier may take remedial action, including the assertion of a lien on Prime Vendor cargo or other actions, to protect its interests. Similarly, the Prime Vendor may exercise any right of setoff involving a commercial contract or other remedial action against the USTRANSCOM carrier to protect its interests. Finally, the Prime Vendor should consider when negotiating any agreement or procedures that disputes between the Prime Vendor and the USTRANSCOM carrier will not be subject to the Contract Disputes Act or the "Disputes" clause of this contract. Because claims for loss/damage to Prime Vendor cargo, detention of USTRANSCOM carrier containers, port storage assessed against detained carrier containers, maintenance of detained carrier refrigerated containers, etc. are to be covered by agreement between the Prime Vendor and USTRANSCOM carrier(s), disputes regarding such matters will be covered by the business arrangement between the Prime Vendor and USTRANSCOM carrier(s) and laws applicable to such arrangements.
4. As explained above, the Government is not responsible or liable for any loss or damage to the Prime Vendor's products shipped through the DTS. Any such losses or problems can be mitigated by establishing a good working relationship with the carriers, being familiar with the terms and conditions of the USTRANSCOM contract, and obtaining insurance for the products shipped. Any discrepancy reports, notice of claims or claims for such loss or damage, as well as, any other communications regarding such loss or damage shall be submitted by the Prime Vendor directly to the carrier for resolution, not to DLA Troop Support or USTRANSCOM. The Prime Vendor shall copy the Contracting Officer with any such claims, notice, or reports. At the request of the Prime Vendor, the Contracting Officer may facilitate the resolution of the claim, but all communications regarding the claim shall be between the Prime Vendor and the carrier and not through DLA Troop Support or USTRANSCOM. This procedure is not subject to change or modification, except by the Contracting Officer. If the Prime Vendor is unable to communicate directly with the carrier for any reason, it should promptly so advise the Contracting Officer.
5. Offerors are advised that the lack of an agreement between the Prime Vendor and a USTRANSCOM carrier will not prohibit the Government from using that carrier in performance of the contract. The purpose of the carrier agreement is to facilitate a dispute resolution process between the Prime Vendor and the USTRANSCOM carrier(s). In the absence of a carrier agreement, the Prime Vendor and USTRANSCOM carrier(s) will still be liable to each other for any claims or disputes related to transportation of goods under DTS. The Government is not responsible or liable for any loss or damage to the Prime Vendor's products shipped through the DTS.

### **C. CUSTOMS**

USTRANSCOM will be responsible for all customs clearance from the point of debarkation through to the Prime Vendor's OCONUS facility (s) for material shipped through DTS. The Prime Vendor is responsible for customs clearance from his OCONUS facility (s) to the final delivery points.

### **D. PRIME VENDOR RESPONSIBILITIES REGARDING TRANSPORTATION**

1. The Prime Vendor will be responsible for all documentation and required paperwork, as well as packaging/packing and marking of products as originally stated in the solicitation.
2. The Prime Vendor will be responsible for making a visual inspection of the container to ascertain that it is intact and that all equipment appears to be operable.
3. All freeze and chill trucks will use temperature recording devices, readings of which will be made available upon request.
4. Additionally, the Prime Vendor will be responsible for the van temperature verification, pre-cooling vans, when appropriate, and loading vans.
5. Unless otherwise specified in the contract, the Prime Vendor will be responsible for arranging the return of empty containers to the carrier. The Prime Vendor shall be responsible for detention charges that result from the delayed return of the empty containers.

#### **E. GOVERNMENT RESPONSIBILITIES REGARDING TRANSPORTATION**

1. USTRANSCOM will be responsible for the contracting of transportation of products from the Prime Vendor's CONUS Distribution Warehouse(s) to the Prime Vendor's OCONUS warehouse(s).
2. The DLA Distribution Representative in coordination with the Prime Vendor will be responsible for making ocean transportation bookings that provide transportation from the Prime Vendor's CONUS facility to the door of the Prime Vendor's OCONUS facility to include setting up transportation from the OCONUS port to the Prime Vendor's OCONUS facility.
3. The DLA Distribution Transportation Operations team will generate the Transportation and Control Movement Document (TCMD), commercial invoice, commercial packing list and Consulate letter that will be used to identify that the products being shipped by the Prime Vendor are for "U.S. Armed Forces."

#### **F. VEHICLE TRANSPORTATION**

The Prime Vendor is responsible for providing sufficient transportation assets to support all authorized customer requirements under this contract.

#### **G. AIRLIFTS**

Airlifts to support customer requirements in Korea are not anticipated. The Prime Vendor is required to stock sufficient quantities of product to meet all Korea customer demands. If an item with an established demand is not properly managed by the Prime Vendor, a not-in-stock situation occurs, and the item is projected to be out of stock for more than 21 days, the Prime Vendor will be required to airlift product at its own expense.

The Contracting Office may authorize airlifts in coordination with the United States Defense Transportation System (DTS) to fulfill customer requirements for short shelf life highly perishable items that cannot be sourced in the local market. Airlifts will only be authorized when a local source is not available. Airlift requests must be submitted for approval to the Contracting Officer. Only the Contracting Officer may approve an airlift request. If approved, the Prime Vendor will deliver the product to the designated CONUS facility for preparation for the airlift.

Any Government emergency requirement to airlift product to a Korean customer must be directed by the Contracting Officer, and the product shall be moved via military assets or US TRANSCOM Tender processes. **All**

**Prime Vendor costs, including but not limited to delivery to the over-pack facility or airfield, etc. shall be included in the distribution price for both emergency and non-emergency TRANSCOM airlifts. Door to door transportation is not available for airlift shipments. The Prime Vendor is responsible for all costs associated with delivery of product to the over-pack facility for every air shipment.**

If, due to time constraints, air tenders through USTRANSCOM are not available, the Prime Vendor must have a working arrangement in place with a commercial air source that can be ready to deliver on a moment's notice. All costs associated with commercial air transportation, including but not limited to delivery to the over-pack facility or airfield, tri-walls etc. shall be included in the distribution price for both emergency and non-emergency airlifts. The Prime Vendor remains responsible for its product during USTRANSCOM and commercial transit and the risk of loss remains with the Prime Vendor.

Pallet tri-walls must be constructed from the appropriate level of cardboard to withstand the normal requirements of the journey. Frozen and chill pallet tri-walls must be lined with suitable insulating materials and either wet ice or dry ice will be added as needed to maintain the products for the expected journey timeframes.

## **H. PRIME VENDOR PRODUCT TRANSFER**

DLA Troop Support Prime Vendors will be permitted to transfer product between one another based on their own agreements. However, the receiving Prime Vendor must catalog the item(s) at the actual unit price as defined in this solicitation which is equal to product price plus the receiving Prime Vendor's distribution price. The receiving Prime Vendor will not be entitled to any amount above contract product price.

## **I. SAFETY OF LIFE AT SEA (SOLAS)**

1. SOLAS requires that the Verified Gross Mass (VGM) of all loaded containers be provided to the ocean carrier and terminal representative before any container is lifted onboard a vessel. Additional information on these requirements is included in Military Surface Deployment and Distribution Command Customer Advisory CA-16-04/08-0035 dated April 8, 2016 found at <https://www.sddc.army.mil/res/Pages/advisories.aspx>.
2. When shipping containers booked through the DTS, in order to comply with SOLAS requirements, the Subsistence Prime Vendor MUST ensure that the VGM of each container is provided to DLA Distribution, that the VGM of each container is certified, and that the tare weight of each container is also provided to DLA Distribution. This information shall be provided by the Subsistence Prime Vendor, or its representative, in a format approved by the DLA Distribution Transportation office.

The Prime Vendor certified VGM of the container shall be determined by one of the following methods, unless otherwise authorized by the Contracting Officer, with all weighing being completed in accordance with the laws of the jurisdiction in which the weighing occurs:

Method No. 1: Weigh the packed container after loading is finished;

---or---

Method No.2: Weigh the individual packages/cargo, including the packing and securing material, then add the tare weight of the container.

3. When shipping containers booked through DTS, the VGM provided to DLA Distribution must be certified with the following statement:

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“I hereby certify that this container was weighted IAW the International Convention for the Safety of Lives at Sea (SOLAS), Chapter VI, Part A, Regulation 2 - Cargo Information, and the gross weight is determined to be \_\_\_\_\_ lbs. Signed and certified: (electronic signature; pen and ink signature; or signature block in all capital letters).”

All forms of signature must be legible and made by a representative of the “shipper.” For the purposes of the certified VGM for any material shipped through DTS under this contract, the “shipper” is defined as the company at whose location the container is loaded and sealed. There may be instances where the party booking the container differs from the shipper; however, the shipper is still responsible for supplying and certifying the VGM data unless otherwise directed by the Contracting Officer or DLA Distribution. The Subsistence Prime Vendor will be responsible for ensuring that the shipper provides an accurate VGM and provides the appropriate certification. Failure to submit the VGM, the above certification statement, and/or a legible, valid form of signature may delay the container shipment. The Government will not be responsible for any delays or costs associated with the failure to provide the required VGM and certification. Consistent with the basic contract terms, any such costs, including demurrage or product loss, will be the Subsistence Prime Vendor’s responsibility.

Inclusion of the above certification on a packing list is generally the preferred method of submission; however, other forms of submission may be acceptable when approved or required by DLA Distribution and the Contracting Officer.

4. It is the Subsistence Prime Vendor’s responsibility to ensure all information and documentation submitted is accurate so that containers will not be delayed during transit. The Subsistence Prime Vendor is advised that a container missing the VGM certification may not be loaded onboard the vessel and may be denied entry to the port facility. Any discrepancies in the VGM could result in additional charges and/or cargo being frustrated within the transportation pipeline. The Subsistence Prime Vendor will be responsible for costs incurred for delays due to improper or erroneous documentation, including documentation related to SOLAS requirements. The U.S. Government is not responsible for any costs resulting from or related to delays associated with these SOLAS requirements or improper documentation.
5. Additionally, for Class I Subsistence shipments through DTS, the Subsistence Prime Vendor will be required to provide the DTS carrier with the VGM directly. The method for providing each carrier with the VGM may vary based on the carrier and the port. The Subsistence Prime Vendor shall request specific guidance on how this information is to be provided to the carriers from the DLA Distribution Transportation Office.
6. The Subsistence Prime Vendor is responsible for ensuring its continued compliance with transportation related laws and regulations applicable to performance under this contract. The Subsistence Prime Vendor should continue to coordinate with USTRANSCOM, Military Surface Deployment and Distribution Command, DLA Distribution, and DLA Troop Support to ensure its continued compliance with all DTS shipping requirements.



**VI. STATUS OF FORCES AGREEMENT, WORKERS COMPENSATION INSURANCE, AND INTERPRETATIONS/TRANSLATIONS**

**A. STATUS OF FORCES AGREEMENT (SOFA)**

1. Contractor will be responsible for complying with the “Invited Contractor or Technical Representative Status Under U.S. – Republic of Korea (ROK)” and “Continuance of Performance During Any State of Emergency in the Republic of Korea (ROK)” clauses contained in the “Contract Terms and Conditions” section of this solicitation. Please note, paragraph (E) of the “Invited Contractor or Technical Representative Status Under U.S. – Republic of Korea (ROK)” clause:

[The contractor warrants and shall ensure that collectively, and individually, its officials and employees performing under this contract will not perform any contract, service, or other business activity in the ROK, except under U.S. Government contracts and that performance is IAW the SOFA.]

2. The Prime Vendor must be familiar with all necessary permits, licenses, laws and labor decrees that pertain to Government contracts. The Contractor shall obtain all required Personnel ID (identification) passes and vehicle decals to enter the post/base of the appropriate sites.

3. A National Agency Check & Inquiries (NACI) or DOD equivalent must be completed prior to issuance of Common Access Card (CAC) for those under SOFA status, and fingerprints on file with Federal Bureau of Investigation (FBI). An Applicant requesting a government credential must first be vetted through his or her employer using the DOD-approved process and the process outlined in the following documents:

- Federal Information Processing Standards Publication 201-2, “Personal Identity Verification (PIV) of Federal Employees and Contractors”
- DOD Regulation 5200.2-R, “Personnel Security Program”
- Directive-Type Memorandum (DTM) 08-003—“Next Generation Common Access Card (CAC) Implementation Guidance”

Note: You should check with your service or agency for any additional internal policies or guidelines governing this process. This process requires that DOD Uniformed Service Contractors and Non-DOD Civil Service Employees must minimally have an initiated NACI and a favorable completion of a FBI fingerprint check, or a DOD-determined equivalent investigation, or greater. Affiliated Volunteers requiring access must have an initiated National Agency Check (NAC), and a favorable completion of an automated FBI National Criminal History Check (fingerprint check).

Note: The FBI fingerprint check adjudication process may take up to four weeks to complete. You must confirm the favorable completion of the FBI fingerprint check before you create the application.

The final step in preparing the application for a contractor CAC is for the COR to certify that the Contractor has met the requirements above.

## **B. WORKERS COMPENSATION INSURANCE**

1. FAR 52.228-3 WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) (JUL 2014) is included by reference in this solicitation.
2. The Secretary of Labor may waive application of the Defense Base Act (DBA) with respect to any contract, work location, or class of employees upon the written request of the head of any department or other agency of the United States. DLA understands that it is Department of Labor's policy that waivers do not apply to citizens or legal residents of the U.S. or to employees hired in the United States. In addition, once granted, the waiver is only valid if alternative workers' compensation benefits are provided to the waived employees pursuant to applicable local law. If there are no local workers' compensation laws, the waiver has no effect and local and foreign nationals working under a United States contract are covered under the DBA. It is the Prime Vendors responsibility to obtain the insurance coverage as required. All costs to provide coverage throughout the life of the contract shall be included in each offeror's proposal.

## **C. INTERPRETATIONS/TRANSLATIONS**

1. The Prime Vendor shall provide host nation/English translation of operating instructions, procedures and all other documents required for complete and efficient performance of this contract. These translations shall be placed or posted in close vicinity to each work area where they are required for day-to-day work.
2. The Government is not obligated to provide any assistance to the Prime Vendor in the day-to-day translations and interpretations necessary to communicate with DLA Troop Support.
3. The Prime Vendor shall provide a means of real time communications/ translation/ interpretation between and among all levels of its organization. This requirement for communication and understanding shall apply to all levels of supervision and shall be provided by supervisors at all levels or by adequate numbers of readily available interpreters/translators who shall be present during all exchanges of information that require interpretation or translation.
4. All correspondence, official documents that impact work performed under this contract and communications between the Prime Vendor and the U.S. Government pertaining to this contract shall be in the English language.

## **VII. INVENTORY AND WAREHOUSE MANAGEMENT**

### **A. WAREHOUSE MANAGEMENT**

1. The Prime Vendor will be required to perform supply chain and warehouse management functions and to position a full line of food and beverage, and GFM items into its warehouse(s). The Prime Vendor has responsibility for all supply chain management. In regard to GFM, the military theater food adviser shall recommend the time to reorder and the respective replenishing amounts.
2. Supply chain management is the sole responsibility of the Prime Vendor. As supply chain management is the sole responsibility of the Prime Vendor, the Government will not be liable for expired or excess inventory during the life of the contract or after the contract has expired. Any information provided to the Prime Vendor by the Government (i.e. estimates, headcounts, etc.) during contract performance is merely guidance to assist the Prime Vendor in fulfilling its role of supply chain management in the context of specific contract requirements. Though the Government will utilize its best efforts and reasonableness in furnishing said information, it provides no warranties or representations that the information provided is wholly accurate. Ultimately, the Prime Vendor is responsible for ensuring that its supply chain management is sufficiently executed and managed to meet the specific requirements contained in this solicitation. In making the supply chain management decisions, the Prime Vendor will be responsible for stocking, at a minimum, any item

that has a ten (10) case average monthly requirement, unless otherwise specified in section “New Items” of the Statement of Work..

3. The Prime Vendor shall maintain a minimum of **sixty (60) days of supply on hand, by line item for each item (DOS)** of Prime Vendor product, on a line item basis, at each OCONUS warehouse facility (if applicable) for all items (excluding Fresh Fruits and Vegetables and short shelf life items approved by the Contracting Officer). It is the Prime Vendor’s responsibility to determine the warehouse size and number of pallet spaces it needs to fulfill the demand requirements of this solicitation to include surge requirements. The standard American pallet size is 48x40 inches. The Prime Vendor will be responsible for developing its own demand estimates to ensure proper stocking levels, including Average Weekly Demands (AWD) and Average Monthly Demands (AMD). Note: Solicitation estimates are only estimates and subject to increase or decrease based on the actual conditions on the ground.
4. The Government will not reimburse the Prime Vendor for expired or excess inventory during the life of the contract or after the contract has expired. Exceptions to this rule must be incorporated into the contract via contract modification.
5. The Prime Vendor must provide all of the necessary assets, to include, material handling equipment and labor to maintain operations.
6. The Prime Vendor is responsible to provide the proper equipment (i.e. pallet jacks, fork lifts, etc.) to move material to the back of the delivery vehicles at the customer delivery points.

**B. GOVERNMENT FURNISHED MATERIAL – OPERATIONAL RATIIONS**

1. There is currently warehouse space available that must be used for GFM which will be available to the Prime Vendor.
2. This space is available at the Busan Storage Center (BSC) in Pusan, Korea. This space is available for use by the Prime Vendor in support of this contract ONLY. The selected Prime Vendor will use this space to warehouse GFM only. Please note that Pusan and Busan are used interchangeably. In addition, Busan Storage Facility; Busan Storage Center; and Central Receiving Facility, Pusan are used interchangeably.
3. Any contractor **MUST** agree to incorporate all provisions of the Memorandum of Agreement (MOA) between the J-4 Headquarters, United States Forces Korea (USFK) and the DLA Troop Support Philadelphia dated **September 2014**. This MOA can be provided to offerors. All information in this solicitation pertaining to the GOCO facilities takes precedence over the MOA.
4. There will be no rent charged to the Prime Vendor for the use of the GOCO facilities.
5. The following are the dimensions on warehouse space at the GOCO facilities that will be available to the Prime Vendor.

Whse #	Type	Sq Ft	Cu Ft	Max Pallet Capacity (Approximate)
15	Dry	23,000	To be determined based on Rack configuration	
13	Chilled	16,920	142,128	2,584

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13	Freezer	28,294	212,330	3,860*
S-1355	Office Space	To be determined by available space		

\* -Stacked 2 pallets maximum

**The above chart is for information purposes only. The Government will not be held liable for any errors in the above figures or for changes in consumption or cost that may occur during the life of a contract resulting from this solicitation.**

6. The Prime Vendor will be responsible for providing the necessary office needs (i.e., installation of telephone and telephone lines, fax lines) and office furniture. The Prime Vendor will be responsible for providing all Material Handling Equipment (MHE) necessary for the successful performance of this contract at the GOCO facility. The Prime Vendor will be required to abide by all BSC safety, policies and regulations.
7. The Prime Vendor must have a dedicated warehouse employee at the GOCO facilities to manage GFM.
8. The Prime Vendor will bear the risk of loss or damages for the supplies warehoused in the GOCO due to negligence of the Prime Vendor.
9. At times, it may be necessary for GFM to be located in the Prime Vendor’s commercial warehouse. GFM may only be stored at the commercial warehouse if directed by the Contracting Officer. The Prime Vendor will bear the risk of loss or damages for the supplies warehoused in the Prime Vendor’s commercial warehouse due to negligence of the Prime Vendor.
10. The Prime Vendor must have the capability to receive, store, distribute, perform open case inspections, perform open case re-work, label, re-label, dispose, and account for GFM type items such as Operational Ration Type items as described below. The Prime Vendor must also provide weekly inventory and self-life information to the Supply Planner and local DLA-TS office (COR/Deputy). The Prime Vendor will contact the COR to coordinate 106<sup>th</sup> Veterinary Detachment (Food Inspectors) to perform inspection for shelf-life extensions or disposal determination. The U.S. Government reserves the right to modify the type of GFM to be stored and accounted for by the Contractor.

**OPERATIONAL RATIONS:**

a. Unitized Group Rations (UGR’s) are used to sustain military personnel during worldwide operations. The UGR is designed to maximize the use of commercial items and to simplify the process of providing high quality food service in a field environment. All components for a complete meal are included in the UGR, with the exception of mandatory supplements, such as milk. Each UGR meal module also contains all required disposable items (cups, compartment trays, and utensils). This ration is available in three options, with each sharing a core of quick prepared and/or ready to use commercial products.

b. UGR-A (Army) which includes perishable frozen entrees (A-Rations). Each complete UGR-A ration consists of 3 shipping cases: 2 cases represent the semi perishable module and 1 case is the perishable (frozen) module. The semi perishable modules are ordered/shipped under a single LSN (i.e., the two cases, Box 1 and Box 2, must be delivered together), and the perishable module is shipped under a separate, second LSN. There are currently 7 Breakfast and 14 Dinner rations, for a total of 42 LSNs). There are currently 7 breakfast and 14 lunch/dinner menus available for both the Heat & Serve (H&S) and A-Options. There is no minimum ordering quantity required (i.e. orders for single modules are accepted). The UGR-H&S option is unitized into 3 boxes, which places 2 rations on one tier of a pallet, and one pallet (4 tiers) provides 8 rations. For the UGR-A, the semi perishable pallet is comprised of 3 ration modules per tier, and 12 ration modules per pallet. The perishable pallets contain varied numbers of ration modules per pallet, as the shipping case size varies per menu.

For more information regarding these rations, please go to:

<http://www.dla.mil/TroopSupport/Subsistence/Operationalrations.aspx>

There is no minimum ordering quantity required (i.e. orders for single modules are accepted). For purposes of administering the requirements and provisions related to the Operations Rations, please contact Contracting Officer for point of contact (POC). The authority set forth is applicable only to the GFM (UGR-A) distribution portion of the contract. The UGR-A COR is not allowed to make any changes or modifications to any other terms and conditions of the contract. And is not authorized to act as the COR for any other semi-perishable and perishable food products distribution portion of the contract.

The following UGR-A reports are in addition to those specified under Section Management Reports of the Statement of Work. The following reports for UGR-A shall be e-mailed to the POC identified by the Contract Specialist. The reports shall include the data for the entire month (first day to last), and shall be emailed no later than the seventh (7th) workday of each following month. (a) Monthly Inventory Reconciliation; and ( b) Monthly Projected Demand Report.

11. The MOA details the space available to the Prime Vendor, however, some of these spaces are shared facilities and availability is clarified as follows:

- a. Cold Storage (Warehouse 13), BSC: Use only by Subsistence Prime Vendor
- b. Warehouse 13, Building 1355, Admin Office: Shared facility (Subsistence Prime Vendor & Material Support Command Korea (MSCK))
- c. Dry Storage (Warehouse 15): Shared facility (Subsistence Prime Vendor & MSCK)

12. The incinerator at the BSC is not available for use by the Prime Vendor. Use of the attendant services (e.g. trash) at the GOCO facilities are limited to the contractor's performance at the GOCO

facilities.

### **C. BREAKING CASES**

Under the proposed contract, the Prime Vendor will be required to break cases for spices, both dry and fresh. The decision to break cases for additional items, other than spices, must be mutually agreed upon between the Prime Vendor and the Contracting Officer, at no additional costs to the Government.

### **D. OFFICE SPACE AND EQUIPMENT FOR GOVERNMENT EMPLOYEES**

1. Contracting Officer Representatives (CORs). The Prime Vendor will be required to station CORs at its various facilities. It is estimated that one (1) COR will be stationed at the Prime Vendor's main Distribution Facility. The Prime Vendors are required to provide an office (approximately 150 square feet) with a self-closing, tight-fitting door, capable of being locked. This office must be within or adjacent to the Prime Vendor's office/warehouse facility and must be fully functional within the 6 month implementation period. Other requirements include (at minimum) a desk and chair, electricity, temperature control, access to the Prime Vendor's office equipment such as a printer, paper shredder, document scanner, copy machine, as well as normal housekeeping services, use of the rest rooms, and a parking space. During the life of the contract, should additional CORs be assigned to any area under the contract, the same accommodations must be made available to each COR at no additional cost to the Government.
2. Work Space and Equipment must be available for Army Public Health Command (PHC) Inspectors when present. The primary mission for PHC Inspectors is inspection, extension, or condemnation of Operational Rations and Government Furnished Material. Additionally, Army Veterinary Inspectors (AVI) inspect and recommend rejection, extension or condemnation of Prime Vendor owned product as requested by the Prime Vendor, deemed necessary by the Theater Food Advisor and approved by the Contracting Officer or authorized Contracting Officer Representative. These inspections will occur on an as needed basis during the Prime Vendor's normal business hours. Equipment may be required for these inspections, PHC will notify the Prime Vendor accordingly and the Prime Vendor will provide this equipment at no additional cost to the Government.

## **VIII. SECURITY MEASURES / FORCE PROTECTION AND THEATER SUPPORT**

### **A. SECURITY MEASURES / FORCE PROTECTION**

1. The DLA Troop Support Subsistence Directorate provides worldwide subsistence logistics support during peacetime 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 to take steps and ensure steps are taken to prevent the deliberate tampering and contamination of subsistence items. Such precautions are designed to provide for Food Defense as described by the Food & Drug Administration (FDA) at <http://www.fda.gov/Food/FoodDefense/default.htm>.
2. As the holder of a contract with the Department of Defense, the Prime Vendor should be aware of the vital role it plays in supporting the Government's customers. It is incumbent upon the Prime Vendor to take actions to secure product delivered to all customers. It is a requirement for the

Prime Vendor to have written force protection/food defense plans relating to plant security and security of product in light of the heightened threat of terrorism and to secure prime vendor product from intentional adulteration/contamination. The Prime Vendor's Food Defense Plan must be in compliance with the DLA Troop Support Food Defense Checklist as determined by the Contracting Officer.

NOTE: For a copy of the DLA Troop Support Food Defense Checklist, contact the applicable Contracting Officer or the DLA Troop Support Quality Audits & Food Defense Branch at 215-737-8656/8523/4209, or to download a copy of the go to:

[http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food\\_defense\\_check.pdf](http://www.dla.mil/Portals/104/Documents/TroopSupport/Subsistence/FoodSafety/FoodQuality/food_defense_check.pdf)

3. The Prime Vendor is required to maintain an acceptable Food Defense Plan. The plan must be submitted to the Contracting Officer within 60 days after contract award to be reviewed for acceptability. In the event that the plan is not initially approved, the Prime Vendor shall expeditiously work with the Contracting Officer to have an approved plan in place 30 days prior to the first delivery. The Contracting Officer may conduct ongoing verifications of the Prime Vendors security and food defense system throughout the life of the contract. Failure to have or maintain an acceptable food defense plan will be considered a breach of contract. The DLA Troop Support-FTSB may conduct Food Defense Audits/reviews during Prime Vendor Product Quality Audits, Unannounced Quality Systems Management Visits and/or other visits to verify the implementation, compliance and effectiveness of the Prime Vendor's Food Defense Plan. The Prime Vendor's Food Defense Plan should include specific security measures relating to, but not limited to, the following areas:
  - Employee Identification
  - Background checks where applicable
  - Control of access to plant facility, gates and doors at the facility
  - Internal Security
  - Training and security awareness
  - Product Integrity
  - Transportation Security
4. The Prime Vendor may modify its Food Defense Plan at any point during contract implementation or during the period of performance, however, any change must be determined acceptable by the Contracting Officer. Whenever a change is made to the Food Defense Plan, it must be submitted to the Contracting Officer for review and approval. If more than one facility will be used to store or distribute product, a separate acceptable Food Defense Plan for each facility is required.
5. The Prime Vendor will ensure that all products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Prime Vendor will immediately inform the Contracting Officer of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.
6. The following security guidance is also provided:
  - i. Make sure all boxes, bags, etc. are intact and demonstrate no evidence of tampering. All incoming truck drivers should provide adequate identification upon request. Visitors should also be properly identified and have limited access to those areas appropriate for their visit.

Procedures for storing product should adequately control access to eliminate any possibility of product adulteration.

- ii. The warehouse facilities must have sufficient lighting, an adequate number of cameras located inside and outside for complete surveillance, security fences and locking devices. The warehouse facility must have a security system that alerts management of a breach of entry.
  - iii. Open trucks shall never be left unattended, and bolt-seals shall be used when possible to designate loaded trailers. Security seals shall be properly placed on all delivery vehicles and registered/logged in per delivery. The Prime Vendor will ensure that employee background checks are up to date. Ensure drivers have communication devices available in the event of an emergency and establish emergency phone numbers for them to use. Firms should keep a low profile and share customer routes, etc. on a need to know basis. Review of overall organizational corporate security plans should be conducted and consider whether private security firms are needed to assess or reduce risk. It is important to convey to all warehouse, office and fleet personnel that security should not be taken lightly and any suspected adulteration or evidence of product tampering must be reported immediately.
  - iv. When split/consolidated deliveries are authorized, the delivery vehicles are required to be sealed after each delivery point. The Prime Vendor shall be responsible for providing the seals. The military liaison or designated representative at the drop-off point shall be responsible for re-sealing the delivery vehicle with the new seal and annotating the number on the delivery ticket. Under no circumstances will drivers re-seal delivery vehicle or complete the associated paperwork. Split/consolidated deliveries made in conditions other than those cited above are subject to be rejected by the customer.
7. Information Protection. The Prime Vendor shall prevent unauthorized release of sensitive and/or classified information in accordance with communications security (COMSEC) and operations security (OPSEC), and information system security (INFOSYSEC) by all employees.
  8. Operational Security. The Prime Vendor shall establish, maintain and execute a vigilant Operations Security (OPSEC) Program to include, but not limited to, receipt, accountability, safeguard, destruction, and investigation of any operational information.
  9. INFOSYSSEC Security. The Prime Vendor shall establish, maintain and execute a vigilant information system security (INFOSYSSEC) Program to include, but not limited to, receipt, accountability, safeguard, destruction, and investigation of any computer security, internet security, network security, information security, security, computer, network, information, hacking, hacker, exploits, and vulnerabilities.
  10. Data Use, Disclosure or Information, and Handling of Sensitive Information. The Prime Vendor shall maintain, transmit, retain in strictest confidence, and prevent the unauthorized duplication, use and disclosure of information. The Prime Vendor shall provide information only to those employees of the Prime Vendor and its subcontractors who have a need to know such information in the performance of their duties under this contract. Information made available to the Prime Vendor by the Government for the performance and administration of this effort shall be used only for those purposes and shall not be used in another way without the written agreement of the Contracting Officer.

## **B. THEATER SUPPORT**

### **1. Management**



- i. The Prime Vendor shall ensure that all of its employees, subcontractors, subcontractor's employees, invitees and agents comply with all guidance, instructions and general orders applicable to U.S. Armed Forces issued by the Theater Commander or his/her representative, as well as, all pertinent Department of the Army and Department of Defense directives, policies and procedures, as well as federal statutes, judicial interpretations and international agreements (i.e. Status of Forces Agreements, Host Nation Support Agreements, etc.) applicable to U.S. Armed Forces. This will include any and all guidance and instructions issued based upon the need to ensure mission accomplishment, product protection and safety. Disputes are to be resolved by the Contracting Officer. Notwithstanding the above, the Contracting Officer is the only authorized official who may increase, decrease or alter the scope of work to be performed, and any orders or instructions interpreted by the contractor as impacting the scope or cost of the contract shall immediately be brought to the attention of the Contracting Officer for resolution.

This paragraph applies only to personnel.

- i. The Prime Vendor shall take reasonable steps to ensure the good conduct of its employees and shall at all times be responsible for the conduct of its employees and those of its subcontractors and invitees.
  - ii. The Prime Vendor shall promptly resolve, to the satisfaction of the Contracting Officer, all Prime Vendor employee performance and conduct problems identified by the Contracting Officer or his/her designated representative.
  - iii. The Contracting Officer may direct the Prime Vendor, at its own expense, to remove or replace any employee failing to adhere to instructions and general orders issued by the Theater Commander or his/her designated representative. The Contracting Officer may also direct the Prime Vendor, at its own expense, to remove or replace any employee that has been determined to be a force protection risk. The Prime Vendor will replace any such employee within 72 hours or as instructed by the Contracting Officer.
2. Management Plan. The Prime Vendor shall develop a detailed management plan that describes the Prime Vendor's policies and procedures with regard to planning, organizing, staffing, directing, and controlling the performance of the contract, to include effective management methods and strategies, as well as cost effective management methods that provide the flexibility needed to effectively manage the US Government's requirements. The Prime Vendor shall articulate in written format, internal and external management processes that directly relate to the PWS/SOW. At a minimum the plan shall address: contract administration; Government compliance; health, safety and environmental; human resources; program management; procurement and supply management; project controls; property controls; and security (physical, communication, operational, force protection). The Prime Vendor's management plan shall also include its plan to provide a bi-monthly manning document, deliverable to the COR, that discusses current manning levels and incoming personnel.
3. Personnel
    - i. Objective. The Contractor shall provide a work force possessing the skills, knowledge, training, equipment and certifications required to satisfactorily perform the services required for this contract. Documentation establishing and/or showing evidence that employee(s) possess the certifications, qualifications, and background checks required by contract must be presented to Prime Vendor designated representative prior to beginning duties. Contractor personnel must not have been convicted of any felony. Personnel must not have been declared incompetent by reason of mental defect by any court of competent jurisdiction. Personnel must not be suffering from habitual

drunkenness or from narcotics addiction or dependence as evidenced by a recognized drug/alcohol testing procedure or possession of unauthorized substances or paraphernalia.

- ii. Availability. The Prime Vendor shall configure its resources such that no gaps in services occur resulting from leaves of absences and availability of physical resources such as weapons, vehicles and communication equipment.
  - iii. Language Requirement. The Prime Vendor shall employ only persons able to speak, read, write and understand English for those positions requiring them to interact with clients and other Government personnel, and/or where English is used or essential to provide product, or record data, information or service.
  - iv. Personal Attributes: All Contractor personnel shall be a minimum age of 18 (US) and not have a criminal record. Nor shall any Contractor personnel have an existing warrant for any crimes. Contractor personnel can be US Citizens, Third Country Nationals, or Local National (Korean) citizens. The U.S. Government (USG) encourages the Contractor to support the Local National Socioeconomic Program. At a minimum, no Contractor personnel shall be affiliated with associations, elements, groups, organizations, and/or programs that seek to undermine the legitimacy and initiatives of the Republic of Korea and USG. All Contractor personnel shall be medically screened to ensure that they do not possess an existing health condition that would result in them being unable to perform their assigned duties.
  - v. Contract Manager. The Contract Manager provides contractual interface between the Prime Vendor, sub-contractors, DLA Troop Support, and In-Country Officials and any designee. The Contract Manager provides expertise and coordination of modification compliance. The Contract Manager will identify and develop solutions to any contractual issues and implement approved solutions in coordination with the Government. The Contract Manager participates in all meetings addressing the contract and travels to the customer locations as required in performance of his duties.
  - vi. Customer Service Representative: The Prime Vendor(s) shall assign, at a minimum, one (1) full time (dedicated) customer service representative (CSR) to the OCONUS warehouse to maintain continuous contact with the ordering activities, and especially with regard to emergency service requirement, product quality complaints, shipping discrepancies, and damaged product. Another full time (dedicated) CSR shall be assigned to oversee the DTS process as discussed herein. All CSRs are required to speak English, and must have the authority to make binding decisions on behalf of the Prime Vendor on any concern which may occur. While English-speaking truck drivers are not required they are preferred. In either instance, all truck drivers must be able to contact English speaking superiors at all times (via cellular phone or other direct line of communication) to allow for customers/Prime Vendor communication when necessary. At a minimum, quarterly visits to the customers or customer representatives under the resultant contract are required to show new items, product preparation, provide nutritional information and address any other concerns that the customers may have. Additionally, the Prime Vendor is required to have a representative attend scheduled management meetings at the customer locations. The name of the representative(s) and their telephone number, e-mail address, or any other method of communicating shall be furnished within 30 days after award
4. Risk Assessment and Mitigation. The Prime Vendor will brief its employees regarding the potential danger, stress, physical hardships and field living conditions of performing under this contract.

The Prime Vendor will conduct physical and medical evaluations of all its employees at its own expense to ensure that they are capable of enduring the rigors of performance under this contract. The Prime Vendor will designate a point of contact for all of its plans and operations. The Prime Vendor will prepare

plans for support as required by contract or as directed by the Contracting Officer. For the purpose of issuing ID badges, and for access purposes, the Prime Vendor will provide a list of suitable or qualified subcontractors including local vendors in an area of operations.

5. Vehicle and Equipment Operation
  - i. The Prime Vendor shall ensure that employees possess the required civilian licenses to operate the equipment necessary to perform the contract in the theater of operations in accordance with the statement of work.
  - ii. The Prime Vendor and its employees may be held jointly and separately liable for all damages resulting from the unsafe or negligent operation of equipment.
6. Passports, Visas and Processing Procedures
  - i. At the Prime Vendor's employees and/or Prime Vendor's expense, all of its employees shall obtain all passports, visas, badges or other documents necessary to enter and/or exit any area(s) identified by the Contracting Officer. Prime Vendor personnel, as identified by the Contracting Officer or COR may be authorized to receive Common Access Cards (CACs) and/or other Base Access Badges, which must be issued by U.S. Government Authorities at the nearest available facility to the work location of the Prime Vendor.
  - ii. The Prime Vendor shall communicate directly with the customer to obtain all access requirements. A plan of action for adherence to access requirements must be submitted to the Contracting Officer within 30 days of contract award. The plan of action shall include the Prime Vendor's understanding of the access requirements per the U.S. Military and local government covered under this solicitation and how long it will take to meet the requirements.
  - iii. All Prime Vendor employees shall be subject to the customs processing procedures, laws, agreements and duties of the country to which they are deploying.
7. Tour of Duty / Hours of Operation. The Prime Vendor may be required to perform 24 hours per day, 7 days per week, and 365 days per year, except on United States and Korean government holidays. Working hours will correspond with the supported customer's mission requirements. The Prime Vendor shall comply with all duty hours and tours of duty identified by the Contracting Officer or his/her designated representative. The Contracting Officer, or his/her designated representative, may modify the work schedule to ensure the Government's ability to continue to execute its mission. The Prime Vendor must at all times maintain an adequate work force to ensure uninterrupted performance of all tasks defined within this solicitation.
8. Life Support / Sustainment. All life support and logistical support will be furnished by the Prime Vendor, with the responsibility of securing real estate, facilities for offices and billeting, and motor pool residing with the Prime Vendor.
9. Cell Phones and Internet. The U.S. Government will not pay for rent, lease, purchase or sustainment of personal cell phones. U.S. Government cell phones will be provided on an as available and as required basis to perform official US Government business only. The U.S. Government will not provide internet services to the Prime Vendor's office buildings, unless specifically authorized by the Contracting Officer.
10. ITV Software. The Prime Vendor shall integrate security movements into their Intransit Visibility Requirements.
11. General Contractor Furnished Items and Services

- i. General. The Prime Vendor shall furnish everything required to perform this requirement. The equipment required to perform the services will remain Contractor Furnished Equipment (CFE) and the U.S. Government will not take possession of it.
  - ii. Compliance. The Prime Vendor shall ensure that required items are acquired in accordance with all current applicable national and international laws and regulations. All property acquired by the Prime Vendor for the performance of this effort, will be considered CFE.. The Prime Vendor shall hold title to that property. The Prime Vendor shall be responsible for the disposition of all CFE unless directed differently by the Contracting Officer.
  - iii. Uniforms. The Prime Vendor may choose to designate a company uniform, but the Government does not require it and will not reimburse the Prime Vendor. There is no USG "dress code", however, inappropriate attire as determined by the Prime Vendor will not be permitted.
  - iv. Personnel Identification. The Prime Vendor shall furnish an identification badge (ID) to each employee, which shall include at a minimum, a recent photograph, name of the employee, and name of the Prime Vendor.
  - v. Non-Tactical Vehicles (NTVs). The Prime Vendor shall furnish all NTVs required to perform this requirement. The Prime Vendor will also be responsible to provide maintenance on its NTVs. The Prime Vendor shall maintain a Vehicle Acquisition, Operation, Maintenance and Recovery Plan that addresses vehicle registration, licensing, permit requirements, make and model of vehicles, and type of maintenance performed. The Prime Vendor and the Contracting Officer, and/or authorized representative, shall have the right to inspect vehicles and maintenance work. Vehicles used by the Prime Vendor and subcontractor personnel while performing services under this contract shall not be painted or marked to resemble US/Coalition or host nation military and police force vehicles.
12. Ethics Training. Prior to commencing contract performance, the Contractor shall require all employees to complete ethics training. Ethics training shall cover FAR 3.104, Procurement Integrity, personal and organizational conflicts-of-interest IAW FAR Subpart 9.5. Ethics training shall also instruct contractor employees on identifying actual and potential Organizational Conflicts of Interest, the reporting requirements within the Statement of Work (SOW), and the requirements of FAR 9.505-4(b). Prior to commencing contract performance, the Contractor shall furnish to the Contracting Officer evidence that each contractor employee has received training IAW this SOW Paragraph. This evidence shall include a signed statement by each contractor employee whereby the employee agrees that he or she will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the contractor's organization directly concerned with the performance of the contract. Prior to commencing contract performance, the Contractor shall obtain a financial disclosure agreement, similar in form/content of the Office Government Ethics (OGE) Form 450, for each employee assigned to the contract. The Contractor shall also obtain financial disclosure agreements for all subcontractor employees assigned to the contract. If after award, the Contractor discovers an employee's financial conflict of interest with respect to this contract, the Contractor shall make an immediate and full disclosure in writing to the KO. The disclosure shall include identification of the conflict, the manner in which it arose, and a description of the action the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict. The Contractor shall provide annual ethics training for all contractor employees performing the contract and furnish evidence of that each contractor employee has completed the annual training in the same form as evidence of training.

### C. CONTINGENCY OPERATIONS

1. During the life of the contract(s), should the area of responsibility be designated as “Contingency Operations” as defined in FAR Part 2, the Prime Vendor will be expected to comply with all regulations regarding the Contingency Operations.
2. The Prime Vendor will be required to maintain a detailed contingency concept of operations (CONOPs) designed to ensure that you will be able to independently provide continued support to all DLA customers covered by this contract should any of your warehouse platform(s) become unusable for any reason including but not limited to the following: inaccessibility by road, destroyed by attack, infestation, lack of proper heating, air conditioning and cooling, loss of lease, arson, etc. or if any customer location(s) become inaccessible by road. The Prime Vendor must have the capability to perform the CONOPs at all times throughout the life of the contract. From time to time, the Prime Vendor may be required to update its CONOPs based on conditions on the ground. This contingency CONOPs may be tested at any time throughout the life of the contract. Such testing will be at no additional costs to the Government and shall be included in the Prime Vendors distribution price.

### D. Cybersecurity Requirements

- a. Incident Reporting: In addition to adhering to the reporting requirements as outlined in DFARS clause 252.204-7012, when the contractor discovers a cyber-incident that affects covered defense information or the contractor’s ability to meet the requirements of the contract, the contractor will:
  - i. Provide the results of any reviews conducted for evidence of compromise of covered defense information or that affect the Contractor’s ability to provide operationally critical support; including, but not limited to, identifying compromised computers, servers, specific data, and user accounts.
  - ii. Rapidly report the incident(s) to the applicable Contracting Officer and the DLA Cyber Resilience Program Office (the point of contact information will be provided at the time of contract award).
  - iii. Preserve and protect relevant artifacts (e.g., configurations, audit logs, packets, etc.) for at least 90 days from the submission of the cyber-incident report so that if it is deemed necessary, DLA’s Cyber Resilience Program Office or Cyber Emergency Response Team may request access to this the artifacts.
  - iv. Provided, upon request, by the Contracting Officer on behalf of the DLA Cyber Emergency Response Team, access to additional information (to include damage assessment information gathered, etc...) or equipment that is necessary to conduct a forensic analysis related to an identified incident.
- b. Independent Verification and Validation: In addition to adhering to the cybersecurity requirements as outlined in DFARS clause 252.204-7012, specifically the derived

requirements in NIST SP 800-171, as it relates to “security and risk assessments”, the contractor will:

- i. Upon request, provide the Contracting Officer and the DLA Cyber Resilience Program Office a copy of the most current plan of action to mitigate or correct identified weaknesses and vulnerabilities within information system(s) owned and operated by the contractor, which enables the contractor’s ability to meet the requirements/deliverables outlined within the solicitation.
  - ii. Allow DLA’s Cyber Assessment Team or a 3rd Party Assessor (DLA will be privy to all the standards and requirements of the 3rd Party Assessor prior to agreeing to this) to perform a security assessment (Blue Team review, penetration test, etc.) of the information systems owned and operated by the contractor. This will be a measured assessment with pre-defined IP address ranges identified up front and will include technical and operational reviews designed to test the rigor of all required security controls implemented.
    1. If this assessment is to be performed by DLA’s Cyber Assessment Team, the rules of engagement that will govern this action will be provided to the contractor within 90 days of the actual engagement.
- c. Other Safeguarding or Reporting Requirements: The cybersecurity requirements identified for this solicitation and resultant contract(s) in no way abrogates the contractor’s responsibility for other safeguarding or cybersecurity related reporting, etc, as it pertains to its covered information systems as required by other applicable clauses within this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.
- d. Subcontracts: The contractor shall include all the cybersecurity requirements detailed above in all subcontracts and agreements with applicable third parties.

## **IX. QUALITY CONTROL, QUALITY ASSURANCE AND INSPECTIONS**

### **A. PRODUCT QUALITY**

1. Shelf-life for all customers except Navy Ships:
  - i. Acceptance of supplies awarded under this solicitation will be limited to product processed and packed from the latest seasonal and/or latest pack available during the specific annual contract period. For annual pack items, including seasonal items, products will be from the latest seasonal pack available, unless approved in advance by the Contracting Officer.
  - ii. For items produced with shelf life **greater than or equal to 150 days**, no product shall be delivered to customers with less than 30 days manufacturer’s original shelf life remaining unless the customer and Contracting Officer grant prior written approval.
  - iii. For items produced with shelf life **less than 150 days**, no product shall be delivered to customers with less than 5 days manufacturer’s original shelf life remaining unless the customer and Contracting Officer grants prior written approval.

- iv. All products delivered shall be fresh and within the manufacturer's original shelf life (i.e., Best if Used by Date, Expiration Date, or other markings). All products shall be identified with readable "open coded" "Best When Used by Date," "Sell by Date," date of production, date of processing/pasteurization or similar marking indicating the end of the guaranteed freshness date. **Military shelf life is not recognized by DLA, as it is not in accordance with the coded date on the package.**
  - v. Products required by the DLA Troop Support Item Description to be chilled must be maintained and delivered to the customer chilled unless approved by the Contracting Officer. Products required to be frozen must be delivered frozen to the customer unless approved by the Contracting Officer. Some products commonly sold as "Chill" in the commercial market may be required to be frozen, as described and identified as "Frozen" within the DLA Troop Support item description. This is due to customer need and shipment to OCONUS locations, so these specific items should be purchased frozen from the manufacturer. These short-shelf life "chilled" items that require delivery/storage in a frozen state may include, but are not limited to: hot dogs, bologna, bacon, deli meat(s), cooked ham(s), other cooked meat(s), and cheeses. These items should be frozen at the manufacturer's plant. If the manufacturer does not have this capability, then the Prime Vendor is responsible for ensuring compliance with this requirement. These items, identified as "Frozen" shall be blast-frozen by the Prime Vendor following the manufacturer's "Freeze-by- Date" guidelines to preclude degradation and extend shelf-life. The Prime Vendor's label shall correlate with the manufacturer's frozen shelf life recommendations for each type of product. All documentation of the manufacturer's recommended "Freeze-by-Date" and the frozen item recommended shelf life should be available for review if the product is blast-frozen at the Prime Vendor's or subcontractor's facility. NOTE: A product designated by DLA Troop Support as "Frozen" shall never be frozen using a slow-frozen process.
  - vi. The Prime Vendor must maintain adequate inventory turnover rate information. The Prime Vendor must also have a system that tracks and aids in the control of shelf-life and proper shelf-life dating for items normally inventoried.
2. Navy Ship Load-Out, Top-Off, Carrier and Large Deck Support customers: The Prime Vendor must supply products for a ship load-out or top off with a shelf life of not less than 50% of the products' original shelf life remaining. Expiration dates are based on the manufacturer's shelf life of the product. Exceptions will be decided by the Contracting Officer on a case-by-case basis based on input from the customer.
  3. Expired Product/Shelf Life Extensions. It is NOT DLA Troop Support's Policy to grant shelf life extensions for Prime Vendor product. However, on a limited case by case basis, the Contracting Officer reserves the right to authorize shelf life extensions taking into consideration the reason for the request, manufacturer letter of extension granted, customer approval, Military Inspection Service availability and approved price reduction offered. No product shelf life extension will be granted without a price reduction. The procedures for a Prime Vendor's request for shelf life extensions for prime vendor product are as follows:
    - i. The Prime Vendor submits the extension request to the Contracting Officer. The paperwork shall include the following: NSN, Part Number, Item Description, original number of cases received, date received at Prime Vendor facility, Manufacturer's original expiration date, number of cases issued, number of cases remaining/in-stock, Dollar Value, Price Reduction Offered, Reason/Justification for the request (slow-moving, error on quantity ordered VS quantity requested by customers, etc.), Manufacturer Letter of Extension, and Manufacturer's extended expiration date. If acceptance of request is considered by the Contracting Officer, the Contracting Officer

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Representative (COR), as designated, coordinates/requests inspection of products from the local Military Inspection services (Veterinarian/Medical) for each specific product on the list.

- ii. The Military Inspection Services (Veterinarian/medical personnel) inspect each product (in accordance with its list of priorities) for wholesomeness and fit for continued use. Products found fit for a shelf life extension should be extended by the Military Inspection Services taking into consideration the length of the extension guarantee by the manufacturer and its own inspection results. Items fit for continued use should be extended using a DD 1232 Quality Assurance Representative Correspondence form or other approved inspection document. The shelf-life of a product will not be extended, regardless of the Manufacturer Letter of Extension, if the Military Inspection Services inspection results indicates unwholesomeness or product is not fit for continued use.
  - iii. The COR coordinates with customers (Theater Food Service Advisors) regarding over-aged product, provides list of items inspected and found fit for continued use by the Military Inspections Services, and requests customer agreement to receive the product.
  - iv. If a shelf life extension is approved in accordance with the above specified procedure, the Contracting Officer replies to the Prime Vendor with acceptance of the submitted request for extension package for each approved item. The COR coordinates shelf life extension approvals to ensure items extended are issued immediately to customers agreeing to receive the products to preclude further product degradation. A copy of the shelf life extension approval (DD1232 and/or other Military Inspection Services paperwork) must accompany each shipment containing the extended product. Shelf-life shall only be extended once for any specific product. All requests for shelf life extensions for products that were previously (shelf life) extended will be rejected by the Contracting Officer.
  - v. The contractor must request customer approval prior to delivering any product that has an extended shelf life.
4. Commercial standards should be used to maintain temperatures appropriate for individual items.
- i. Level of Product Quality. When designating an item as a match for the DLA Troop Support item in the Market Basket, the item must be:
    - a) Identical in respect to packaging when the DLA Troop Support unit of issue is not described by weights (i.e. pound or ounce).
    - b) Identical for portion control items, except that pack size may vary. For example, NSN 8905-00-133-5889 “Beef Braising Steak, Swiss” is described as “frozen, formed, portion-cut, not mechanically tenderized, US Choice Grade or higher, 6 oz each, NAMP 1102 or equivalent, from knuckle, inside round, Eye of Round, or Outside Round, 53 lbs. per box.” The requirement for the formed six (6) ounce portion must be identical. However, if the commercial pack size were a 15-lb. box, it would be acceptable by modifying the unit of issue ratio in the STORES ordering system. With respect to the previous examples, the DoD ordering activities require continuity with the DoD unit of issue for proper inventory and accounting within DoD.
    - c) Equivalent in respect to grade or fabrication.
  - ii. All items must meet or exceed the Government’s item description of its assigned Government stock number.
5. Security Considerations/Protection / Food Defense



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- a. The awardee shall submit a Food Defense plan (NOTE: to download a copy of the DLA Troop Support Food Defense Checklist go to <https://www.dla.mil/TroopSupport/Subsistence/FoodSafety/FoodQuality/> or contact the applicable Contracting Officer or the DLA Troop Support Quality Audits & Food Defense Branch) prior to the start of production under any resultant contract to describe what steps their firm has taken and will take to prevent product tampering and contamination. The awardee will also describe what steps have been or will be taken that relate to overall plant security and food safety. The contractor must describe in detail the types of measures in place or scheduled to be put in place for the performance period of this contract. DLA Troop Support -FTSB will conduct Food Defense Audits/reviews during Prime Vendor Product Quality Audits, Unannounced Quality Systems Management Visits and/or other visits to verify the implementation, compliance and effectiveness of the firm's Food Defense Plan. DLA may request a copy of a firm's Food Defense Plan at any time during the evaluation of the solicitation. Firms should include specific security measures relating to, but not limited to the following areas:
- i. Employee Identification
  - ii. Background checks where applicable
  - iii. Control of access to plant facility, gates and doors at the facility
  - iv. Internal Security
  - v. Training and security awareness
  - vi. Product Integrity
  - vii. Transportation Security

**B. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS**

Applicable food products, e.g. poultry, dairy and seafood items, delivered to customers listed in this solicitation, as well as any customer added to the Subsistence Prime Vendor Program, shall originate either from an establishment listed in the "Directory of Sanitarily Approved Food Establishments For Armed Forces Procurements," or one which has been inspected under the guidance of the United States Department of Commerce (USDC) or the United States Department of Agriculture (USDA).

**1. FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESALE MEAT ACT**

(a) The Prime Vendor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act and regulations promulgated there under. This warranty will apply regardless of whether or not the supplies have been:

- (1) Shipped in interstate commerce,
- (2) Seized under either Act or inspected by the Food and Drug Administration or Department of Agriculture.
- (3) Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said Acts and regulations promulgated there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.

(b) The Government shall have six months from the date of delivery of the supplies to the government

within which to discover a breach of this warranty. Notwithstanding the time at which such breach is discovered, the Government reserves the right to give notice of breach of this warranty at any time within this six-month period or within 30 days after expiration of such period, and any such notice shall preserve the rights and remedies provided herein.

(c) Within a reasonable time after notice to the Contractor of breach of this warranty, the Government may, at its election:

(1) Retain all or part of the supplies and recover from the Contractor, or deduct from the contract price, a sum the Government determines to be equitable under the circumstances;

(2) Return or offer to return all or part of the supplies to the Contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the supplies are seized under either Act or regulations promulgated there under, such seizure, at Government option, shall be deemed a return of supplies within the meaning of this clause and thereby allow the government to pursue the remedy provided herein. Failure to agree to any deduction or recovery provided herein shall be a dispute within the meaning of the clause of this contract entitled "Disputes."

(d) The rights and remedies provided by this clause shall not be exclusive and are in addition to other rights and remedies provided by law or under this contract, nor shall pursuit of a remedy herein or by law either jointly, severally or alternatively, whether simultaneously or at different times, constitute an election of remedies.

Any warehouse/storage facility used by the Prime Vendor to store food products intended for DLA customers must be inspected for sanitation and food defense compliance during Joint Quality Audits performed by USDA-AMS' and DLA Troop Support 's Quality Auditors or by USDA-AMS's Auditors as requested/directed by DLA.

Note: If the Prime Vendor stores, distributes, processes, and/or ships fresh fruits and vegetables (i.e. produce) to DLA customers, 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, a Hazard Analysis and Critical Control Point (HACCP) Audit will be performed if a fresh-cut operation is performed at the Prime Vendor's facility. Bulk Fresh fruits and vegetable suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory.

## C. WARRANTIES

The supplies furnished under the resultant contract(s) shall be covered by the most favorable commercial warranties that the Prime Vendor gives to any of its customers, whether Government or commercial. The supplies and the rights and remedies provided therein are in addition to, and do not limit, any rights afforded to the Government by FAR 52.212-4(o) "Warranty," "Contract Terms and Conditions-Commercial Items" (Oct 2018) and any addendum contained in the solicitation. The Prime Vendor will provide a copy of its most favorable commercial warranty to the Contracting Officer after award.

## D. QUALITY PROGRAM

1. An established Supplier Selection or certification program, which promotes competition and results in consistent quality with minimal variation in product, shall be used to ensure standardized product quality for each item supplied and/or listed in the stock catalogs, regardless of supplier. The rationale for choosing

the supplier is based on successful relationships. The product quality shall be equal to that described in the pertinent item specification. Product characteristics shall be standardized to the extent that variations in flavor, odor, and texture will be minimized.

2. The Prime Vendor shall have a formal quality assurance program and a quality control manager that is responsible for oversight of the program. All aspects of quality as related to this subsistence contractor program shall be proactively monitored and evaluated by the Prime Vendor.
3. The Prime Vendor shall have inspection procedures that ensure the receipt, storage and outbound movement of quality products to the customer. The Prime Vendor shall have adequate automated procedures, including procedures to ensure that the temperature and humidity controls that the Prime Vendor have in place are adequate and working.
4. It is the policy of the Federal Government to encourage responsible uses of medically important antibiotics in the meat supply chain by supporting the emerging market for meat that has been produced according to responsible antibiotic-use policies, defined as those policies under which meat producers use medically important antibiotics only under veterinary oversight and only when needed to prevent, control, and treat disease – but not for growth promotion. This policy is expected to be in place in 2020; however, offerors are strongly encouraged to begin adopting responsible antibiotic-use policies prior to this date.
5. The Prime Vendor shall develop and maintain a quality program for the product acquisition, warehousing and distribution to assure the following:
  - i. Standardized product quality;
  - ii. Wholesome product by veterinary standards;
  - iii. The usage of First-Expired, First-Out (FEFO) principles
  - iv. Product shelf life is monitored;
  - v. Items are free of damage;
  - vi. Items are segregated in OCONUS warehouses from commercial products;
  - vii. Correct items and quantities are selected and delivered;
  - viii. Ensure requirements of the Berry Amendment are met, when applicable;
  - ix. Customer satisfaction is monitored;
  - x. Product discrepancies and complaints are resolved and corrective action is initiated;
  - xi. Manufacturer, FDA, or DoD initiated food recalls are promptly reported to customers and DLA Troop Support;
  - xii. Compliance with Environmental Protection Agency and Occupational Safety and Health Administration (OSHA) requirements;
  - xiii. Distressed or salvaged items or products shall not be used;
  - xiv. Applicable food products delivered originate from a source listed as a Sanitarily Approved Food Establishment for Armed Forces Procurement;
  - xv. Hazard Analysis and Critical Control Point (HAACP), if applicable;
  - xvi. Commercial standards are used to maintain temperatures appropriate for individual items.

## **E. QUALITY SYSTEMS MANAGEMENT VISITS AND AUDITS**

1. Quality Systems Management Visits (QSMVs)

- i. The Supplier Support Division's audit personnel will conduct unannounced Quality Systems Management Visits (QSMVs) to review the Prime Vendor's compliance with the terms of the contract. The visits will be either on a routine basis or as a result of unsatisfactory ratings received during DLA Troop Support Product Audits, customer complaints, requests from the Contracting Officer, or as otherwise deemed necessary by the Government. QSMVs may include visits to subcontractors and/or product suppliers/food distributors used by the Prime Vendor. If DLA Troop Support deems it necessary to conduct an on-site visit with a subcontractor, product supplier and/or food distributor used by the Prime Vendor, the Prime Vendor shall make arrangements for these visits. During the QSMV the Government may review/verify one, several or all of the following areas as deemed necessary (this is not all inclusive): methods and procedures used to comply with the terms of the contract; condition of storage facilities; product shelf-life management; inventory in-stock (i.e. age of product and condition, labeling, product rotation (e.g. First Expiry-First Out), etc.); shelf life extensions; product substitutions; control of material targeted for destruction/disposal or to return to suppliers as a result of customers' returns including DLA Troop Support's contractor audit results and other recalls; review of paperwork for product destroyed/condemned or returned to supplier including but not limited to product rated Blue/Red during the last DLA Troop Support audit; customer returns, etc.; customer's notification on product recalls (product rated Blue/Red/other reason), etc.; and Prime Vendor's response to customer returns/issues and visits to customer locations. The QSMV may also include unannounced visits to customers served by the Prime Vendor.
- ii. The Prime Vendor must provide the Government a report showing all DLA Troop Support catalog products sorted by location when the QSMV Team arrives. The Prime Vendor's Non-Price (Technical) proposal will be incorporated by reference into the contract.
- iii. The Prime Vendor will be responsible for complying with its Non-Price (Technical) proposal. Procedures and processes set forth in the Prime Vendor's Non-Price (Technical) proposal may be used as standards for a QSMV. If there is any conflict between the solicitation language and the Prime Vendor's Non-Price (Technical) proposal, the solicitation language governs.
- iv. The Prime Vendor must take corrective action to address any concerns identified as a result of the QSMV. Concerns identified during the QSMV, or Prime Vendor failure to take corrective action in response to QSMV findings, will be grounds for terminating the contract for cause. The Government may, at its discretion, take other action to correct the concerns identified during the QSMV, such as but not limited to additional unannounced QSMVs. Such action will not constitute Government forbearance or waiver of noncompliance with contract requirements, and will not affect the Government's right to terminate the Prime Vendor's contract or take other corrective or adverse action.

2. Product Quality Audits:

i. Basic Audits

- a) The DLA Troop Support Worldwide Food Audit Program, covering all Food Classes within a Prime Vendor's catalog (Meat, Poultry, Seafood and Processed Products, and other items as deemed appropriate) functions as a Service and Quality Assurance check for our DoD customers to ensure the war fighters are receiving products of an optimum quality level. The audit objectives focus on the following to ensure:

- Prime Vendor adherence to contract requirements;

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- The quality level of the materials supplied is satisfactory and uniform throughout the DLA Troop Support -FT Subsistence Prime Vendor Regions; and
  - There is no product misrepresentation or unapproved substitution.
- b) The Audit objectives are accomplished utilizing the expertise of the U.S. Dept. of Agriculture (USDA) Agricultural Marketing Service (AMS) Meat, Poultry and Processed Products Graders, U.S. Dept. of Commerce (USDC) National Marine Fisheries Services, and DLA Troop Support -FT Quality Assurance personnel. Representatives from the above agencies form the DLA Troop Support Worldwide Food Audit Team.
- c) Each Prime Vendor will undergo an initial audit once per contract tier pricing period with the first audit occurring during the first tier pricing period and other audits occurring once during each subsequent tier pricing period. The Audits are conducted as a product cutting. The average cost of one Food Audit is approximately \$15,000 (product cost only). As a Prime Vendor, your firm will be expected to provide samples of the Government's choice at a cost of approximately \$15,000 per audit. Additional cost may be incurred by the Prime Vendor if the Prime Vendor's facility does not have a facility/kitchen or the equipment needed to perform the audit. The Government will not pay for any products used during the food audit. All costs associated with these audits must be included in your distribution prices. Product destruction and transportation to the destruction site, if applicable, will be the responsibility of the Prime Vendor.
- ii. Audit Process
- a) The Prime Vendor 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.
- b) DLA Troop Support Prime Vendor Quality Audits are typically a three (3) day process. Day one is devoted to sample selection at the Prime Vendor's warehouse. Day two and three encompass the performance of the actual audit.
- c) If the Prime Vendor stores, distributes and/or ships fresh fruits and vegetables to DLA customers, a Produce Quality Audit may be conducted in conjunction with the Prime Vendor Quality Audit or separately. Also, a Joint DLA/USDA-AMS Good Agricultural Practices (GAP)//Good Handling Practices (GHP)//Hazard Analysis and Critical Control Point (HACCP) (if fresh-cut operation performed at the Prime Vendor facility) will be performed. A Produce Quality Audit is typically a two (2) day process. Day one is devoted to sample selection at the Prime Vendor's warehouse and performance of the GAP/GHP/HACCP Audit. Day two encompasses the performance of the actual Produce Quality audit, a Joint USDA-AMS effort. Warehouse/storage facility used by the Prime Vendor to store food products intended for DLA customers will be inspected for sanitation and food defense compliance during Joint Quality Audits performed by USDA-AMS' and DLA Troop Support 's Quality Auditors or by USDA-AMS's Auditors as requested/directed by DLA.
- d) Upon arrival at the Prime Vendor's facility (Day One), the Lead Auditor will provide a list of items identified for evaluation and the samples will be selected by a USDA-AMS' Auditor. The Lead Auditor will accompany the USDA-AMS during the performance of the GAP/GHP Audits.
- e) Items selected for evaluation will be segregated from the Prime Vendor's regular inventory and appropriate procedures shall be used to maintain the integrity of the samples. Evidence

that the Prime Vendor 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.

- f) During the Produce Quality Audit (Days Two), the DLA Troop Support Lead Auditor will assign an item rating based on compliance with or departure from stated requirements in the DLA Troop Support NSN catalog and the specified US Grade Standard. Items will also be audited to determine compliance with the Berry Amendment, 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.
- g) During the Audit (days two and three), the DLA Troop Support Lead Auditor will assign an item rating based on compliance with or departure from stated requirements as specified in the DLA Troop Support NSN, LSN, or NAPA catalogs. Items will also be audited to determine compliance with the Berry Amendment, 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.
- h) Deviations from the contract or stock number requirements will be color coded and classified based on the severity of departure from requirements as follows:

**PRIME VENDOR PRODUCT AUDIT RATINGS (COLOR CODE RATING SYMBOLOGY)**

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

• **NO ACTION REQUIRED**

**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 or affect its condition and/or the continued storage of the item for further use. Examples of minor nonconformance's: Cataloging issues; Minor workmanship/fabrication violations; Minor weight/portion control violations; Items that exhibit very slight freezer burn or dehydration on some sample units; Minor deviations from packing, packaging, labeling and marking requirements that would not necessitate a regulatory market suspension or affect DLA Troop Support ability to recall the item.

- **ACTION REQUIRED:** This nonconformance requires attention from the Prime Vendor. Minor nonconformances may be tolerated by the customer for a short period of time (until the Prime Vendor receives a new product at its OCONUS facility, but for no more than 30 days at CONUS locations).

**MAJOR NONCONFORMANCE (BLUE)** = A major nonconformance, other than critical, is a deviation from the contract or the item description stock number 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: Domestic source/regulatory/approved source violations; Wrong item; Grade failures or mismatch; Major workmanship/fabrication violations; Major weight/portion control violations; Item shelf life/ expiration date violations; Not latest season pack/crop year violations; Items that exhibit major freezer burn or dehydration, 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 prevents the performance and production of an end item/meal by the customer; 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's ability to recall the product.

- **ACTION REQUIRED:** Prime Vendor is required to STOP ISSUE of the item, unless otherwise approved by the Contracting Officer.

**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 decomposition, contamination, foreign material, and/or other conditions that render an item unfit for human consumption.

- **ACTION REQUIRED:** Prime Vendor is required to STOP ISSUE of the item, immediately NOTIFY DOD CUSTOMERS, REQUEST RETURN of the item in question, and notify supplier/producer of the item (if applicable).

**NOTES:**

**1/ MAJOR NONCONFORMANCE (BLUE)** = In Prime Vendor OCONUS locations only, the Contracting Officer may approve continue issue of the item because of location extenuating circumstances and on a case-by-case basis. This approval is dependent on the type and severity of the deviation; DLA Troop Support -FTSB' Lead Auditor recommendation; customer approval; and if the same item and/or a substitute of equal/higher technical quality is Not-in-Stock at OCONUS location. Continue issue of the item may require and include Prime Vendor screening/rework of the nonconforming item and follow-up Government inspection/audit to verify action taken by the Prime Vendor (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 items not meeting item description cited in DLA Troop Support catalogs. The rating assigned to the item WILL NOT be changed by the Lead Auditor because of acceptance with a waiver/rework/repair of the item is in question. The DLA Troop Support Food Safety Office (DLA Troop Support -FTW), at the request of the Contracting Officer, may issue a restricted (to DLA Troop Support customers only) Hazardous Food Recall for all those items originating from an unapproved source and distributed to DLA Troop Support customers worldwide.

**2/ CRITICAL NONCONFORMANCE (RED)** = The DLA Troop Support Food Safety Office (DLA Troop Support-FTW) 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 DOD customers. If applicable, the Contracting Officer should suggest suppliers/producers of the item to review shipping documents to ensure the same item was not delivered to other DOD customers.

iii. Audit Preparation

The Prime Vendor is responsible for and will bear all costs for the facility and the equipment/supplies used during the audit. Immediately upon receipt of the audit notification,

the Prime Vendor 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 Prime Vendor facility or the space is inadequate other arrangements must be made by the Prime Vendor. The room must be equipped with running water. Cleanup of the cutting area/room and continuous cleanup of equipment will be the Prime Vendor's responsibility. The Prime Vendor must call 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 / personnel that may be needed:

- Freezer storage area to store samples selected.
- Chill area for tempering product for approximately 10 + pallets.
- Tables for conducting the audit and demonstration.
- Sinks/wash area equipped with sanitizing soap for cleaning knives and equipment.
- Water jet spray attachment for the sink.
- Pans or work area in close proximity to a sink area to drain/purge from packaged product.
- Deep fat fryer.
- Microwave.
- Calibrated scales – A scale capable of weighting portion control items and roasts; a large scale capable of weighting large cases (weighing up to 70 pounds); a digital portion scale capable of weighting in ounces and grams.
- A minimum of 10 large flat baking sheet pans, plastic trays or some type of tubs to place thawed meats. Cart to move samples around.
- Cutting boards (two or three).
- Large trash cans with bags.
- Power hook-up for 3-4 computers. Access to a copy machine.
- Small box for ground beef samples (Approx. 10 oz) and dry ice or cold packs for mailing.
- Miscellaneous supplies: Paper towels; heavy-duty plastic bags; one box of large latex gloves; paper flip chart/easel with markers (RED, BLUE, ORANGE, GREEN, BLACK); cellophane tape.
- Optional but considered highly desirable: Cloth towels and floor covering to maintain clean and sanitary floor areas.
- A camera and a person to take digital pictures during the audit may be required.
- A copy of the pictures will be e-mailed to the DLA Troop Support auditor at the end of the audit.

iv. Sample List/Selection of Samples

- a) The DLA Troop Support Lead Auditor will provide a list of sample items upon arrival at the contractor facility. Two samples for each item will be selected. Pick list/picker stickers, six month velocity or usage report, and an on-hand inventory quantity report (i.e. number of cases on hand) should be developed for each item after receipt of the list. In addition, since all seafood items are required to originate from an approved source, copies of certificates/documentation for these items and any item on the list that is required to be certified must be available for review upon arrival at the facility. 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 will require tempering/thawing. An area will need to be provided for the sample tempering process with a capacity for at least 10 or more single



layer pallets side by side. In order to rapidly temper these items the warmest area at the facility will be needed.

- b) Upon tempering the items will need to be placed in a chilled environment. All samples must be stored in controlled conditions to protect from abuse or tampering. The meat audit items (approx. 13-20) will be primarily Center of the Plate –Beef and Pork- Steaks, Roasts, Chops, Diced, and Ground items. Ground Beef Bulk and Patties will be sent to the USDA laboratory for Analytical testing- Fat only. The Prime Vendor will need to arrange for the shipping of the samples approximately 4 ounces, except in OCONUS areas where prohibition exists or it is impractical. The seafood items (approx. 13-20) will consist of Fish - Portions, Sticks, Fillets, and Steaks, Shrimp, Lobster, Crab, Clam, Oyster, and Crawfish. Poultry items (approx. 13-20) will also be center of the plate items. Processed Products Fruit and Vegetable will consist of approximately 13-20 Items.

NOTE: Certification/Documentation - To avoid delays/questions during the audit, the Prime Vendor should ensure that ALL products intended for DLA Troop Support customers are derived from Approved Sources and meet the Berry Amendment requirements (unless otherwise is indicated in the contract or authorized by the Contracting Officer). The Prime Vendor should obtain and have the following certifications/documentation available during the sample selection (preferable) and/or during the audit should the Lead Auditor need to review documentation to verify compliance with the following: All Seafood items are required to originate from an approved domestic source; processed fruits and vegetables are required to be from the latest seasonal pack (crop year) available, so be prepared to provide seasonal pack/crop year information for samples selected; and any item on the list that is required to be certified must be available for review.

v. Audit Results

Quality audit results are performance indicators that will be used in conjunction with a Prime Vendor's past performance when evaluating its overall performance on future procurements. DLA Troop Support considers 85% acceptability for each category (Meats, Poultry, Seafood, and Processed Products) as the minimum standard for acceptable performance. The Prime Vendor will be given a detailed report on each product reviewed. It will be the Prime Vendor'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.

vi. Follow-Up Audits

Follow up audits may be scheduled within a one-year period of the initial audit 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 one or more commodities, 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 those commodities 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 Prime Vendor's catalog were NIS) during the initial audit, may also be audited during a follow-up. If the follow-up is a one-day audit (one or two commodities) these samples may require removal from refrigeration and/or frequent monitoring by Prime Vendor personnel the previous day/evening to ensure thawing within a 24-hour period. Additionally, the DLA Troop Support -FTSB's Lead Auditor may stop at the facility to review the thawing progress the evening

before the audit.

The estimated cost of a Follow-Up Audit includes the current USDA-AMS/USDC fee at the time of the audit/QSMV (FY 2020 fee - \$115.00 per hour); in OCONUS, two (2) eight (8) hour days of temporary duty and one (1) or two (2) eight (8) hour day(s) of review/audit time. The total cost of review time is dependent upon the number of auditors/graders needed to perform the Follow-up Audit. For example, one (1) commodity failure will require two (2) USDA-AMS/USDC auditors, two (2) commodity failures will require three (3) USDA-AMS/USDC auditors, and three to four (3-4) commodities failures will require four (4) auditors. Follow-up QSMVs require a minimum of two USDA-AMS Auditors, regardless of number of commodity failures. In OCONUS, the maximum fee charges/cost for 4 days/8hr day is \$3,680 (may vary due to the location and per diem rates per auditor plus reimbursement for actual travel cost (transportation, lodging, per diem, rental car, miscellaneous expenses) as authorized by the Government Joint Travel Regulation. After the Follow-up Audit/QSMV, the Contracting Officer will request for reimbursement of USDA-AMS/USDC's inspection and travel costs associated with the Follow-up Audit/QSMV from the Contractor. Contractor will submit payment (Payment will be made through <https://www.pay.gov/public/form/start/28065129>; See Page 66 for Instructions) to the Contracting Officer within 45 Calendar days of request

vii. Audit failures

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 or follow-up audits. Such action will not constitute Government forbearance or waiver of the deficiency and will not affect the Government's right to terminate the Prime Vendor contract or pursue other corrective or adverse actions against the contractor.

**F. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT**

The Prime Vendor shall develop and maintain an approved, commercial sanitation certification and adhere to 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, Food manufacturing Practices, the Federal Insecticide, Fungicide, and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as all pertinent state and local laws and regulations. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request. 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.

**SANITARY CONDITIONS**

(a) Food establishments.

(1) All establishments and distributors furnishing subsistence items under DLA Troop Support contracts are subject to sanitation approval and surveillance as deemed appropriate by the Military Medical Service or by other Federal agencies recognized by the Military Medical Service. The Government does not intend to make any award for, nor accept, any subsistence products manufactured, processed, or stored in a facility which fails to maintain acceptable levels of food safety and food defense, is operating under such unsanitary conditions as

may lead to product contamination or adulteration constituting a health hazard, or which has not been listed in an appropriate Government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the U.S. Army Public Health Command (USAPHC ) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement, (Worldwide Directory) (available at:

<http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx> ). Compliance with the current edition of DoD Military Standard 3006A, Sanitation Requirements for Food Establishments, is mandatory for listing of establishments in the Worldwide Directory. Suppliers also agree to inform the Contracting Officer immediately upon notification that a facility is no longer sanitarily approved and/or removed from the Worldwide Directory and/or other Federal agency's listing, as indicated in paragraph (2) below. Suppliers also agree to inform the Contracting Officer when sanitary approval is regained and listing is reinstated.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the worldwide directory. Additional guidance on specific listing requirements for products/plants included in or exempt from listing is provided in Appendix A of the worldwide directory.

(i) Meat and meat products and poultry and poultry products may be supplied from establishments which are currently listed in the "Meat, Poultry and Egg Inspection Directory," published by the United States Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS), at <http://www/fsis/usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the USDA shield and applicable establishment number. USDA listed establishments processing products not subject to the Federal Meat and Poultry Products Inspection Acts must be listed in the Worldwide Directory for those items.

(ii) Intrastate commerce of meat and meat products and poultry and poultry products for direct delivery to military installations within the same state (intrastate) may be supplied when the items are processed in establishments under state inspection programs certified by the USDA as being "at least equal to" the Federal Meat and Poultry Products Inspection Acts. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

(iii) Shell eggs may be supplied from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published by the USDA, Agriculture Marketing Service (AMS) at <http://www.ams.usda.gov/poultry/grading.htm>.

(iv) Egg products (liquid, dehydrated, frozen) may be supplied from establishments listed in the "Meat, Poultry and Egg Product Inspection Directory" published by the USDA FSIS at [http://apps.ams.usda.gov/plantbook/Query\\_Pages/PlantBook\\_Query.asp](http://apps.ams.usda.gov/plantbook/Query_Pages/PlantBook_Query.asp) . All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

(v) Fish, fishery products, seafood, and seafood products may be supplied from establishments listed under "U.S. Establishments Approved For Sanitation And For Producing USDC Inspected Fishery Products" in the "USDC Participants List for Firms, Facilities, and Products," published electronically by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration Fisheries (USDC, NOAA) (available at:

seafood.nmfs.noaa.gov). All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the full name and address of the producing facility.

(vi) Pasteurized milk and milk products may be supplied from plants having a pasteurization plant compliance rating of 90 percent or higher, as certified by a state milk sanitation officer and listed in “Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers” (IMS), published by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) at <http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2007965.htm>. These plants may serve as sources of pasteurized milk and milk products as defined in Section I of the “Grade ‘A’ Pasteurized Milk Ordinance” (PMO) published by the USDHHS, FDA at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm>.

(vii) Manufactured or processed dairy products only from plants listed in Section I of the “Dairy Plants Surveyed and Approved for USDA Grading Service,” published electronically by Dairy Grading Branch, AMS, USDA (available at: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRD3651022> ) may serve as sources of manufactured or processed dairy products as listed by the specific USDA product/operation code. Plants producing products not specifically listed by USDA product/operation code must be Worldwide Directory listed (e.g., plant is coded to produce cubed cheddar but not shredded cheddar; or, plant is coded for cubed cheddar but not cubed mozzarella). Plants listed in Section II and denoted as “P” codes (packaging and processing) must be Worldwide Directory listed.

(viii) Oysters, clams and mussels from plants listed in the “Interstate Certified Shellfish Shippers Lists” (ICSSL), published by the USDHHS, FDA at <http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2006753.htm>.

(3) Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4H/MCO P1010.31H, Veterinary/Medical Food Safety, Quality Assurance, and Laboratory Service, for a list of establishment types that may be exempt from Worldwide Directory listing. (AR 40-657 is available from National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312; 1-888-584-8332; or download from web site: [http://www.apd.army.mil/pdffiles/r40\\_657.pdf](http://www.apd.army.mil/pdffiles/r40_657.pdf) ) For the most current listing of exempt plants/products, see the Worldwide Directory (available at: <http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx>).

(4) Subsistence items other than those exempt from listing in the Worldwide Directory, bearing labels reading “Distributed By,” “Manufactured For,” etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

(5) When the Military Medical Service or other Federal agency acceptable to the Military Medical Service determines the levels of food safety and food defense of the establishment or its products have or may lead to product contamination or adulteration, the Contracting Officer will suspend the work until such conditions are remedied to the satisfaction of the appropriate inspection agency. Suspension of the work shall not extend the life of the contract, nor shall it be considered sufficient cause for the Contractor to request an extension of any delivery date. In the event the Contractor fails to correct such objectionable conditions within the time specified by the Contracting Officer, the Government shall have the right to terminate the contract in accordance with the “Default” clause of the contract.

(b) Delivery conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product “unfit for intended purpose,” supplies tendered for acceptance may be rejected without further inspection.

(End of Text)

## **G. DELIVERY TEMPERATURES, SHIPPING AND STORAGE REQUIREMENTS**

1. The Prime Vendor is responsible for proper product storage, segregation and delivery of product in excellent condition. The following will apply:
  - i. In order for frozen items to be accepted by the receiving activity, the following criteria must be observed:
    - a) Packages must be solid, not soft, upon arrival;
    - b) Container and wrapping must be intact, not damaged, and in a solid condition;
    - c) Packages must be free of drip and show no evidence of thawing and re-freezing (i.e. watermarks on boxes; off odor) or dehydration; and
    - d) Cello wrapped packages will not be discolored or show other signs of freezer burn.
2. Items requiring “Protection from Heat” shall be stored and delivered at a temperature below 70 degrees Fahrenheit.
3. Items requiring chilled conditions shall be stored and delivered under refrigeration of 32 to 40 degrees Fahrenheit.
4. For ice cream, the recommended storage and delivery temperature is –10 degrees Fahrenheit and the temperature shall not exceed 0 degrees Fahrenheit.

## **H. REJECTION PROCEDURES**

1. If product is determined to be defective, damaged, and/or compromised in any other manner, it may be rejected by the authorized Government receiving official.
2. When product is found to be non-conforming or damaged, or otherwise suspect, the authorized Government receiving official shall reject the item and/or determine the course of action to be taken with the product in question. If present, the COR may be consulted. The final decision is to be made by the authorized Government receiving official or Contracting Officer.
3. In the event an item is rejected, 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 delivery ticket/invoice total must be adjusted to reflect the correct dollar value of the shipment.
4. Replacements will be authorized based on the customer’s needs. Any replacement delivered items will be delivered under a separate delivery ticket/invoice utilizing a new call number, CLIN number, and delivery order number. These re-deliveries will not constitute an emergency requirement and therefore

will have no additional charges. These re-deliveries shall be made by the Prime Vendor as soon as possible.

5. In the event that a product is rejected after initial delivery is made, the Prime Vendor may be required to pick up the rejected product or the customer may agree to dispose of it. Credit due to the ordering activity as a result of the rejected product being returned, will be handled through a receipts adjustment process in STORES. If the contractor has already been paid for the product, an offset will be issued through DLA Troop Support's financial system.
6. Government policy requires that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the Prime Vendor from responsibility, nor impose liability on any of the customers, for nonconforming supplies.
7. Supplies transported in vehicles which are unsecured, show signs of tampering, not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected summarily without further inspection.
8. Product that is rejected shall not be delivered to any customer.

#### **I. AUTHORIZED RETURNS**

The Prime 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 Market Basket;
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 fulfillment error by the contractor / and or purchase ratio factor error; and
10. Any other condition not specified above that is determined a valid reason by the customer.

#### **J. SHORT SHIPMENTS AND SHIPPING ERRORS**

1. The authorized Government acceptance official will annotate short shipment(s) on the delivery ticket/invoice that accompany the delivery. Once complete, the acceptance official will print their full name, sign and date the delivery ticket/invoice. The Prime Vendor's representative (i.e. the truck driver/pilot), will acknowledge and counter-sign the delivery ticket/invoice. Both Government acceptance official's and the Prime Vendor's representative's signatures **MUST** be legible. If either signature is not legible, the delivery ticket/invoice payment may be delayed or not processed at all.
2. Any product delivered in error by the Prime Vendor must be picked up on the next delivery day after notification by the ordering facility.

**K. U.S. ARMY MEDICAL DEPARTMENT ARMY PUBLIC HEALTH CENTER INSPECTORS AND INSPECTIONS**

As described and detailed in this solicitation, all inspections by United States Army Public Health Center (USAPHC) (Formally VETCOM) shall be conducted in accordance with 48 CFR Part 246, Army Regulation (AR) 40-657, AR 40-656, and any other rule, regulation, or standard food inspection policy applicable to the Subsistence Prime Vendor operating within the geographic areas under this solicitation. Any and all inspection determinations made by the USAPHC shall be final.

**L. MILITARY INSPECTION AT DESTINATION**

1. All deliveries are subject to military inspection at destination. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). Additionally, upon completing the delivery (or deliveries) and before the carrier leaves the installation, copies of the invoices may be required to be delivered to a central "Accounting Office" activity on the installation after all drops have been made and prior to the carrier's departure from the installation.
2. Under normal conditions, all deliveries shall be F.O.B. Destination to the end user delivery points. For Prime Vendor deliveries of product from the OCONUS facility(s), all items will be delivered to end-user customer delivery point's loading platform (unless otherwise indicated) and be free of damage, with all packaging and packing intact. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charge involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the final destination. The Prime Vendor may be liable directly to the USTRANSCOM carrier(s) for charges for detained containers, port storage of detained containers, and maintenance of detained refrigerated containers. The Prime Vendor shall pay and bear all charges to the specified point of delivery. For complete definition of F.O.B. Destination, see FAR 52.247-34, F.O.B. DESTINATION (Nov 1991), which is incorporated into this solicitation by reference.
  - i. FOB Destination Shipments: All shipments, unless otherwise specified by the Contracting Officer.
  - ii. Inspection and acceptance of products will be performed at destination by an authorized Government receiving official. 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.
  - iii. The Prime Vendor's delivery vehicles shall be equipped to maintain the appropriate temperatures and product segregation as necessary to deliver products at the proper temperature. Deliveries shall be made in clean, closed vehicles. When transporting food items, the vehicles shall be maintained in good sanitary condition to prevent contamination of the material. Delivery vehicles used to deliver items under this contract shall be subject to military veterinary inspection at destination. In addition, the delivery vehicles will be inspected for cleanliness and condition.
  - iv. The authorized Government receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket/invoice shall not be signed prior to the inspection of each product. All signatures, whether from the Prime Vendor or the customer, must be legible so that the individual signing may be identified and questioned in the circumstance of any dispute that may arise.
  - v. All overages/shortages/returns are to be noted on the delivery ticket/invoice by the authorized Government receiving official and truck driver/pilot. A signature on the delivery ticket/invoice denotes acceptance of the product.

- vi. The Prime Vendor shall forward two (2) copies; of the delivery ticket/invoice with the shipment. The authorized Government receiving official will use the delivery ticket/invoice as the receipt document. Both copies of the signed and annotated delivery ticket/invoice will serve as the acceptance document. No invoice may be submitted for payment until acceptance is verified.
3. Under special circumstances; i.e., special military exercises, F.O.B. Origin terms will apply. In these instances, **the Government will accept product at the Prime Vendor's CONUS facility (FOB Origin) and a fifty percent (50%) reduction of the Distribution Price shall be applied.** For complete definition of F.O.B. Origin, see FAR Clause, 52.247-29, F.O.B. ORIGIN (Feb 2006), which is incorporated into this solicitation by reference. On any F.O.B. origin shipment, the Prime Vendor must arrange for USDA Inspection and is responsible for associated cost.
  - i. FOB Origin Shipments – Only when specified by the Contracting Officer.
  - ii. Inspection and acceptance of products will be performed at the Prime Vendor's CONUS distribution point by a USDA official (costs for this inspection program are borne by the Prime Vendor). Inspection will normally be limited to identity, count, and condition. The USDA official will sign the contractor prepared DD Form 250 form denoting acceptance of the product by the Government. Invoices matching the DD250 quantities along with a copy of the DD250 will be express mailed by the contractor to both DLA Troop Support and the end customer.

#### **X. PACKAGING, PACKING, AND LABELING**

1. All packaging and packing shall be in accordance with best commercial practices. Labeling shall be in accordance with commercial labeling complying with the Federal Food, Drug and Cosmetic Act and regulations promulgated there under. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code. The Prime Vendor shall be responsible for complying with any applicable packaging, packing, and marking regulations of the various countries in/through which product will be stored/transported.
2. Semi-perishable items shall be snugly packed in shipping containers that fully comply with the National Motor Freight Classification and Uniform Freight Classification Code, as applicable.
3. All food and beverage products shall be identified with open code dates clearly showing the use by date, date of production, date of processing/pasteurization, sell by date, best if used by date, or similar marking indicating the end of the guaranteed freshness date. The Prime Vendor shall provide a code book for label/date verification.
4. All meats, poultry, and seafood will be vacuum packed when practicable. In all instances the packaging must protect the product from freezer burn and contamination.
5. Frozen product must be processed and packed to allow removal of the individual units from the container without damage to that or other units. The intent is to be able to remove only that amount of product required for current needs, without the necessity of defrosting all units.
6. Chill and freeze products must be shipped in refrigerated (Reefer) Vans and appropriately separated per temperature requirements.



## **XI. MARKINGS**

1. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as “KEEP FROZEN,” “KEEP REFRIGERATED,” etc. shall be used on all cases when appropriate.
2. To the maximum extent possible, nutritional and ingredient labels shall be placed on the individual package.
3. Any delivered product not labeled with the name and address of the manufacturing establishment must be identified as to its manufacturer by “timely” advance written notice to each installation’s officer in charge of food service (e.g. Installation Food Advisor (IFA)). The listing is requested in alphabetical order in respect to the shipping container nomenclature. This listing must be kept current and provided to each Installation’s Food Advisor, Food Service Officer, or FSC on a quarterly basis.

### **4. Case Marking/Labeling – Customers OTHER THAN THE NAVY SHIPS:**

Shipping cases shall be marked or labeled on one end or side panel with the following information:

- a. Item Nomenclature or Description
- b. Date of Pack
- c. Product Expiration Date and/or
- d. Open Code Date

### **5. Case Marking/Labeling- Navy Ships Customers:**

All products shall have labels to include the DoD Stock Number, Item Nomenclature, Funding Information Code (FIC), Case Weight, Case Cube, Bar Code, Unit Pack, Lot Number, Unit of Issue, Date of Pack, Quantity, “Best When Used By” date, “Sell By” date, date of processing/pasteurization, or similar marking indicating the end of guaranteed freshness date, such as (see enclosed sample label). The Dates of Pack and Best When Used By must be “in the clear” (open coded) and easily visible. Item nomenclature shall be sufficient to identify the item, the DoD unit of issue may be found in the Schedule of Items. **It is mandatory that a label containing this information be adhered to every case delivered.**

The Navy has incorporated a new initiative that adds a bar code of the National Stock Number (NSN) to the label. The bar code is used to receipt product at time of delivery. In addition to the information listed above, the Prime Vendor must provide a bar code on the case label by using the following:

- Checkmate Inventory for Windows
- The Prime Vendor catalog will be published on the SALTS Web Page:  
<http://www.salts.navy.mil/downloads/dpsc/dpsc.html#PrimeVendorCatalogs>

The label shall be placed on each case so that the bar code is not wrinkled, wet or wrapped around case corners. It must be suitable for accurate and quick scanning and must include:

- Requisition number if provided by the customer or STORES Purchase Order number
- The NSN represented in both human readable and bar coded format. This format shall be Code 128 with no less than 7.5 mil bar. Approximate size to be 3” long by ½” tall.
- Human readable Funding Information Code (FIC).
- When the weight of a packaged item is random or catch-weight, the weight must appear on the label. Actual labels must AT LEAST be 4” X 4”.

6. CODE DATES: All products shall be identified with readable open code dates (open code dates are markings that indicate product expiration date). All products delivered by the Prime Vendor will have an “open coded” (month/year) “Date of Pack” (DOP) and an “open coded” “Best When Used By Date,” “Sell by Date,” date of production, date of processing/pasteurization or similar marking indicating the end of the guaranteed freshness date. If the product manufacturers/producers do not use open code dating, the Prime Vendor should request labeling with open code dates or shall use the origin manufacturers/producers Product Code Key to decode the item shelf life information, decode the closed code date, and must apply the open code date to their own label. Item Nomenclature shall be sufficient to identify the item. It is mandatory that a label containing this information be on every case delivered. Bar Codes are not required on shipping cases. If bar codes become a requirement during the life of this contract, the Prime Vendor will be required to apply the bar codes as directed. **Military shelf life is not acceptable as acceptable shelf life is in accordance with coded date.**

7. TRACEABILITY REQUIREMENTS FOR PRIME VENDOR AND ITS SUPPLIERS RE-PACKAGING AND RE-LABELING PRODUCTS:

If the Prime Vendor removes the item from the manufacturer’s original packaging/shipping container and re-packages/re-labels an item, documentation must be maintained to trace the item back to the original producer/packer in case of a hazardous food recall or an item is rated Red/Critical during a DLA Troop Support audit. The Prime Vendor shall maintain or request from its suppliers documentation/certificates containing the following information: Item nomenclature, name and number of establishment, location, country of origin, date of production/pack (DOP), lot number, etc. If processing/production/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 a lot number/DOP/Code Date of an item can be traced back to the original manufacturers/producers of an end item. The manufacturer/producer and/or the contractor’s item label shall clearly identify the item(s) shelf life information (using an open code date) on the exterior of each case. In addition, the Prime Vendor must maintain records of quantities and when and where the re-packaged/re-labeled item(s) were shipped. The Prime Vendor must be able to show/provide DLA Troop Support Quality Auditors the documentation for samples selected during contractor Product Quality Audits or Unannounced Quality Systems Management Visits (QSMVs). It is the Prime Vendor’s responsibility to notify and ensure their suppliers understand and comply with this requirement.

8. The above requirements are necessary in the event of a food recall (i.e., ALFOODACT) of potentially hazardous products when a recall is issued by a Regulatory Agency and for the Prime Vendor to isolate suspected items in order to notify customers in an expeditious manner whenever products are rated “Red/Critical” during a DLA Troop Support audit. The above requirements serve two main purposes: (1) to protect DLA Troop Support’s customers and expeditiously notify them in case of accidental or intentional tempering/contamination and/or to prevent consumption of unsafe/hazardous products; and (2) to maintain traceability of re-packaged/re-labeled items in order to verify country of origin, approved source requirement during the shelf life cycle of the item in the contractor storage and the customer's receipt/storage of the item in order to expedite the recall process for all suspected items intended for DLA Troop Support’s customers.

**XII. PALLETIZATION**

1. All Prime Vendor shipments must be palletized in accordance with good commercial practices. The Prime Vendor is responsible for the purchase of all pallets, which must be American sized pallets (48 x 40 inches). Pallets may not always be returned on a 1 to 1 basis. This does not relieve the Prime Vendor from delivering products on the proper type pallet. Pallet retrieval and all associated costs shall be the responsibility of the

Prime Vendor. Deliveries will be uniquely palletized for ultimate consignees. Under no circumstances will material for different consignees be co-mingled on the same pallet.

2. The palletized/containerized unit loads require placards. The placards contain identification and contract data markings, which are to be stenciled, printed or labeled on two adjacent sides of the unitized load. The placards contain the stock number, Food Items Code (FIC), item description, quantity, size and unit, the quantity is the number of shipping cases in the unit load, the gross weight and cube, the contract and delivery order number, expiration date and the contractors name and address.
3. Cases may be mixed on the pallet, but are to be skillfully built to protect the product and case integrity as to allow the receiver to out check/in check all items on that pallet. All shipments must include a pallet manifest in addition to the truck manifest.
4. Customers Other than Navy Ships: Palletization shall be in accordance with good commercial practices. Pallet height should not exceed 60” including the pallet.
5. Special Navy Ship Requirements:
  - A. All product must be palletized and placed on the pier alongside the ship.
  - B. Deliveries will be uniquely palletized for ultimate consignees. Under no circumstances will material for different consignees be co-mingled on the same pallet.
  - C. The contractor shall use standard commercial palletization and shrink-wrapping. Pallet retrieval, and all associated costs, shall be the responsibility of the Contractor.
  - D. The contractor shall provide a standardized pre-delivery customer fill rate report in hard copy in Excel format.
  - E. For deliveries to Aircraft Carriers (CVN/LHA/LHD Ship Classes) or Resupply Ships for their CARGO Load, the following applies.

**1. When an Aircraft Carrier or Resupply ship (CARGO Load) is the ultimate consignee:**

- a. Palletized material shall not exceed 48” in height, including the pallet.
- b. Product shall be palletized one-line item per pallet when practicable.
- c. Palletizing shall be done using a two-way wing type pallet. The commercial wood wing pallet dimensions must be 40"X48"X48” or 48"X40"X48". The Industrial Standard Specification for Wood pallets is the "American Society of Mechanical Engineers (ASME) MH1-Part 9, Part Number MH1-9-05-SW4048." All pads must be commercial fiberboard, 40"X48", positioned on the pallets before loading. The unit load bonding material must consist of strappings: two-girth wise and three lengthwise. Bonding material shall be threaded through the strapping slots on the pallet to form a consolidated, stable cargo, which can be handled as a unit or commercially shrink-wrapped.
- d. All shipments of bagged products susceptible to breakage/leakage such as flour, sugar, salt and rice must be further packaged in a tri-wall container.

**2. When other than an Aircraft Carrier or Resupply ship is the ultimate consignee:**

- a. Palletized material shall not exceed 40” in height, including the pallet.
- b. Pallets shall be double shrink-wrapped

**XIII. CUSTOMERS**

Korea customers currently consist of Army, Air Force, Marine, and Navy dining facilities. Along with

Subsistence Prime Vendor Republic of Korea

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Visiting Navy Ships, Morale, Welfare, and Recreation (MWR), and other federally funded customers. Ordering facilities (Customers) can be added and/or subtracted as conditions warrant based of U.S Government request and Military Service/Customer needs. The Prime Vendor must have the appropriate equipment to make all deliveries.

**Please note that Republic of Korea includes surrounding islands such as Jeju Island.** It is the responsibility of the Prime Vendor to ensure product arrives to all delivery locations in good condition.

The following is a current list of Customers in the Area of Responsibility (not including visiting ships):

<b>CUSTOMER NAME</b>
FOOD SVC OFC OSAN AIR BASE KOREA
OMALLEY INN KUNSAN AIR BASE
SUWON AB FLIGHT KITCHEN
DAEGU AB
GWANG JU AB DINING FACILITY
CDC OSAN AIR BASE KOREA
NAF CENT WAREHOUSE OSAN AB K-55
KUNSAN AB NAF WAREHOUSE
DEFENSE POW/MIA ACCOUNTING AGENCY
LOGISTIC READINESS CENTER-DAEGU
121ST GENERAL HOSP, CAMP HUMPHREYS KOREA
CAMP CASEY
CAMP BONIFAS JSA
CAMP HENRY DFAC
TALON CAFE
CHINHAE NAVAL BASE
CAMP MUJUK
KOREA 3RD MARINE EXPEDITIONARY
CHINHAE GALLEY CHINHAE KOREA
HM 14 DET 1 ATTN S4 SUPPLY
DRAGON HILL LODGE

**XIV. DELIVERY, TITLE, ORDERS, AND ORDER FILL RATES**

**A. CUSTOMER DELIVERIES:**

1. Deliveries shall be F.O.B. Destination to all ordering activities and delivery points unless otherwise specified. All items must 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 OCONUS customer's location. No pallet exchange programs will be available for the customers listed in this

solicitation. Dependent upon the specific customer, deliveries shall average 1 to 3 times per week to each customer, unless the customer and the Prime Vendor agree upon more or less frequent stops. Dependent upon the specific customer, drivers may be required to transport the product to the rear of the truck for customer off-loading or the driver may be required to down-load the product to the ground or pier.

2. Installation delivery routes and stop-off sequence will be coordinated and verified with the installations on a post award basis by the awardee.
3. Specific delivery point information is provided above. Some installations have more than one delivery point. Awardee must provide expeditious off-loading and delivery to the customer and ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer.
4. Products for individual customers/dining facilities must be segregated. Many of the military bases have more than one delivery point. All products shall be segregated by drop-off point. The intent is to provide expeditious off-loading and delivery to the customer.
5. The Contractor shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer. Drivers should carry picture ID's, and comply with any internal ID and security requirements of the specific site. Trucks should also be properly registered with each activity to ensure smooth admission to the compound, while fully honoring all in-house security protection measures of the military activities. Not all customer locations have access to docks and therefore the Contractor will need trucks with lift gates to assure that deliveries can be down-loaded to the ground or pier for inspection and acceptance.
6. Many bases currently require enrollment in RapidGate and will not allow entry without RapidGate clearance. During the contract start-up/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 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 start-up/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 <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.

Note: Normal Hours for Delivery are: 0800 -1100 and 1300 – 1700 hours.

**Note: If additional customer locations are added after award in the AOR, the already established distribution prices per the contract will apply to the additional locations, and no further cost will be incurred by the Government.**

7. Normal routine deliveries for Afloat customers shall be made as soon as possible in accordance with the customers required delivery date (RDD), taking into consideration the customers' location, order processing time, transit time and weather conditions.
  - i. In preparing the RDD, the customer should take into account the Prime Vendor's transit time.
  - ii. Navy Load Out is defined as any STORES Order > 100 pallets
  - iii. Navy Top Off is defined as any STORES Order < 100 pallets

Normal routine deliveries for Afloat Load Out customers shall be made as soon as possible in accordance with the customers required delivery date (RDD), taking into consideration the customers' location, order processing time, transit time and weather conditions. Load Out orders must be submitted to the Prime Vendor 60 days prior to the RDD. Top off orders must be submitted 45 days prior to the RDD. Any demurrage costs incurred as a result of ship schedule changes are the responsibility of the Prime Vendor and will not be reimbursed by DLA Troop Support.

Pallet return may not be allowable either due to customer missions(s) or country custom regulations. Where allowable and practical, pallet exchange programs will be implemented by customers. Pallets will rarely be returned on a 1 to 1 basis. The Prime Vendor shall remove all empty pallets and all excess packaging materials on the next delivery at their own expense. Any charges accrued due to delay or non-removal of the packing material is the responsibility of the Prime Vendor and will not be reimbursed by DLA Troop Support.

The Prime Vendor should be aware that projected feeding strengths at each military location are subject to fluctuations based on a variety of factors; i.e., seasonal increases/decreases in personnel, surges in personnel during training exercises or crisis situations, or troop transfers, etc. As previously described, any projections are estimates provided as guidance to the Prime Vendor to assist in its supply chain management. The Government will use its best efforts to ensure the accuracy of any information provided, but in no way warrants or represents as to the accuracy of that information as to be liable for such information. It is the sole responsibility of the Prime Vendor to ensure that its supply chain management is executed in such a way as to meet all contractual

requirements specified in this solicitation or added via modification to the resulting contract. Therefore, it is critical that the Prime Vendor's customer service representatives be able to converse fluently in English, and maintain open communications with the individual bases to properly manage its supply chain, be aware of these fluctuations, and work closely with the customers to provide the increased quantity and frequency of deliveries needed during these critical times.

Products for individual customers/dining facilities must be segregated. Many of the military bases have more than one delivery point. All products shall be segregated by drop-off point. The intent is to provide expeditious off-loading and delivery to the customer.

The Prime Vendor shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer. Drivers shall carry picture ID's, and comply with badge requirements and any other internal ID and security requirement of the specific site, at no additional cost to the U.S. Government. Trucks/aircraft shall also be properly registered with each activity to ensure smooth admission to the compound, while fully honoring all local security protection measures of the military activities. The Prime Vendor may be responsible for consequential damages resulting from its employees' or subcontractors' failure to abide by security protection measures.

8. At time, it may be necessary for deliveries to me made in an unmarked vehicle. The Prime Vendor must have an unmarked vehicle available to make customer deliveries.

## **B. ORDERING SYSTEM – SUBSISTENCE TOTAL ORDER AND RECEIPT ELECTRONIC SYSTEM (STORES)**

1. Accessed via the Internet, the STORES is the Government's translator/ordering system that is capable of accepting orders from any of the Services (i.e. Army, Air Force, Navy, or Marines), individual ordering systems and translating them into an Electronic Data Interchange (EDI) format. In addition, this information is passed to DLA Troop Support for the purposes of Prime Vendor payment and customer billing.
2. Customers will be able to order all of their requirements through STORES. The system will transmit orders to the Prime Vendor as well as DLA Troop Support.
3. The Prime Vendor is required to interface with STORES, or any future ordering system, and must be able to support the following EDI transactions:
  - i. 810 – Electronic Invoice
  - ii. 832 – Catalog (Outbound: Contractor to DLA Troop Support)
    - a. The Prime Vendor will be required to submit a breakout of their total contract unit price (i.e. separate Product price and Distribution Price columns)
    - b. Gross case weight, case cube, and number of cases per pallet will need to be provided by the Prime Vendor
  - iii. 850 – Purchase order
  - iv. 864 – Inventory Reporting
4. Subsistence EDI guidelines and 864 Inventory Reporting requirements are listed as an attachment to the solicitation.

5. The Prime Vendor must have access to the Internet and be able to send and receive electronic mail (email).
6. Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point.
7. The Prime Vendor is required to utilize the Government's item descriptions in the Electronic Catalog (832 transmissions). The Government's format begins with the broad category of the item and then continues with a more specific item description. For example: "Crinkle Cut Carrots," would be listed as "Vegetable, Carrots, and Crinkle Cut."
8. The Prime Vendor will utilize the DLA Troop Support invoice reconciliation process or other such systems as they become available, to the maximum extent, towards the goal of correcting invoices early and facilitating the payment process.
9. In the event that STORES or the Prime Vendor interface is not operational, the Prime Vendor must provide alternate ways for the customer to order (i.e. fax, phone, pick-up orders, etc.). However, for delivery, receipt, and payment purposes, the order will be generated manually via the Tailored Vendor Logistics Specialist (TVLS) at DLA Troop Support.
10. DoD has mandated that all personnel who access DoD systems must use Public Key Infrastructure (PKI) for all private web enabled applications. Prime Vendor personnel are required to have a DoD-approved PKI or External Certificate Authority (ECA) certificate to access STORES. The costs associated with a PKI or ECA are the responsibility of the Prime Vendor.
11. The Prime Vendor is permitted to request no more than one (1) Special 832 Catalog transaction per week. All Special 832 Catalog transactions must be approved by the Contracting Officer.

NOTE: STORES guidelines can be found as an attachment to this solicitation.

### C. ORDER PLACEMENT LEAD TIMES

1. The Prime Vendor shall maintain a **minimum of sixty (60) DOS, on hand on a line item basis**, at each platform (OCONUS warehouse facility) in order to fill all ordering activity requirements and meet the surge and sustainment requirements of this contract. Customers shall place their orders to accommodate a "skip day" delivery. "Skip Day" deliveries are in terms of business days. For example, an order placed on March 1<sup>st</sup> would have a required delivery date of March 3<sup>rd</sup>. Orders may be placed with a longer lead-time; however, the minimum lead-time is "skip-day". For Navy specific lead times, see Section A. Customer Deliveries.
2. The Prime Vendor is to advise the customers of non-availability of an item and recommendation for re-order no later than 12:00 noon of the skip day. If it appears that the Prime Vendor does not expect a stock replenishment in sufficient time to fulfill the requirement, the Prime Vendor should offer the customer a substitute of equal or higher quality and of equal or lower cost, or advise them of the not-in-stock position of the item and the date of the expected delivery from the manufacturer. **For orders where less than the normal 48 hour order lead-time is provided to the Prime Vendor, every effort will be made to provide such notification to the customer of non-availability of an item prior to the arrival of the delivery.**



**D. ORDER CANCELLATION**

Customers may cancel orders up until 12 noon of the day prior (local Korean time) to RDD, and no restocking charges shall apply. Restocking charges will be applied for cancellations after 12 noon of the day prior to the RDD on orders over \$10K. The Prime Vendor must notify the Contracting Officer, in writing, within 24 hours of any order that is cancelled for which restocking charges will apply. The Prime Vendor’s notification must include, purchase order number, order date, requested delivery date, date and time of cancellation, total order dollar value, case count, and total applicable restocking charges.

For example, if an order has an RDD of March 30, 2023 and the customer cancels at 12 noon on March 29, 2023, not restocking charges will apply. If an order has an RDD of March 30, 2023 and the customer cancels at 12:01 pm on March 29, 2023, restocking charges will apply.

**E. HOLIDAYS**

All orders are to be delivered as stated above except for United States Federal holidays as indicated below and official Korean holidays. When a scheduled delivery day falls on one of these days, or one designated by your firm, delivery will take place on the next business day.

- |                               |                  |
|-------------------------------|------------------|
| 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    |

**F. EMERGENCY ORDERS**

1. Emergency orders placed by the customer are those required outside of the normal delivery schedules. The Prime Vendor will provide a maximum of five (5) such “emergency” orders (excluding mobilization actions) per month per customer at no additional cost to DLA Troop Support or its customers. Any emergency greater than five (5) allowable “emergency” orders will need to be approved at the Contracting Officers discretion and must be entered into STORES.
2. The Prime Vendor must be able to receive and process delivery orders on any day of the week, including holidays. Delivery days and times under this solicitation are not restricted and may occur every day of the week.
3. The Prime Vendor is responsible for providing the ordering facilities with the name of the Prime Vendor’s representative responsible for notification of receipt and handling of such emergency service and his/her phone number, e-mail address, and/or pager number.

**G. ORDER FILL OR SUBSTITUTION POLICY**

1. All supplies shall be furnished on a “fill or kill” basis. Customer notification and approval is required before any partial shipment can be made; however, the unfilled quantity is to be reported as not-in-stock (NIS). Contractors 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 the delivery, in order that a substitute item may be requisitioned via a new order.

2. For ship orders, the substitution must be authorized by the ship and coordinated with the Navy Logistics Support Center (LSC). In the case of a contractor NIS on part of a quantity ordered, partial shipments are acceptable if the customer is notified and agrees; however, the unfilled quantity is considered cancelled and shall be reflected as a “0% fill” on the fill rate report. The customer may elect to re-order under a new purchase order.
3. The awardees' ordering system must be able to accommodate multiple orders from the same customer with the same order date and RDD. Replacement orders will not be acceptable and phone/ fax orders will not be viewed as acceptable commitments.

## **H. NEW ITEMS**

1. ALL HOLIDAY ITEMS MUST BE STOCKED IN THE PRIME VENDORS WAREHOUSE, NO LATER THAN SIXTY (60) DAYS PRIOR TO THE HOLIDAY. For example, Christmas items must be in the OCONUS warehouse NLT October 25. The Prime Vendor may submit any exceptions (e.g. Short shelf life items) in writing to the Contracting Officer.
2. If a customer desires to order an item that is not part of the Prime Vendor’s inventory, the Prime Vendor will be allowed a maximum of 120 days lead time to source, transport and make available the new item to the end-user customer. This 120-day period will begin after the Prime Vendor receives initial demand and approval from the individual services’ Headquarters or Regional Area Command for the item. It is the Prime Vendor’s responsibility to obtain individual services’ Headquarters or Regional Area Command approval. The Prime Vendor must notify DLA Troop Support and the requesting activity when new items are available for distribution. These items should become a permanent part of the Prime Vendor’s inventory if it appears that these items will be ordered regularly; i.e., a hospital supported under the proposed contract(s) uses dietary products and items unique to a healthcare facility. The Government does not intend to add a new item to the Prime Vendor’s permanent catalog unless there is anticipated demand of at least ten (10) cases per month, however, such additions may be required. For existing catalog items, the Prime Vendor will be responsible for notifying the Contracting Officer on a monthly basis if any cataloged item has not been ordered in sufficient quantities to meet a ten (10) case monthly order quantity. Those slow moving items will be considered for catalog deletion. Special Order, Seasonal, Spices, Food Service Operating Supplies, and Holiday Items will be required at less than ten (10) case demand levels and are excluded from the ten (10) case monthly demand review. The 120-day lead time does not apply to replacement items; lead time will depend on existing inventory.
3. The Prime Vendor shall assume the responsibility of introducing new food items to the customers, as well as to show cost effective alternatives to customers’ current choices. The Prime Vendor will use its proposed supplier selection process to include analysis/comments/recommendation of new products prior to the product sampling/taste testing. The Prime Vendor will be responsible to work with the customer to ensure that the customer is included in the decision to determine the acceptability of product.
4. All new items, including replacement, Mandatory, MPA and National Contract items must be approved in accordance with individual services’ Headquarters or Regional Area Command operating procedures. New item and replacement item prices must be determined fair and reasonable and approved by the Contracting Officer prior to the items addition to the customer’s catalog and therefore customer’s order. Customers are responsible for an estimate of initial monthly demand which the Prime Vendor will use for its original order placement with the supplier. The Prime Vendor will re-order inventory according to the

customers' monthly sales. It is the Prime Vendor's responsibility to notify customers when product is not moving in accordance with the monthly sales, in order for the customers to potentially adjust purchase quantities. The Government will not be liable for expired product if actual orders do not meet projected estimates.

5. The Prime Vendor agrees that all new items will not be made available and delivered to the customer(s) until sufficient inventory of the new products have been shipped and received in the Prime Vendor's OCONUS facility(s) with the new items added to the customer's catalog via the 832 catalog process according to the bi-monthly and monthly 832 catalog updates.
6. If an item is deleted or replaced by a new item due to customer preference, the customer will make reasonable efforts to draw down the Prime Vendor's existing inventory, before ordering the new replacement item. The new item **will not** be added to the catalog until existing inventory is depleted, unless otherwise approved by the Contracting Officer. In the event that an item is deleted without a replacement, the customer will still make reasonable efforts to draw down the Prime Vendor's existing inventory providing that the Prime Vendor did not mismanage the amount of inventory receipted into inventory. The Government will not, however, be liable for any unpurchased product.
7. An item that has been determined fair and reasonable and added to the Prime Vendor's catalog(s), then removed and is needed to be added again within a 12 month period, e.g., holiday items, special occasion items, etc. are not considered "new" items and are not subject to the NIRF process. The Prime Vendor will follow normal 832 catalog price change procedures provided the item is exactly the same as the item previously determined fair and reasonable. This item may be subject to another fair and reasonable determination at the Contracting Officer's discretion. Items removed greater than 12 months, are considered new items and subject to the NIRF process.
8. In the event of a change in pack size for an item, (e.g., an item in Category 1 changes from 24/12 oz cans to 12/12 oz cans), the contractor must notify the Contracting Officer of any such change. A new Sub-Category may be established within that Category (e.g., Sub-Category 1A) and the distribution price may be adjusted proportionally (e.g., from \$6.00 per case to \$3.00 per case).
9. Procedures for Processing New Items
  - a. Written approval from the Contracting Officer must authorize all specified new item additions and/or changes to NSNs prior to catalog update transmissions. This requirement is for the Contracting Officer's determination of price reasonableness. The customer will continue to determine the items to be added to the catalog.
  - b. Prime Vendors must utilize the latest New Item Request Form (NIRF); available on the DLA Troop Support web site at:  
<http://www.dla.mil/TroopSupport/Subsistence/DoingBusinesswithSub/techops.aspx>  
fillable PDF versions will be provided by the Contract Specialist during post-award administration. When downloading these forms from the website, there will be a message regarding the case label requirement. This pop-up must be acknowledged in order to access these forms. This NIRF must be submitted for all items including Mandatory and MPA items.
  - c. New item prices for non-MPA items must be determined fair and reasonable, and approved by the Contracting Officer prior to the items addition to the customers' catalog. In accordance with past practice, the customer will continue to determine all items to be added to the catalog. However, new non-MPA items will not be added to the catalog unless the Contracting Officer determines the proposed prices for the new non-MPA item to be

fair and reasonable in accordance with FAR 13.106 and approves the addition.

- d. Each request for approval must have the following documentation attached:
  - i. Copy of the Manufacturer's original invoice signifying the Manufacturer's FOB Origin product price, and discount terms, or written price quote, on the manufacturer's letterhead, if the item is not currently in stock, containing: item price per unit of measure (UOM), date price quote was obtained, time period price quote is effective for, item description, quantity covered by the price quote, manufacturer's identification number (i.e., GTIN, SKU, UPC, etc.), manufacturer's FOB Origin product price, payment terms include any applicable discounts, manufacturer's point of contact information, stock number if available, NAPA Discount if applicable, FOB Origin Terms to include the location and the original manufacturer or grower's point of contact including name, title, signature address, and phone number. For all Fresh Fruit and Vegetable and OCONUS Items, in addition to the above, you must include the location of the importer.
  - ii. Copy of the Manufacturer's specification sheet.
  - iii. Supplier/ Distributor Case Label.
  - iv. Principal Display Panel (PDP). This is the portion of the label including the product name, manufacturer's declared statement of identity, and the case net weight.
  - v. Information Panel (IP). This is the portion of the label including the Ingredient Statement, Nutrition facts, country of origin and the name of the manufacturer, distributor or broker and their address. This submission will assure the correct product information is available to the DLA Troop Support catalog team. Requests submitted without this information, will not be processed (the awardee will be provided copies of the acceptable "case labels" post award).
  - vi. Distribution Price Category and Distribution Price per UOM will be annotated on the NIRF by the Contracting Officer or Contract Specialist.
  - vii. Estimate of initial monthly demand for the new item (AMD) as provided by the customer.

**\*\* Note\*\*** Both the Supplier/Distributor Case Label, PDP and the IP must be an actual photograph of the product/case. These must be legible and should be in a jpg, gif, or PDF format.

Requests and supporting documentation shall be emailed to the Contracting Officer, Contract Specialist and Tailored Vendor Logistics Specialist (TVLS) for immediate review. Any request missing information outlined above, will not be processed.

The approved price as submitted on the form (generic, NAPA, or non-food) **MUST** be the price submitted upon the 832 transmission. Incoming 832 transmissions will be verified for compliance. Prices other than those approved will be rejected.

## **I. FILL RATE/SUBSTITUTIONS/EXCEPTIONS**

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1. For all customers, the required contract order fill-rate is 98%. Fill rates will be measured in the following four categories and the 98% fill rate requirement applies to each category:
  - CONUS Procured Non-Catch Weight Items
  - CONUS Procured Catch Weight Items
  - OCONUS Procured Non-Catch Weight Items
  - OCONUS Procured Catch Weight Items
2. During contract performance, higher fill rates may result in a higher Past Performance and Experience rating for future acquisitions. Fill rates will be documented in the Contractor Performance Review System (CPARS) and low fill rates may impact past performance evaluations on subsequent acquisitions.
3. The Government's in-house record for non-catch weight fill rate shall be calculated utilizing the order and receipt information located in STORES, as specified below.

The Prime Vendor's submitted non catch weight fill rate reports will be based on the same formula, and shall not include substitutions, mis-picks, damaged cases, etc.

$$\text{(Cases accepted / Cases ordered) X 100 = Fill Rate \%}$$

The fill rate for catch weight items shall be provided in two ways, pounds accepted / pounds ordered as well as cases accepted / cases ordered to allow for a computation of an overall fill rate. Instruction for how the catch weight item conversion from pounds to cases is to be accomplished is listed below. The fill rate calculation for catch weight items by the pound shall be calculated as follows and shall not include substitutions, mis-picks, damaged cases, etc.

$$\text{(Pounds accepted / Pounds ordered) X 100 = Fill Rate \%}$$

The Government will calculate the fill-rate for each delivery order line item based on cases ordered & accepted, utilizing the units per pack, or purchase ratio factor, to convert all and fill-rates, the weight range average will be utilized to convert pounds to cases. The government system will round down and up as follows:

0 – 0.4999 will round down

0.5 – 0.999 will round up

a. As an example, for the item at 3(c) herein, the average weight is 13 LB. In the event a customer wants 50 lbs. of flank steak, the ordering system will place the order for a multiple of 13 LB equal to or greater than the requirement, in this case 52 LBS. If the contractor delivers 45 LB, the fill-rate will be calculated as follows:

$$\text{Order} = 52 \text{ LB} / 13 = 4 \text{ cases}$$

$$\text{Receipt} = 45 \text{ LB} / 13 = 3.46 = 3 \text{ cases}$$

$$\text{Fill-rate} = 3 / 4 = 75.0\%$$

If the contractor delivers 46 LB, the fill-rate =  $46 / 13 = 3.53 = 4 \text{ cases} = 4 / 4 = 100\%$

b. Contractors shall assure that the 832 catalog transaction set for each catch-weight LSN contains (1) the correct average case weight of cases to be delivered in 832 field CTP04, Catch-Weight Multiple, and (2) 832 field PO404, Packaging Code, includes the catch-weight indicator "AVG."

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c. Catch-weight items are items which permit a weight range per case, normally meat items with a LB weight range. For catch-weight items only, the allowable quantity variation is:

Decrease: minus (-) 49% of the item average weight  
Increase: plus (+) the item average weight

For example, for 8905-01-E29-2117, Beef Flank Steak, 11-15 LB, with a 13 LB average, order quantities will be in multiples of the 13 LB item average weight. The allowable variations in quantity for any order for this item are:

Decrease =  $13 \times .49 = 6$  LB  
Increase = 13 LB

For an order for 104 LB of 8905-01-E29-2117, Beef Flank Steak, 11-15 LB, the contractor may deliver 98-117 LB and receive a 100% fill-rate.

4. Definitions:

- a. Non catch-weight item: An item which has a specific weight per case, e.g. 8920-01-E09-7315, Cake Mix, Yellow, 6/5 LB BX
- b. Catch-weight item: An item for which a weight range is acceptable; normally meat items purchased by the pound, e.g. 8905-01-E29-2117, Beef Flank Steak, 11-15 LB.
- c. Cases accepted: For non-catch weight items, the product quantity that the customer has received and receipted, not including damaged cases, and mis-picks.
- d. Cases ordered: For non-catch weight items, the product quantity requested by a customer.
- e. Pounds accepted: For catch weight items, the product quantity that the customer has received and receipted, not including damaged cases, and mis-picks.
- f. Pounds ordered: For catch weight items, the product quantity requested by a customer. However, in the event that a catch weight item is overfilled, and the customer accepts the extra quantity, the "pounds ordered" will be adjusted to match the "pounds accepted." This is to preclude a fill rate greater than 100%.

5. Designation of catch weight items: To designate a catch weight item, the Contractor must input catch-weight indicator "AVG" in 832 catalog field PO404, Packaging Code, for each catch-weight item. The Contractor shall assure that the correct average case weight (i.e. the estimated weight average of cases that will be delivered) is input in 832 catalog field CTP04, Catch Weight Multiple.
6. No single line item will be credited for more than 100% fill-rate. This includes both catch weight and non-catch weight items and for any items should the accepted quantity be greater than the quantity ordered.
7. Non-conforming cases, e.g. incorrect items (mis-picks) and damaged cases will not be accepted and receipted.

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8. The Government in-house record for fill-rate calculates the fill-rate for each line item of each purchase order, the fill rate per purchase order, the fill-rate per customer, and the fill-rate for all customers, for any period of time, based on order RDD. Fill-rates are calculated for non-catch-weight items and catch-weight items.
  
9. The Contractor shall promptly inform the Contract Specialist and Contracting Officer of any specific instances that would absolve or excuse its failure to deliver an order, or individual line item(s), in full; e.g. customer written cancelation line or quantity prior to STORES receipt, customer ordered incorrect quantity, item being discontinued, etc. If the Contracting Officer agrees with the justification, the exception will post to its in-house system which will result in the order or line(s) either being excluded from the Government fill-rate calculation or the correct order and receipt quantities being included in the calculation. These excusable instances represent Fill-Rate Exceptions and are shown below.

The contractor shall submit its fill-rate report (to include overall non-catch weight item fill rate based on cases and overall catch weight fill rate based on pounds) to the DLA TROOP SUPPORT Contracting Officer. The reports shall be based on order RDD, not order placement dates. The Government will compare and attempt to reconcile the Government and contractor's report. The Government's fill-rate report will be the official government record for contract performance evaluation.

NOTE: If the demand for a specific item over the last 30 days exceeds 300% of the Prime Vendors AMD for that item from all customers, exception V01 may apply.

This is an example of the pre-formatted DLA Troop Support Vendor Fill Rate Exception Spreadsheet, for both Navy and Non-Navy Customers:

DLA Troop Support Vendor Fill Rate Exception Spreadsheet									
Contract #	DODAAC	PO Number	Stock #	Exception Code	Actual Order Cases	Actual Rcpt Cases	Actual Order Wgt (Catch)	Actual Rcpt Wgt (Catch)	Other Reason Verbose Description
Notes:									
1) If you are indicating that the PO line should be completely excluded from the fill rate calculation, enter the number "0" for columns F thru I.									
2) Columns H and I are required for catch weight items only.									
3) Exception codes must be from the current list of DSCP authorized vendor short shipment exception codes.									
4) Column J should only be filled in if exception code V00 has been entered in column E.									
5) Use the header provided without altering.									
6) Do not add additional columns.									
7) Do not delete existing columns.									
8) Do not provide additional column totaling.									

This is an example of the pre-formatted DLA Troop Support Vendor Fill Rate PO Summary Spreadsheet:

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DLA Troop Support Vendor Fill Rate PO Summmy Spreadsheet											
Contract #	DODAAC	PO Number	Total Actual Order Cases	Total Actual Rcpt Cases	Total Actual Order Wgt (Catch)	Total Actual Rcpt Wgt (Catch)	Total # of Line Items	Overall Fill %	Overall Non Catch Weight Fill %	Overall Catch-Weight Fill %	
Notes:											
1) Columns F and G are required for catch weight items only.											
2) Use the header provided without altering.											
3) Do not add additional columns.											
4) Do not delete existing columns.											
5) Do not provide additional column totaling.											

**XV. CONTRACT AUTHORITY, ADMINISTRATION, IN-PROCESS REVIEWS, INVOICES, PAYMENTS, REPORTS, AND PRIME VENDOR 832 CATALOGS**

**A. CONTRACTING AUTHORITY**

1. The DLA Troop Support 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 Contracting Officer.
2. In the event that the Prime Vendor effects any change at the direction of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made. The Contracting Officer is the only person who may authorize any modification or costs associated with a change.
3. Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the Contracting Officer.

**B. ADMINISTRATION**

1. A designated representative at the ordering activity will perform administration of the individual customer delivery order. This includes approving product substitutions and delivery changes.
2. The Contracting Officer must approve any changes to the contract.

**C. IN-PROCESS REVIEWS**

1. The Contracting Officer will conduct In-Process Reviews (IPRs) to evaluate and discuss Prime Vendor performance on an as needed basis.
2. The Prime Vendor will be required to travel to Philadelphia at least once per year to participate in an in-person IPR at no additional cost to the Government. The Contracting Officer may alternately conduct an IPR telephonically or in the AOR. As a minimum, the Prime Vendor participants must include: the contract administrator and/or program manager.



#### **D. NOTICE TO CONTRACTORS**

1. Offerors are hereby advised that although there is a guaranteed minimum of 10% of the estimated contract dollar value under this contract, DLA Troop Support does not guarantee that any or all of the customers will order all of their subsistence from the resulting Prime Vendor, nor does the Government guarantee any purchases above the guaranteed minimum.
2. During the life of the contract, the resulting Prime Vendor will be required to periodically hold prices and all other catalog changes, depending on the 832 catalog schedule. Depending on the 832 catalog schedule, the changes may be postponed up to three (3) weeks, including but not limited to the Government's Fiscal Year change on October 1<sup>st</sup> and the week of December 25<sup>th</sup>. Additional changes to the 832 schedule must be agreed upon by the Prime Vendor and the Contracting Officer.

#### **E. CONTRACTOR PERFORMANCE ASSESSMENT REPORTING SYSTEM**

##### **1. Background**

Contractor Performance Assessment Reporting System (CPARS) is now hosting web-enabled applications that are used to collect and manage a library of automated contractor performance evaluations that are completed in accordance with FAR Parts 36 and 42. FAR Part 36 identifies the requirements for documenting contractor performance for architect-engineer and construction contracts while FAR Part 42 identifies requirements for documenting contractor performance for systems and non-systems acquisitions. The CPARS applications are designed for UNCLASSIFIED use only. Classified information is not to be entered into these systems. In general, contractor performance assessments or evaluations provide a record, both positive and negative, for a given contract during a specified period of time. When evaluating contractor performance each assessment or evaluation is based on objective facts and is supported by program and contract management data, such as cost performance reports, customer comments, quality reviews, technical interchange meetings, financial solvency assessments, construction/production management reviews, contractor operations reviews, functional performance evaluations, and earned contract incentives.

Since November 1, 2006, a DoD Public Key Infrastructure (PKI) Certificate is required for all contractor users accessing CPARS. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.

##### **2. Obtaining a PKI certificate**

For access to CPARS: A DoD PKI Certificate is required for all DoD employees accessing Architect-Engineer Contract Appraisal Support System (ACASS), Construction Contractor Appraisal Support System (CCASS), Contractor Performance Assessment Reporting System (CPARS), and Federal Awardee Performance and Integrity Information System (FAPIIS). Government contractors are also encouraged to obtain and use a certificate. Non-DoD Government users may continue to access ACASS, CCASS, CPARS and FAPIIS without a certificate.

PKI Certifications remain a requirement for access to some Government electronic systems. However, OCONUS Government contractors may have some difficulty in obtaining a PKI certificate, and while this is a requirement under special circumstances exceptions can be made. Additionally, the potential cost involved in obtaining a PKI certification should be considered when contractors establish distribution prices.

Government contractors who do not work at a DoD facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are contractors who provide digital certificates to DOD's industry partners who are using their own equipment or working in non-Government facilities. A list of ECAs is available at [https://www.cpars.gov/pki\\_info.htm](https://www.cpars.gov/pki_info.htm). Each contractor employee accessing CPARS will need an Identity Certificate (An Encryption Certificate is not required). Certificates range in price from \$99 - \$115 per certificate per year, with volume discounts at some ECAs. Each contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable, at no additional cost to the U.S. Government.

## F. INVOICING

1. Each delivery will be accompanied by the Prime Vendor's delivery ticket/invoice. Two (2) identical copies shall accompany the shipment. The customer shall sign both copies, keep one and return the other to the Prime Vendor. Any changes must be made by the customer on the face of both documents, attachments are not acceptable.
2. All invoicing for payment is to be filed electronically using EDI transaction set 810. No paper invoices shall be submitted to DFAS for payment. All invoices submitted by the Prime Vendor must be "clean", i.e. all debits and/or credits must be reflected on the invoice prior to submission.
  - i. In regard to distribution categories 1-12, 1A-5A, 15, 20, and 21 the product price, plus the distribution price will be established as a Prime Vendor catalog unit price for food and non-food orders submitted by the customer via STORES. In regard to distribution categories 13, 14, 16-19, and 22, which do not have associated product prices, the distribution price will be established as a Prime Vendor catalog unit price for food and non-food orders submitted by the customer via STORES. The process for ordering, receipting, invoicing, billing, and payment is completely electronic via STORES and EBS.
  - ii. In regard to distribution categories 13 and 14, which do not have associated product prices, the distribution price will be established as a Prime Vendor catalog unit price. In regard to distribution category 13 disposal, in addition to the cost of the actual disposal, if the Contracting Officer has indicated that the Government will pay the product price for product being disposed of, a separate paper invoice must be submitted by the Prime Vendor for Contracting Officer approval. The Contracting Officer will provide detailed instructions for this process on a case by case basis. In regard to distribution category 14, all charges associated with Restocking Charges must be submitted on a separate paper invoice by the Prime Vendor for Contracting Officer approval.
  - iii. Each paper invoice must be certified by the Prime Vendor to reflect the amount of service actually provided. The approved invoice amount will be placed on order by DLA Troop Support via STORES using local stock numbers designated for itemized billing/costs and receipted. The Prime Vendor will then be authorized to electronically invoice the approved amount for payment on a monthly basis as follows.

Each paper invoice along with supporting documentation shall be cumulative for a one (1) month period and must be submitted to the Contracting Officer Representative no later than the 15<sup>th</sup> day of the following month; e.g. for the period of January 1 thru January 31, referenced invoices must be received by February 15<sup>th</sup>. The Contracting Officer will authorize the prime vendor to submit the approved 810 invoices for payment as soon as evaluation of all documentation is completed.
3. Electronic invoice transactions may be submitted to DLA Troop Support daily; however, it cannot be stressed enough that all internal debit/credit transactions must be completed prior to the submission of the

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invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The contractor will be responsible for correction and re-submission.

4. The same invoice cannot be submitted with different dollar amounts, and the same invoice number cannot be used more than once during the fiscal year.
5. Invoices may not be submitted as “LIVE DATA” until a test transaction set has been cleared.
6. For catch weight items, standard rounding methods must be observed, i.e. less than 0.5 is rounded down; equal to or greater than 0.5 is 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 contractor.
7. Unit prices and extended prices must be formatted not more than two (2) decimal places to the right of the decimal point, using standard rounding methods. STORES will not accommodate positions of 3 and above beyond the decimal point.
8. The following address must appear in the “Bill To” or “Payment Will Be Made By” block of the contractor’s invoice:

Defense Finance and Accounting Service (DFAS)  
BVDP (SL4701)  
P.O. Box 182317  
Columbus, OH 43218-2317

9. Each invoice shall contain sufficient data for billing purposes. This includes, but is not limited to:
  - i. Contract Number, Call or Delivery Order Number, and DoDAAC;
  - ii. Contract line listed in numeric sequence (also referred to as CLIN order);
  - iii. Item nomenclature;
  - iv. LSN or NSN;
  - v. Quantity purchased per item in DLA Troop Support’s unit of issue and Prime Vendor’s unit of measure;
  - vi. Clean invoices must be submitted; and
  - vii. Total dollar value on each invoice (reflecting changes to the shipment, if applicable).
10. The Prime Vendor is required to use the DLA Troop Support Reconciliation Tool to identify and correct mismatches between invoices submitted and customers posted receipts. It is the responsibility of the Prime Vendor to adjust as necessary and communicate with the customer or DLA Troop Support as needed, in order to resolve any/all discrepancies.

**G. PAYMENTS**

1. DFAS-BSM (SL4701) is the payment office for this acquisition.
2. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (i) of 52.212-4 “Contract Term and Conditions – Commercial items” and any addendum, appearing in the section of this solicitation entitled “Contract Clauses”.
3. Payment is subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903) (The due date for making invoice payments by the designated payment office shall be the later of the following two events: (a) the 30th day after the designated billing office receives a proper invoice from the Contractor;

(b) the 30th day after the Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.). All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made. However, the contractor shall not submit the 810 invoices for payment until the signed delivery ticket/invoice has been received directly from the customer.

4. Fast pay procedures do not apply.
5. The Prime Vendor must have the ability to accept an 820 transaction set from its financial institution. DFAS BSM will no longer forward a detailed summary of payment(s); this information will only be available from your bank.
6. STORES/BSM Reconciliation Tool: In an effort to improve the payment process, contractors will have availability to view what the customer has or has not receipted, via the BSM website. The contractor will have access to “unreconciled” information; i.e., the invoice does not match the receipt because of a quantity or price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review by the contractor. While the contractor will not have the capability to update customer receipt information, update capability will be available for unreconciled invoice information for approximately 30 days.
7. The Government intends to make payments under the resultant contract by electronic funds transfer (EFT). Refer to FAR 52.232-33, “Payment by Electronic Funds Transfer – System for Award Management” However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

**Note To Offerors-**The Internal Revenue Services issued its final regulations in Federal Register Vol 81, No. 160 on August 18, 2016 concerning section 301 of Public Law 111-347 (dated January 2, 2011), which added section 5000C to the Internal Revenue Code. The final regulations provide guidance on the applicability of Section 5000C(a) which imposes on any foreign person that receives a specified Federal procurement payment, a tax equal to 2 percent of the amount of such payment.

## H. MANAGEMENT REPORTS

The Prime Vendor shall provide the following reports to the Contracting Officer in the frequency indicated. Negative reports are required and the Government reserves the right to add requirements for additional reports at no additional cost to the Government. Each quantity and dollar value provided should be based on the item’s unit of issue.

It is at the Contracting Officer’s discretion which reports are submitted and the frequency of said reports. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (i.e. reporting period of January 1st through January 31st, the reports must be received by February 7<sup>th</sup>). The weekly reporting period is from Sunday through Saturday. Weekly reports must be submitted by close of business each Wednesday immediately following the reporting period. Unless otherwise identified below, all other reports are to be submitted electronically on a monthly basis. Other reports and additional information on existing reports may be requested by the Contracting Officer.

The Prime Vendor must make an affirmative statement regarding the accuracy and completeness of the information provided in said reports. To this end, the Prime Vendor is required to add the following statement to every management report submitted to DLA Troop Support: “I confirm that all the information submitted to the Government is complete and accurate to the best of my knowledge. I understand that false

statements contained herein, may be punishable by law.”

1. Fill Rate Reports (Weekly & Monthly): (Shall be submitted in non-protected Excel format)
  - i. Monthly Fill Rate Report – The monthly fill-rate by line item is calculated by dividing the number of cases accepted by the customer by the number of cases ordered. Mis-picks and damaged cases should not be included in this calculation, however, all items Not-In-Stock, rejected, returned, damaged, mis-picks, etc., should be clearly identified in the report. The report should specify fill rates per customer/dining facility and an overall average for the month. In addition to the fill rate by cases, catch weight items by pounds shall be reported as defined in the fill rate section of the contract.
  - ii. Weekly Fill Rate Report – In addition to the Monthly Fill Rate Report, the Prime Vendor will also submit a weekly report reflecting the previous week’s business, by customer and overall, to the Contracting Officer. This weekly report will follow the exact same format as the monthly fill rate report.

The Monthly and Weekly fill rate reports should specify fill rates grouped by contract/catalog number(s) (if applicable), DODAAC (first six positions of the delivery order) and delivery order number. The date range of the report shall be based on the customer’s RDD for the previous week as defined in paragraph ii above. The report shall contain all orders for the specified time period, as well as, a worksheet summary roll-up report tab that captures all contract/catalog numbers combined. The summary shall contain the following information:

- Overall fill rate based on cases
  - Overall non-catch weight fill rate based on cases
  - Overall catch weight fill rate based on cases
  - Overall catch weight fill rate based on pounds
  - Delivery orders shall be grouped by DODAAC. Within each DODAAC sort fill rates by delivery order number
2. 832 Report (Monthly): Each line to contain at a minimum: DLA Troop Support stock number, item description, current product price, new product price, distribution price, current total price (current product + distribution), new total price (new product + distribution), Distribution Category, purchase ratio factor, unit of issue, unit of measure, and NAPA discount.
  3. Slow Movers (Excess Stock) (Monthly): This report shall list all products that are being ordered in quantities of less than ten (10) cases per month. Purpose is to track slow moving items for possible deletion from the catalog.
  4. Socio-Economic Report (Monthly):
    - i. This report shall list all products manufactured and/or supplied by small business, small disadvantaged business, minority owned small business, women-owned small business, women owned small disadvantaged business, HUB Zone small business, veteran owned small business, or service disabled veteran owned small business. This report shall be sorted by manufacturer/supplier, include quantity and dollar value, and be sorted by the applicable business size category of the manufacturer/supplier. The required format of this report will be provided by the Contract Specialist during post-award administration. NIB/NISH firms are not to be categorized under Small Disadvantaged Business as they are non-profit organizations and should be considered their own separate category.

Note: This report is for direct subcontracts for products supplied to customers. This report is not to

include indirect costs. The Small Business Administration (SBA) must certify HUBZone businesses.

- ii. A summary page of the report shall also be submitted that highlights the total dollars and percentages for each category. This information is very important since DLA Troop Support is required to report its success in meeting these goals for the Defense Logistics Agency (DLA). Also requested, but not required since DLA does not mandate these goals be reported, is a listing of products supplied and/or manufactured by Federal Prison Industries, Labor Surplus Areas, Historically Black Colleges or Universities and Minority Institutions.
5. Rebates (General) (Monthly): All rebates passed along to the customer via off-price reductions, or that is due to the customer, shall be summarized by listing each customer and the rebate amount. Also, the Prime Vendor shall include the manufacturer offering the rebate and the product usage. The total shall be per customer and per contract. The absence of rebates must be reported on a monthly basis as well.
6. Contract Retention Plan (Yearly): The Prime Vendor must have a records retention plan in compliance with FAR 4.703. The Prime Vendor's record retention plan must be approved by the Contracting Officer. The Prime Vendor's record retention plan should include the length of time that it plans to retain contract file documents and electronic documents. The plan should also include the Prime Vendor's plan to back up electronic documents. For example, certain records must be retained until 3 years from the date of final payment. See FAR 4.703 for more information on retention of contract file documents.
7. Supply Chain Fitness Report (SCFR) (Weekly): The Prime Vendor must be able to present real time asset visibility of its entire inventory (i.e. stock on-order, stock in-transit, and stock on-hand) as well as the anticipated usage and average demand for each item on the Prime Vendor catalog. The SCFR is a report which consists of 4 data tabs, 1 analysis Chart and 1 analysis table. The report format will be provided to the Prime Vendor post award; however, the report tracks weekly movements in demands against weekly changes in three segments of the supply chain (i.e. stock on-order, stock in-transit and stock on-hand). Each of these elements are reported and tracked at the line item level.
8. Not-in-Stock (NIS) (Weekly): This report must list all not-in-stock products (in accordance with the definition of fill rate/not in stock), the estimated get "well date", the product price, total NIS dollar value for each item and a total NIS dollar value for all items for a one-week period.
9. Rebates (Food Show) (As Needed): This report shall show a detailed break out of all savings received at Food Shows by attending vendors and is as required based on the timing of the Food Show. The Contracting Officer should receive this report no later than two weeks after the end of the special pricing period and said report shall include a list of each customer, the Food Show amount, the manufacturer/broker name, and quantity ordered. Food Show rebates shall be listed per customer, per contract, and per manufacturer. The total shall be per customer and per contract.
10. NAPA Report (Monthly): This report should summarize the savings passed along to the customers in the form of deviated allowances realized as a result of utilizing the NAPAs. The report shall list each customer, the NAPA amount, the manufacturer/broker name, and quantity ordered. NAPA figures should be listed per customer, per contract and per manufacturer.
11. National Contract Items (Monthly): The Vendor will submit a monthly report listing all National contract items, purchase price, number of cases, total pounds, and total sales for each item. Separate tabs should be submitted for each National contract.
12. Container Utilization Waivers (Monthly): This monthly report shall list all container utilization waiver requests, date of waiver, Prime Vendor name, shipper, container TCN, waiver code, cubes.

13. Cost Savings Report (Monthly): This report will help demonstrate the efforts that the Prime Vendor is making to reduce Product Price costs. The report format will be provided to the Prime Vendor post award; however, each line shall contain, at a minimum, DLA Troop Support stock number, Global Trade Identification Number (GTIN), Manufacturer name, description, savings type, reason for savings, price change comparison (including old price, new price and percentage difference), price validity (start and end dates), and savings for the fiscal year (including actual sales volume and actual cost savings).
14. Financial Status Report (Monthly): In order to ensure timely payments, a summarized account receivable and / or a "days of outstanding sales" shall be submitted by the Prime Vendor on a monthly basis. The report will be categorized by time periods and sorted further by customer. If problems should occur, a detailed listing by invoice number / call number will be requested. However, it is suggested that this report contain as much information as possible to alleviate problems immediately.
15. DLA Owned Material Report (Monthly/If Applicable): This report shall show a detailed description of the Operational Rations owned by DLA at various Prime Vendor locations. In addition to an overall report, the contractor shall provide a screenshot from its internal system to show the monthly inventory transaction history for each item. Each screenshot must clearly identify the item and warehouse location, along with the following information for each transaction: transaction type (receive/issue), quantity, the source or delivery destination, and the date the item was received or issued.  
  
The contractor will also be required to upload monthly inventory report by the third business day of each month in the VMI/SMI Upload Tool (<https://businessportal.dla.mil/irj/portal>). The contractor shall register for this tool during the contract implementation period by requesting the JD-02101 role in the Defense Logistics Agency Account Management and Provisioning System (AMPS.) Note: Detailed instructions regarding registration and the use of the tool will be provided to the awarded contractor during the contract implementation period.
16. DLA Owned Material Physical Inventory Report (Annually/If Applicable): The contractor shall perform a complete physical inventory of all DLA Owned Material and provide a report of the results at least once per year. The report shall show the quantity on hand for each item according to the contractor's inventory management system along with the corresponding quantity from the physical inventory.

## **I. CATALOG ORDER GUIDE**

The Prime Vendor shall provide a catalog order guide, with descriptions and pack sizes, to each of the customers serviced under this contract. At a minimum, the order guide should list the DLA Troop Support Stock Number, DLA Troop Support Unit of Issue, the contractor's part number and the brand of each item.

## **J. PRIME VENDOR 832 CATALOGS**

1. During contract implementation, the Prime Vendor will be required to establish and electronically submit 832 catalogs for testing and for live customer orders. A Subsistence Total Ordering and Receipt Electronic System (STORES) EDI Implementation Guideline is included herein.
2. It is estimated that the Prime Vendor will be required to establish a minimum of one (1) 832 catalogs. Note: The actual number of required catalogs may vary throughout the life of the contract based on the actual number of customers, their needs, and their billing requirements.

Catalog 1: This catalog should contain all items available for issue to all customers. The catalog unit price will consist of the Product Price + distribution price.

NOTE: Administrative catalogs will be created in the best interest of DLA Troop Support and the support needed for its customers. Administrative catalogs will not be created for the number of Prime Vendor platforms, therefore, the Prime Vendor's warehouse management system MUST be able to accommodate a single catalog with multiple platforms.

## **K. OTHER CONSIDERATIONS**

The Prime Vendor will cooperate in any Government investigation relating to this contract. The Prime Vendor will also be responsible for ensuring subcontractor or partner cooperation in any Government investigation relating to this contract. Specific forms of cooperation will include making officials available for interviews, production of records, etc. The Prime Vendor will submit specific monthly reports, signed by a senior official of the company (i.e. Chief Financial Officer or someone higher in the organizational hierarchy), relating to pricing, discounts, rebates, allowances or other similar economic incentives or benefits that will be received by the contractor.

### **ADDENDUM TO FAR 52.212-1 – Instructions to Offerors – Commercial Items**

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

1. *Paragraph (b), Submission of offers.*

     Facsimile offers are NOT authorized for this solicitation.

  X   Facsimile and E-mail Offers are not acceptable forms of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile and e-mail may be used during discussions/negotiations, if discussions/negotiations are held, for proposal revision(s), including Final Proposal revision(s).

2. *Period for acceptance of offers (Paragraph c).*

Period of acceptance is   240   days from the date specified for receipt of offers (initial or revised, whichever is later).

3. *Multiple offers (Paragraph e).*

Alternative commercial items may not be considered for award on this acquisition; however, they may be utilized for market research for future requirements.

5. *Contract Award (Paragraph g).*

If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

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 Non-Price Factors considered.

6. Proposal Factors and Components

(a). The following non-price and price components shall be used to evaluate offers:

**SECTION A NON-PRICE PROPOSAL-TECHNICAL FACTORS (NON-PRICE COMPONENTS)**

Factor I. Warehouse Location and Capacity



Factor II. Resource Availability (Cash Flow, Equipment, and Carrier Agreements)

Factor III. Implementation and Management Plan

NON-PRICE PROPOSAL – PAST PERFORMANCE (NON-PRICE COMPONENT)

SECTION B PRICE (BUSINESS) PROPOSAL/PRICING

Aggregate Distribution Price

Weighted Aggregate Product Price

Total Evaluated Price

*(b). General submission requirement information:*

- (i). All information is to be submitted in writing. All written offers need to be submitted on 8.5 in x 11in standard paper.
- (ii). The Government reserves the right to verify any information presented in the Non-Price and Price Proposals. Site visits to assess the accuracy of the information provided in an offeror’s proposal may be conducted by the Defense Contract Management Agency, Defense Contract Audit Agency or other qualified personnel during the evaluation process.
- (iii). The Non-Price and Price Proposals are required to be submitted in writing and must be prepared separately in the quantities shown below. These documents shall be separately bound and shall not be combined. In addition to the printed volumes, the Non-Price Proposal (Volume II) and Price Proposal (Volume III) must also be submitted in CD format. Proposals that do not provide the required information in the prescribed format may be excluded from further consideration.

<u>WRITTEN VOLUME</u>	<u>VOLUME TITLE</u>	<u>NO. OF COPIES</u>
I	Completed Solicitation	1
II	Non-Price Proposal	6
III	Price (Business) Proposal/Pricing	2

<u>ELECTRONIC VOLUME</u>	<u>VOLUME TITLE</u>	<u>NO. OF COPIES</u>
II	Non-Price Proposal	1
III	Price (Business) Proposal/Pricing	1

Evaluations for each volume of the proposal will be performed exclusive of one another. Therefore, the Non-Price Proposal shall contain no reference to pricing data contained in the Price (Business) Proposal. Conversely, the Price (Business) Proposal should not address information requested under a Non-Price Factors. Pricing information shall only be contained in Volume III.

- (iv). Offerors may provide additional technical information that will enhance the proposal; however, overly elaborate proposals that contain information not pertinent to this acquisition are not desired. Failure to provide the information requested may render the proposal unacceptable and may lead to a rejection of the offer.

The written Non-Price Proposal must demonstrate the offeror’s ability to meet the Government’s requirements as set forth in the solicitation. Failure to provide information as requested in any of the Non-Price Factors identified below in the section entitled Submission Requirement – Non-Price Proposal may render the proposal unacceptable.

**Initial technical proposals are limited to no more than 75 pages. An additional 50 pages will be allowed for supporting documentation such as lease and carrier agreements. Font must be Times**

**New Roman size 12. Pages must be single sided, 8"x11.5", and have at least 1" margins along all four sides of the page.**

**Any information submitted in excess of the page limitation for any factor or submission requirement will not be reviewed. Nonconformance with the instructions provided in this section, or any attempt to circumvent the format requirements or page limitations in this section, may result in rejection of the proposal.**

NOTE: The page limitations discussed in this section apply to the submission of initial proposals. In the event discussions are conducted, these page limitations and format requirements may be adjusted or relaxed in order to ensure, among other things, meaningful discussions are conducted.

In order to receive full consideration, firms are encouraged to ensure that the information provided in the Non-Price Proposal is factual and complete. To ensure that an accurate evaluation of the proposal is made, **please address the Non-Price Factors/Components in the order in which they appear in the solicitation.** Failure to do so may result in the Non-Price Evaluation Panel overlooking important information.

- (v). In the Price Proposal, the offeror is required to furnish pricing information as outlined below in the solicitation section entitled Submission Requirement – Price (Business) Proposal/Pricing – Volume II. To be acceptable, the firm’s pricing must be complete, fair, and reasonable. Failure to provide the information requested may render the proposal unacceptable and may lead to a rejection of the offer.

The Price (Business) Proposal Market Basket Product Prices are used for evaluation purposes; but, the Market Basket items will also become part of the catalog. Final negotiated prices shall become the baseline catalog prices at the time of the first order. These prices then are permitted to be adjusted in accordance with the Economic Price Adjustment provisions in Procurement Note (located in the section titled PRODUCT SOURCING AND PRICING.)

*(c). Submission Requirement – Non-Price Proposal – Volume II*

**SECTION A – TECHNICAL FACTORS**

**FACTOR I – Warehouse Location and Capacity**

**Submission Requirement – Factor I**

1. In accordance with FAR 52.215-6 Place of Performance, the offeror shall identify in the following format the name and location of their Korea OCONUS and CONUS warehouse distribution facilities, CONUS Source Load Manufacturing Facilities, and any Administrative Management Support Offices that will be utilized in support of its distribution network for this requirement. Also, identify the owner and operator of each facility.

<b>Korea OCONUS Warehouse Distribution Facilities</b>	
Place of Performance (Street Address, City, State, County, Zip Code)	Name & Address of Owner & Operator of the Plant or Facility if other than Offeror or Respondent

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Place of Performance (Street Address, City, State, County, Zip Code)	Name & Address of Owner & Operator of the Plant or Facility if other than Offeror or Respondent

<b>CONUS Source Load/Manufacturer Facilities</b>	
Vendor (Name & CAGE)	Place of Performance Street Address, City, State, County, Zip Code

<b>Administrative/Management Support Offices</b>	
Place of Performance (Street Address, City, State, County, Zip Code)	Name & Address of Owner & Operator of the Plant or Facility if other than Offeror or Respondent

**NOTE:** No change in the places(s) of performance will be permitted between the closing date of the solicitation and the award date except where time permits and then only upon receipt of the Contracting Officer’s written approval. Any change in the place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the Contracting Officer at no additional charge to the Government. An offeror no longer using, possessing, or having access to an offered facility, as described in an offeror’s proposal, may result in an offeror’s proposal being considered unacceptable.

- 2 Any proposed Prime Vendor built warehouse, which may be required to be constructed, and utilized for the storage of contract related subsistence items, must be included in your list of Korea OCONUS warehouse distribution facilities. In order to prepare an offer, firms will want to discuss this facility as well as the construction timeline in detail.
3. For the proposed Korea OCONUS facility(ies), discuss whether owned or leased. If the facility(ies) is leased, provide a copy of each lease agreement or memorandum of understanding as well as a detailed narrative explaining the nature and duration of each agreement. If the facility is owned by the offeror, provide substantiating documentation of ownership. Inside and outside photographs and diagrams must be provided and properly labeled.
4. Discuss in detail any ongoing or proposed construction which will be necessary in support of the proposed Korea OCONUS and CONUS warehouse facilities. Provide detailed information regarding applicable agreements, contracts, deeds and leases in support of their facility(ies) and specific timelines in regards to construction (i.e. groundbreaking through certificate of occupancy). Clearly address whether construction is contingent upon award (i.e. to commence upon award announcement) or whether currently ongoing. If some aspects of construction are ongoing, while others are contingent, this must be clearly described (e.g. groundbreaking will be 01 July 2020 irrespective OR groundbreaking will be 01 July 2020 IF award is made by 02 Apr 2020). Real-time dates must be

supplied and milestones already achieved must be highlighted. Inside and outside photographs and diagrams must be provided and properly labeled. Building technical drawings and specifications may be requested at any time to ensure the adequacy and viability of the facility being built, if needed, and for award purposes. In the event that any ongoing or proposed construction will be necessary in support of the proposed Korea OCONUS and CONUS warehouse facilities, the Contracting Officer may provide the names and credentials of any authorized persons who wish to see the proposed warehouse construction site, its technical drawings and specifications, etc. Visits and documentation requests will be coordinated with the Contracting Officer Representative (“COR”) through DLA Troop Support Philadelphia.

5. For the proposed CONUS facility(ies), discuss the concept of operations between the parties for purchasing, warehousing, and transporting product from CONUS to Korea OCONUS locations. Describe the roles of each party and provide a copy of any existing agreement or memorandum of understanding.

6. Discuss in detail any proposed upgrades which will be necessary in support of the proposed Korea OCONUS and CONUS warehouse facilities. Provide detailed information and specific timelines regarding any proposed upgrades to the proposed Korea OCONUS and CONUS warehouse facilities that will be needed to meet solicitation requirements (food storage (racking/material handling equipment/etc.), food defense (fencing/lighting/security cameras/etc.), quality control, etc.).

7. Discuss how you intend to meet the quantity demand requirements of this solicitation in terms of the size of your Korea OCONUS facilities (warehouse capacity, American sized pallet spaces, refrigerated and dry space, etc. that will be available for use to fulfill the requirements of this solicitation). Provide clearly marked inside and outside photographs of each Korea OCONUS warehouse and a diagram of the layout in terms of the American sized pallet locations as it relates to the ordering volume of this contract.

8. For the proposed Korea OCONUS facilities, discuss your available yard space for receiving inbound shipments for Prime Vendor product and GFM, retrograding trucks to include your capability to ship and receive simultaneously, and staging of out bound product for shipment. Include the number of doors available for shipping and receiving and any impediments to simultaneous use.

## **FACTOR II – Resource Availability (Cash Flow, Equipment, and Carrier Agreements)**

### **Submission Requirement – Factor II**

1. Describe your firm’s financial capability to perform throughout the life of a resultant contract (i.e. bank commitment letter, financial strength of your firm, etc.). Specifically address your firm’s financial capability to perform during the 180-day ramp up as well as during any surge timeframe. If additional finances will be required, discuss the intended method and lead time required to obtain said finances. If no additional finances will be needed to handle the proposed contract, please confirm in writing.

2. Identify the quantity, type, and location of the distribution equipment resources (i.e. trucks and material handling equipment) that it will utilize to meet the requirements of the instant solicitation. For each item, identify if it is leased or owned by the offeror. For leased equipment, provide a copy of the lease agreement, memorandum of understanding, or similar agreement with the lessor. If additional equipment/resources will be required to handle the proposed contract, discuss the intended method and lead-time required to obtain said resources. If no additional resources will be needed to handle the proposed contract, please confirm in writing.

3. Provide a detailed plan for maintaining and servicing vehicles and equipment to include the number and experience of personnel that it intends to utilize for this effort.
4. Describe your firm's experience utilizing United States Transportation Command (USTRANSCOM) designated carriers for the movement of product over ocean and via air. Provide a copy of any existing USTRANSCOM carrier agreements, including any Universal Service Contract USC or Multimodal carrier agreements. If you do not have current carrier agreements, obtain and submit a copy of a new agreement with at least one of these carriers. The agreement should address: ocean and/or air movement of product, related issues such as claims processing and dispute resolution for losses and damage to Prime Vendor cargo by the carrier, process for resolution of claims by the carrier against the Prime Vendor for detention of carrier containers, port storage for detained containers, and maintenance provided by a carrier for detained refrigerated containers. If you are unable to obtain the agreement prior to proposal submission, explain how you will be able to obtain the required agreements from all three carriers on a post award basis (include the lead-time required to obtain). Additionally, a statement must be included acknowledging that the Government will not be liable for loss or damage of product while the material is being transported by a USTRANSCOM carrier.

### **FACTOR III – Implementation and Management Plans**

#### **Submission Requirement – Factor III**

1. The offeror must discuss all elements of its implementation plan from contract award to fully operational capability (“FOC”) in accordance with the “Contract Implementation Phase” section of the statement of work. The offeror's proposal must provide dated milestones that identify each step of the plan within the specific 180 day implementation timeframe. Any action that will cause a delay and impact the successful FOC must be clearly identified.
2. The offeror must discuss how all elements of its supply chain management plan to include purchasing, over ocean transit times, warehousing, local market ready items, and inventory management is taken into consideration to ensure a seamless implementation from the incumbent Prime Vendor operation to the proposed Prime Vendor operation.
3. Identify and discuss the Warehouse Management System that will be used in the performance of the proposed contract. Explain how your supply chain management plan will enable you to meet or exceed the 98% fill rate and 300% surge requirements. Discuss your supply chain management plan to include tasks associated with purchasing inventory, replenishing inventory, and managing inventory levels to achieve a consistent 98% fill rate and to meet the 300% surge requirement.
4. The offeror must identify all aspects of the proposal that are dependent upon Government action and/or information for the offeror to successfully perform its transition to full implementation.
5. Provide an organizational/management chart for the key personnel or the positions of personnel who are responsible for the day to day management and overall success of this Prime Vendor Program. Do not submit corporate charts unless the people listed are directly involved in the performance of the proposed contract. Discuss your key personnel's experience with Prime Vendor and/or Government contracts and/or discuss your key personnel's experience with commercial food accounts. In addition, offerors shall submit a complete resume for each of the key personnel identified.

**SECTION B – PAST PERFORMANCE**

**Submission Requirement – Past Performance**

1. Provide a brief performance record of up to five (5) of your highest dollar value or most comparable contracts, whether they are commercial or Government contracts, from the 18-month period preceding the closing date of the solicitation.

Provide the following information for EACH of the 5 selected contracts:

- a. Contract/Account Number or Identifier.
- b. Contract Holder Point of Contact Information (Name, E-mail address, and phone number).
- c. Time period that the account has been serviced.
- d. Annual sales dollar value
- e. Number of customers that you deliver to on a routine schedule
- f. Estimated line items/SKUs in inventory
- g. Brief statement of the work performed to include a discussion of experience performing deliveries as a full line food distributor.
- h. Narrative to explain how the contract is similar in size and/or complexity to the solicited requirements.
- i. Discuss problems that you have encountered during performance and what steps were taken to resolve the problems, along with their resolutions.

For purposes of evaluating Past Performance, offerors that are proposing a joint venture, partnership or a teaming approach may provide past performance information on team members. Offerors that are relying on past performance information of their team members must clearly demonstrate that the team member will have meaningful involvement in the performance of the resultant contract for that past performance to be considered.

2. The offeror shall distribute the below questionnaire to each contract holder identified in response to paragraph 1 above. Questionnaires shall be completed by the contract holder and e-mailed directly from the contract holder to the following e-mail addresses: [Jacob.Slotnick@dla.mil](mailto:Jacob.Slotnick@dla.mil) and [Donovan.Mahoney@dla.mil](mailto:Donovan.Mahoney@dla.mil) no later than the solicitation closing date (original or amended). Offeror's should follow-up with the contract holders to ensure the timely submission of questionnaires. The Government may contact the offeror's listed references to confirm the provided information and survey the performance of the offeror. The Government may also obtain and use past performance information from sources other than those identified by the offeror. These would be publicly available, non-confidential sources.

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**DLA Troop Support  
Performance Questionnaire**

Your willingness to complete the following questionnaire is appreciated. The information that you provide will be used in the awarding of federal contracts. Therefore, it is important that your information be as factual, accurate and complete as possible to preclude the need for follow-up by the evaluators. Request that the completed questionnaire is returned via e-mail to [jacob.slotnick@dla.mil](mailto:jacob.slotnick@dla.mil) and [Donovan.Mahoney@dla.mil](mailto:Donovan.Mahoney@dla.mil) Thank you.

**Contract Information:**

Evaluator's Name & Agency/Company \_\_\_\_\_

Evaluator's Phone Number \_\_\_\_\_

Evaluator's E-mail Address \_\_\_\_\_

Contract Number \_\_\_\_\_

Contractor's Name \_\_\_\_\_

Contractor's Address \_\_\_\_\_

Contractor's CAGE Code, if applicable \_\_\_\_\_

Contract Award Date \_\_\_\_\_

Contract Annual Dollar Value \_\_\_\_\_

Contract Term (Start date and End date) \_\_\_\_\_

Description of Supplies/Services Provided \_\_\_\_\_

**Contract Performance**

**Please circle, underline, or highlight in bold, one of the numbers for each question using the most appropriate scale description:**

<b>Excellent</b>	<b>Very Good</b>	<b>Acceptable</b>	<b>Poor</b>	<b>Unacceptable</b>	<b>N/A</b>	<b>N/A</b>		
<b>No Problems</b>	<b>Rare Problems</b>	<b>Occasional Problems</b>	<b>Frequent Problems</b>	<b>Daily Problems</b>	<b>N/A</b>	<b>N/A</b>		
<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>	<b>N/A</b>	<b>N/A</b>		
1. Warehousing operations			5	4	3	2	1	N/A
2. Quality control & condition of delivered products			5	4	3	2	1	N/A
3. Customer support and satisfaction			5	4	3	2	1	N/A
4. Fill Rates (product accepted/product ordered)			5	4	3	2	1	N/A
5. Financial management			5	4	3	2	1	N/A
6. Overall Contract Performance			5	4	3	2	1	N/A

REMARKS (instances of problems or instances of exceptional performance): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Note: N/A means Not Applicable.

*(d). Submission Requirement – Price (Business) Proposal/Pricing – Volume III*

**Submission Requirement – Business Proposal/Pricing**

**Aggregate Distribution Price**

The Aggregate Distribution Price is calculated by multiplying each distribution price by its respective estimated quantity for each tiered pricing period and totaling the results. This calculation is performed for all items in the selected Market Basket and for Distribution Categories 6, 7, 9, 11-14, 16-19, and 22 which do not have associated item product prices.

**Weighted Aggregate Product Price**

The Weighted Aggregate Product Pricing is calculated by multiplying each product price for all items in the selected Market Basket by its respective estimated quantity, totaling the results, then multiplied by five. The resulting number is then multiplied by 0.30 (or 30%), for evaluation purposes only.

**Total Evaluated Price**

The Aggregate Distribution and Weighted Aggregate Product Prices will be added to obtain a Total Evaluated Price. This evaluated price will be used to determine the overall cost to the Government, and will be used for evaluation purposes only. Even though aggregate prices will be used as the evaluation components for the Price Proposals, individual Product prices will be evaluated and individual outliers may be identified and reviewed to determine if offered prices are reasonable. The information requested on the Market Basket, tab “Market Basket” and tabs “Distribution Worksheet”, will be evaluated using price analysis techniques. Offerors are required to submit a DLA Troop Support Quote Sheet for every item included within the Market Basket. After award, quotes for all required items will be reviewed for authenticity, accuracy, and price reasonableness prior to inclusion of the item in the catalog.

To address the above prices, the offeror is required to submit the below Elements 1-5.

**Notes:**

- i. The solicitation Attachment spreadsheet titled “Market Basket” consists of four (4) tabs: “Totals”; “Distribution Worksheet” “Market Basket”; and “Current Catalog” respectively. The third tab (“Market Basket”) is designed for the submission of all product prices in the yellow highlighted cells. The second tab (“Distribution Worksheet”) is designed for the submission of all distribution prices in the yellow highlighted cells. It is mandatory that all offerors submit product prices and distribution prices in this format. Failure to submit the product and distribution prices using the Attachment spreadsheet titled Market Basket may result in the rejection of the offeror’s entire proposal.
- ii. The tab “Totals” calculates the offeror’s aggregate offer, pulling information from the other tabs.
- iii. The tab “Market Basket” lists each item along with demand data, measured in cases/pounds/each, for all tiers.
- iv. The “Distribution Worksheet” tab lists each distribution category, along with demand data, measured in cases/pounds/pallets/each, for all tiers. The demand data in these tabs, for each distribution category, is a compilation of each Market Basket item in that category, or as specified directly on the worksheet.
- v. The “Current Catalog Items” tab lists the items that were cataloged for customer support as of July 31, 2019. It includes the Market Basket items, but identifies other items that are most likely to be cataloged by the Contractor post award. This tab is provided for informational purposes only.
- vi. Elements 1, 2, and 3 below must be submitted via Attachment 1 - “Market Basket” by completing the yellow



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highlighted cells in tabs marked “Totals”, “Distribution Worksheet, and “Market Basket”. Two hard copy copies of the spreadsheet and one electronic copy of the spreadsheet on a CD must be submitted. Please use an Anti-Virus utility. Market Basket spreadsheet, all tabs, are locked and may not be altered. Offerors are required to complete the cells that are highlighted in yellow.

vii. Element 4 must be collated in sequential numerical order. Two separate copies (preferably in folder or booklet form) of the quotes must be submitted.

viii. Element 5 must be in writing in a Word document format.

ix. All pricing shall be offered in accordance with the pricing provisions of the solicitation; i.e., Contract Unit Price = Product Price + Distribution Price. See “Economic Price Adjustment – Actual Material Costs for DLA Troop Support – Subsistence Product Price Business Model” as well as the above Price Definitions and Provisions and Invoicing sections.

**Element 1 – Aggregate Offer using Attachment 1 - Market Basket , tab Totals.**

DLA Troop Support has provided offerors with a tab titled “TOTALS” inside the price proposal workbook. Other than the offeror’s name and commercial government entity (CAGE) code in cell E3, the offerors do not enter information in this tab. Rather, this tab calculates the offeror’s aggregate offer, based on the information contained in the distribution category worksheets and market basket tabs.

These calculations include all tiers, as well as quantity adjustments, which derive from alternate offers. These calculations rely on the information the offeror enters into the other portions of the spreadsheet; any incorrect information, therefore, will skew this stated total.

After the offeror submits the price proposal, DLA Troop Support will verify the offeror- entered information based on the offeror-submitted documentation: quotes.

Note: This is not the offeror’s total evaluated price. The total evaluated price is determined through the process described below under evaluation criteria.

**Element 2 - Category/Distribution Prices using Attachment 1 - Market Basket tab Distribution Worksheet**

The distribution price categories to be used on this solicitation are listed on Attachment 1 – Market Basket tab Distribution Worksheet. All Distribution Prices must be offered as a dollar amount. Distribution Prices offered as a percentage are not acceptable. Prices must not extend more than two (2) places to the right of the decimal point. Pricing for all tiers shall be provided for the Distribution Price portion of the Contract Unit Price only. Acceptance of all tiers is mandatory, if an offeror does not submit pricing for all tiers, the offeror’s proposal may be rejected. The awarded Distribution Prices shall remain fixed for each applicable contract ordering period and shall be the same price for all customers.

No substitutions, deletions, or additions to the categories or units of measure indicated above are authorized. However, if any offeror feels that a substantial category has been eliminated, the offeror must bring it to the attention of the Contracting Officer at least 15 days BEFORE the solicitation’s closing date. A determination will be made at that time whether or not to add the category via an amendment to the solicitation.

The pricing scheme utilizes a total of 27 item distribution categories (22 distinct categories, plus 5 additional sub-categories). Sub categories have been established to identify distribution prices for local market ready items. These subcategories are identified with an “A” for example distribution category 1 is for CONUS DRY CS purchased at a freight on board (FOB) origin price. Distribution category 1A is designated for CONUS DRY CS purchased at a FOB delivered price. Sub categories apply to categories 1-5. Therefore, all sub-category distribution prices (1A through 5A) shall be lower than their corresponding category distribution prices (1 through 5). Distribution, categories 6, 7,

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9, 11-14, 16-19, and 22 do not have associated product prices. The estimated annual quantities associated with categories 12, 13, 15-18, and 21 are identified on the DIST CAT WORKSHEET, in column “E”. Below are the instructions for the required data from the offeror for the DIST CAT WORKSHEET.

1. In Column G, offerors will insert their Distribution Price for the first Tiered Pricing Period (24-month performance period, to include a 6-month ramp up) per the unit of measure (UoM) in Column D.
2. In Column H, offerors will insert their Distribution Price for the second Tiered Pricing Period (18-month performance period) per the unit of measure (UoM) in Column D.
3. In Column I, offerors will insert their Distribution Price for the third (final) Tiered Pricing Period (18-month performance period) per the unit of measure (UoM) in Column D.

**DIST CAT WORKSHEET Prepopulated or Calculated Fields:**

Column	Description
A	Cat. # – Distribution Price category number
B	Category Description – description of the food category
C	# Items in Category – number of items in the Market Basket that are cataloged within a specific Distribution Price category
D	Distribution Price Category Unit of Measure – unit used to calculate the quantity in its respective category
E	Annual Quantity (Adjusted) – annual quantity per UoM (Column E) for all items in the Market Basket that are cataloged within a specific category
G	Tier #1 Price – total Distribution Price per Distribution Price category for the tier 1 period
H	Tier #2 Price– total Distribution Price per Distribution Price category for the tier 2 period
I	Tier #3 Price– total Distribution Price per Distribution Price category for the tier 3 period

**Element 3 – Item/Product Price, using Attachment 1 - Market Basket, tab Market Basket and supporting documentation**

Market Basket attachment tab Market Basket represents at a minimum, 40% of the anticipated dollar value of this solicitation. The distribution category for each item has been pre-designated as indicated on the Market Basket tab Market Basket Column S (Assigned Dist price cat). No changes may be made to an item’s designated category. The estimated quantities for the items selected are indicated in Column V (Total Annual Quantity Based on Historical Demand), and are for information and evaluation purposes only.

All offered items should match to the solicited LSN specification requirements to include item description, unit package size, units per purchase pack, grade or fabrication. If the offeror’s proposed item does not adhere to the requirement, it may be considered an unacceptable item.

Meat items shall meet all the general and detailed requirements of the Government’s item description in accordance with the IMPS or NAMPS equivalent. Regarding fat limitations, unless otherwise specified, the maximum average fat thickness shall be 0.25 inch, and trim, weight and thickness tolerances shall be as the specified quality grade.

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Product prices entered on the Market Basket tab should match the supporting manufacturer’s quote, see Element 4 below. Offerors shall not convert pricing to match the solicited LSN specification requirements when proposing an item. Any conversion will be done by DLA Troop Support and will be for evaluation purposes only.

Below are the instructions for the required data from the offeror for the Market Basket.

1. For each item on the Market Basket tab, the offeror shall confirm in a separate word document if the item quoted is or is not an exact match to the market basket item description. For items offered as an exact match, “Exact Match” must be stated. For items that are not offered as an exact match, “Alternate Item” must be stated to include a full description of the quoted item. Also, the specific difference(s) between the requested item description and the quoted item description must be clearly explained.

2. Offerors shall complete tab Market Basket column H, Rows 3 through 82, Eval. Unit Per Unit of Measure.

3. Offerors shall complete tab Market Basket column I, Rows 3 through 82, C S Price? Annotate either a “Y” for Yes, or an “N” for No whether the offered UoM is a case price.

The evaluated units per case must be based on the submitted manufacturer’s quote. This is the number of evaluation units of measure (see Item Information Column H) the Contractor is offering per case; e.g., the number of pounds per case, gallons per case, etc. If offering the actual requirement, this number (column W) should match the number in column U.

4. Offerors shall complete tab Market Basket column K, Rows 3 through 82 indicating if a product price exception applies to the quoted product price in accordance with Economic Price Adjustment – Actual Material Costs for DLA Troop Support – Subsistence Product Price Business language (B) Contiguous United States (CONUS) based manufacturer, grower, or private label holder’s product pricing; (C) Mandatory source item; (D) Prime Vendor table displays/decorations; or (E) A CONUS-based redistributor’s price for a specific manufacturer’s product with either a “Y” for Yes, or an “N” for No. Please note that this only applies to those items with a Distribution Price Categories of 1-5. Please note that all items in Distribution Price Categories 15 and 20-21 are covered by product price exceptions, therefore, they do not need to be notated in the Market Basket. Items in a Distribution Price Category other than 1-5 have their corresponding column K cells locked.

5. Offerors shall complete column M, Rows 3 through 82, Product Price. The product price must be based on the submitted manufacturer’s quote (see Element 4 below). DO NOT deduct Food Show allowances from the product price. NAPA Discounts shall be deducted from the product price; however, the discount must be stated on the manufacturer’s quote.

**Market basket – Prepopulated or Calculated Fields:**

Column	Description
A	Line Item – item number in the Market Basket
B	LSN – Local Stock Number (LSN) requirement
C	Description – basic concept of the item of supply within a specific federal supply class (FSC)
D	Eval. Unit
E	UOM– The exact unit of issue per item shown as Case, Each, or Pound
F	Eval. Units per UoM (Historical) – the number of units that have historically been within

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Column	Description
	the case currently purchased by DLA Troop
J	Purchased locally in Korea Y or N
N	Evaluated Price Adjusted UOM Offered
P	Evaluated Price Adjusted UOM Historic
Q	Distro UoM
S	Assigned Dist Price Cat #
T	Offered Dist Price Cat #
V	Total Annual Quantity based on Historical UoM
X	Annual Qty Based on Offered Item Size UOM Annual Qty (Adjusted)
Z	Aggregate Product Price

**Element 4 – Manufacturer Quotes**

1. To substantiate the product prices submitted in response to Element 3 above, the offeror shall submit the attached quote sheet (Quote Sheet Attachment); one for each item in the market basket.

- The offeror shall distribute a copy of the below quote sheet to each individual manufacturer.
- The quote sheet is required to be completed by the manufacturer and returned to the offeror.
- The offeror shall submit the collective quote sheets in line item number sequence (1-80) along with its offer.

The Government may contact the manufacturer point of contact to confirm the provided information.

2. Manufacture quotes should reflect prices effective no earlier than the issuance date of the solicitation.

**Note: An individual manufacturer’s quoted price may expire before your offer expires. Your offer should be valid 240 days from the date specified for receipt of offers (initial or revised, whichever is later). Furthermore, the first post award catalog will be established at the award price. Product prices will only be eligible for change in accordance with the economic price adjustment clause. Therefore, the risk of not being able to make your first set of purchases for the market basket items at the exact quoted price must be factored into your distribution price.**

**Element 5 – Discounts, Rebates, Allowances or Other Similar Economic Incentives or Benefits**

The offeror shall identify all discounts, rebates, allowances or other similar economic incentives or benefits that will be received by the contractor. These discounts, rebates, allowances or other similar economic incentives or benefits shall be reported monthly as identified in the Management Reports section of the statement of work.

**THE GOVERNMENT RESERVES THE RIGHT TO VERIFY ALL ASPECTS OF AN OFFEROR’S PRICE PROPOSAL.**

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LINE ITEM # \_\_\_\_\_



DEFENSE LOGISTICS AGENCY

TROOP SUPPORT  
700 ROBBINS AVENUE

PHILADELPHIA, PENNSYLVANIA 19111-5092

OFFICIAL DLA TROOP SUPPORT OCONUS SUBSISTENCE QUOTE SHEET  
**MUST BE COMPLETED BY MANUFACTURER**

**Solicitation: SPE300-19-R-0076**

**Region: Republic of Korea**

Offeror Name:	
Offeror Address:	

This is the official quote sheet for the above referenced solicitation and region. In order for this quote to be valid, all fields must be completed by the manufacturer (MFG). A completed copy of this sheet must accompany each offered item. This form may not be changed or alternated in any way other than by completing the required information.

**MANUFACTURER INFORMATION:**

MFG Name and Address (Label and Parent Company):	
Name and Address of facility where product will be manufactured /processed, and if applicable USDA/USDC/PHC Plant #	
MFG POC for Military Sales (First and Last Name / Valid Phone Number and E-mail address):	
Date of quote	

**ITEM INFORMATION:**

Market Basket Stock Number	
Quoted Stock Number (if different from Market Basket item)	
MFG Item Description and Case Size	
Global Trade Item Number (GTIN) or MFG SKU (MFK SKU can only be used if GTIN is not available)	
Market Basket QTY and Unit of Measure	

**PRICING INFORMATION:**

A	FOB Origin Product Price, without exception, as appears on quote:	
B	DLAD 52.216-9065 Product Price Exception A, B, C, D or E* as appears on quote:	
C	NAPA Discount, if applicable:	
D	Final Product Price without exception (A minus C = D):	
E	Final Product Price (B minus C = E):	
F	Time period Price Quote is effective (Must be valid through the first month of contract performance):	
G	Payment Terms (Early payment discount no more than 2% / Early payment required within 10 days to obtain the discount):	

\* A (FF&V)

C (Mandatory Source)

E (Redistributor)

B (Grower or Private Label)

D (Table Displays/Decorations)

**See EPA language for full definitions.**

MFG Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDENDUM TO FAR 52.212-2**

1. Paragraph (a) is hereby expanded to read as follows:

(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 non-price factors considered. The following technical and price factors shall be used to evaluate offers:

**SECTION A NON-PRICE PROPOSAL-TECHNICAL FACTORS (NON-PRICE COMPONENTS)**

- Factor I. Warehouse Location and Capacity
- Factor II. Resource Availability (Cash Flow, Equipment, and Carrier Agreements)
- Factor III. Implementation and Management Plan

**Section B NON-PRICE PROPOSAL – PAST PERFORMANCE (NON-PRICE COMPONENT)**

**PRICE (BUSINESS) PROPOSAL**

- Aggregate Distribution Price
- Weighted Aggregate Product Price
- Total Evaluated Price

The Government will use Best-Value Continuum Procedures, specifically the Tradeoff Source Selection Process. This process allows the Government to accept other than the lowest priced proposal or other than the highest technically rated proposal to achieve a best value contract award.

Technical Factors I, II, III, and Past Performance, individually, are of equal importance to each other and will be evaluated on a comparative basis against the evaluation criteria for each factor. When combined, Technical Factors I, II, III, and Past Performance are significantly more important than price. However, as proposals become more equal in their technical merit, the evaluated price becomes more important. Any offeror that receives an Unacceptable rating on any individual factor will not be eligible for award.

Offerors will be required to submit all information in writing. The Government reserves the right to perform site visits via the Defense Contract Management Agency, Defense Contract Audit Agency, or other qualified personnel.

2. Add paragraph (d) as follows:

(d) Source Selection and Evaluation Procedures:

**Evaluation Process** – Evaluations for each volume of the proposal will be performed exclusive of one another. Factors I, II, III, and Past Performance are considered Non-Price Factors and will be evaluated in accordance with the Non-Price Evaluation Process outlined below. Price will be evaluated in accordance with the Price Evaluation Process outlined below.

**Non-Price Evaluation Process** – Offerors are required to present all of their information in writing, as prescribed in the section of this solicitation entitled Submission Requirement – Non-Price (Technical) Proposal – Volume I. Proposals so technically deficient as to make them technically unacceptable may be rejected as unacceptable. No discussions will be held with rejected offerors, nor will any rejected offeror be given an opportunity to revise its offer to correct deficiencies in order to become acceptable after the date and time specified for the receipt of offers.

**Evaluation Criteria – Section A – Factor I – Warehouse Location and Capacity**

The Government will evaluate the offeror's proposed distribution network. The location of warehouses and facilities, as well as the nature of and risk associated with the offeror's access to and control over said warehouses and facilities will be evaluated. Proposals containing Korea OCONUS facilities that are owned by the offeror and existing as well as those with legally-binding long term lease agreements or commitments to enter into a long term agreement that provide full use of facilities conforming to the requirements of the solicitation are likely to result in a higher rating than a proposal containing a proposed or contingent arrangement, or one which provides only partial use of a facility or otherwise raises questions concerning whether the offeror will have complete facilities available or capacity for contract performance when needed. Proposals containing existing facilities that are owned by the offeror will be rated more favorably than those proposals providing facilities that either are under construction or leased due to the lower risk involved with ownership.

Each offeror's physical Korea OCONUS facility(ies), open capacity, layout and available yard space for staging of inbound and outbound product and their capability to ship and receive simultaneously (including the number of doors available for shipping and receiving and any impediments to simultaneous use) will be evaluated.

### **Evaluation Criteria – Section A – Factor II - Resource Availability (Cash Flow, Equipment, and Carrier Agreements)**

The Government will evaluate each offeror's resources (i.e. financial, quantity and type of trucks and material handling equipment, plans and personnel utilized for maintaining and servicing vehicles and equipment, and carrier agreements) available to successfully meet the requirements of the solicitation. Proposals with adequate existing resources and agreements with carriers will generally be rated more favorably than those without. Offerors that provide agreements that specifically identify the quantity and types of distribution equipment resources committed for use under the contract in the agreement may be rated higher than those without agreements or that rely on general statements of availability.

### **Evaluation Criteria – Section A – Factor III – Implementation and Management Plans**

The Government will evaluate each offeror's implementation plan from contract award to fully operational capability("FOC") and seamless implementation. The offeror's identification of key personnel involved in the daily management of the contract, by position, and their relevant individual experience, will be examined in order to determine the anticipated success of the firm in providing service to its customers. Offerors with all or some key personnel with Prime Vendor and/or commercial food experience, are knowledgeable in the food distribution industry, and/or that are knowledgeable in regard to the geographical areas being supported may be evaluated higher. The relative location of key personnel that manage the day to day operations will be evaluated to determine performance risk. Plans that exceed solicitation requirements (e.g., 180 day implementation with a seamless transition, and less dependent upon Government action) may be rated more favorably. Product movement procedures, warehouse management systems, inventory rotation methods, quality assurance positions, open date of pack labeling procedures, shelf life procedures, and warehouse management system access for Government personnel will be assessed. Warehouse management systems that exceed 98% fill rate and 300% surge may be rated more favorably.

### **Evaluation Criteria – Section B – Past Performance**

The Government will evaluate the offeror's record of Past Performance through its written proposal, Government in-house records (if applicable), and the information provided by the points of contact or references designated by the offeror. Government in-house records will be considered more reliable than information provided by other references. Government in-house records include, but are not limited to, Past Performance Information Retrieval System (PPIRS), Contractor Performance Assessment Reporting System (CPARS), information received through

the Subsistence Total Order and Receipt Electronic System (STORES), and Customer Surveys. The most relevant past performance, and that which will receive the most credit is the information directly related to the offeror.

Note: The Government may contact the offeror’s listed references to confirm the provided information and survey the performance of the offeror. The Government may also obtain and use past performance information from sources other than those identified by the offeror. These would be publicly available, non-confidential sources.

There are three aspects to the past performance evaluation. The first is recency which evaluates whether each offeror’s past performance is recent. The second is relevancy, which evaluates whether each offeror’s past performance is relevant to the performance requirements of the contract identified in the solicitation. The third aspect is quality for which a separate quality assessment rating will not be assigned, as it will be based on the offeror’s overall record of recency, relevancy, and quality of performance.

Recency is generally expressed as a time period during which past performance references are considered relevant, and is critical to establishing the relevancy of past performance information. Contract performance will be considered recent if any portion of the contract was performed after the date that is 18 months prior to the solicitation closing date.

In establishing what is relevant for past performance, consideration will be given to those aspects of an offeror’s contract history, which provide the most confidence that the offeror will satisfy the current procurement. Those aspects of relevancy include performing as a full line food distributor, dollar value, number of line items/SKUs in inventory, and number of customers supported on a routine schedule. Contracts that demonstrate most of the relevancy aspects, as described above, may be rated more favorably.

The estimated requirements of the solicited contract are as follows:

	<b>Korea Customers</b>
Annual Dollar Value	\$32,000,000.00
Estimated line items/SKUs	587
Number of Customers Supported on a Routine Schedule	112

**Price Evaluation Process** – The Government will evaluate limited pricing data with the initial proposals, and during discussions if negotiations are conducted, in accordance with FAR 15.4, “Contract Pricing.” The Government will evaluate the offeror’s pricing on the Market Basket items. Included in this process is the evaluation of tier pricing periods. The purpose of the price evaluation is to provide a Final Total Evaluated Price for use in the award decision, and to provide a basis for determining that the contract price is fair and reasonable. The following Price (Business) Proposal/Pricing factors will be used.

**Aggregate Distribution Price**

Aggregate Distribution Price, is calculated by multiplying each distribution price by its respective estimated quantity for each tiered pricing period and totaling the results. This calculation is performed for all items in the selected Market Basket and for Distribution categories 6-7, 9, 11-14, 16-19, and 22 which do not have associated item Product prices.

**Weighted Aggregate Product Price**

The Weighted Aggregate Product Pricing is calculated by multiplying each product price for all items in the selected Market Basket by its respective estimated quantity, totaling the results, then multiplied by five. The resulting number is then multiplied by 0.30 (or 30%), for evaluation purposes only.

**Total Evaluated Price**



The Aggregate Distribution and Weighted Aggregate Product Prices will be added to obtain a Total Evaluated Price. This evaluated price will be used to determine the overall cost to the Government, and will be used for evaluation purposes only. Even though aggregate prices will be used as the evaluation components for the Price Proposals, individual Product prices will be evaluated and individual outliers may be identified and reviewed to determine if offered prices are reasonable. The information requested on the Attachment 1, tab “Market Basket” and tabs “Distribution Worksheet”, will be evaluated using price analysis techniques. Offerors are required to submit a quote for every item included within the Market Basket. After award, quotes for all required items will be reviewed for authenticity, accuracy, and price reasonableness prior to inclusion of the item in the catalog.

To ensure an objective price evaluation, the pricing of all offerors are to be based on the exact item in our schedule of items. When offerors qualify the salient characteristics of an item or items in the schedule and or when the government detects (through a relative pricing review and or a review of supporting invoices or quotes) that the pricing proposed is on an item which differs from the schedule of items description then the government reserves the right to employ remedies such as:

- (a) Where an insignificant number of items differ from the schedule of item descriptions, those items will be eliminated from the evaluation of all offerors;
- (b) Single serve items with small quantity differences may be evaluated without adjustment, as any additional quantity provides no additional value; and
- (c) Larger, generally case size items, with quantity differences may be evaluated on a per pound or similar basis.
- d) If a significant number of items differ from the schedule of item descriptions then the offeror may be eliminated from the competitive range or may be ineligible for award.

**Competitive Range Determination.**

The Government intends to award without discussions. If, however, a determination is made to conduct discussions, after initial evaluations are completed, the contracting officer will make a competitive range determination. The Government reserves the right to reduce the competitive range. Offerors in the competitive range will be included in discussions. Offerors not in the competitive range will not participate in discussions and will no longer be considered for award. Offerors excluded from the competitive range will be notified in writing. At that time, pursuant to FAR 15.505, an offeror may request a pre-award debriefing. If a pre-award debriefing is held only limited information will be releasable. Offerors debriefed after the competitive range determination are not entitled to more than one debriefing for each proposal. If a pre-award debriefing is not requested, a post-award debriefing may be requested in accordance with FAR 15.506.

**Selection Process.** Final technical and pricing evaluations will be completed by the SSEB Chairperson and Price Proposal Evaluation Team, respectively. These evaluations will be furnished to the PCO and the SSAC. The SSAC Chairperson will prepare written recommendations for the SSA. It is the ultimate decision of the SSA to determine which offeror receives the award.