

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NUMBER _____ PAGE 1 OF _____

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE
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7. FOR SOLICITATION INFORMATION CALL:	a. NAME	b. TELEPHONE NUMBER (No collect calls)	8. OFFER DUE DATE/ LOCAL TIME
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9. ISSUED BY	CODE	10. THIS ACQUISITION IS	11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED	12. DISCOUNT TERMS
		<input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: _____ % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: SIZE STANDARD:	<input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING _____ 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP	

15. DELIVER TO	CODE	16. ADMINISTERED BY	CODE
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17a. CONTRACTOR/OFFEROR	CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY	CODE
TELEPHONE NO.			17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>	
			18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM	

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
(Use Reverse and/or Attach Additional Sheets as Necessary)					

25. ACCOUNTING AND APPROPRIATION DATA	26. TOTAL AWARD AMOUNT (For Govt. Use Only)
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<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA _____ ARE <input type="checkbox"/> ARE NOT ATTACHED	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA _____ ARE <input type="checkbox"/> ARE NOT ATTACHED	
<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.	<input type="checkbox"/> 29. AWARD OF CONTRACT: REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR	31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)		
30b. NAME AND TITLE OF SIGNER (Type or print)	30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (Type or print)	31c. DATE SIGNED

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

32a. QUANTITY IN COLUMN 21 HAS BEEN

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

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

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

38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE
	42b. RECEIVED AT (<i>Location</i>)
	42c. DATE REC'D (<i>YY/MM/DD</i>)
	42d. TOTAL CONTAINERS

BLOCK 8 (continued):

OFFER DUE DATE/ LOCAL TIME:

December 16, 2010, 3:00 PM (EST)

BLOCK 9 (continued):

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

SEND **MAILED OFFER** TO:

DEFENSE LOGISTICS AGENCY
TROOP SUPPORT
POST OFFICE BOX 56667
PHILADELPHIA, PA 19111-6667

DELIVER **HANDCARRIED OFFER**, INCLUDING DELIVERY BY COMMERCIAL CARRIER TO:

DLA TROOP SUPPORT
BUSINESS OPPORTUNITIES OFFICE
BLDG. 36, SECOND FLOOR
700 ROBBINS AVENUE
PHILADELPHIA, PA 19111-5092

All hand carried offers are to be delivered to the business opportunities office between 8:00 AM and 5:00 PM Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103.

Offerors that respond to this solicitation using a commercial carrier service must ensure that the commercial carrier service "hand carries the package to the Business Opportunities Office prior to the scheduled closing time.

NOTE: Facsimile offers are not acceptable.

BLOCK 17A (CONTINUED):

OFFERORS: SPECIFY CAGE CODE: _____

FAX NUMBER _____

EMAIL ADDRESS _____

COMPANY POC: _____

PHONE #: _____

BLOCK 17B

Remittance will be made to the address that the vendor has listed in the Central Contract Register (CCR).

Offeror's assigned DUNS Number: _____

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

CONTENTS

Offer Due Date/ Local Time..... 1

CAUTION NOTICE..... 6

CHECKLIST 6

STATEMENT OF WORK..... 7

 SCOPE..... 7

 EFFECTIVE PERIOD OF CONTRACT 7

 OPTIONS 8

 ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM..... 8

REQUIREMENTS..... 9

 New Items..... 10

Catalog Pricing 11

REBATES/DISCOUNTS & PRICE RELATED PROVISIONS..... 12

DEFENSE APPROPRIATIONS ACT..... 15

CUSTOMERS..... 16

CUSTOMER SERVICE 16

VALUE ADDED SERVICES..... 17

ORDERING SYSTEM 17

 Obtaining a PKI certificate..... 18

ORDER PLACEMENT 19

ITEM AVAILABILITY..... 19

PACKAGING, PACKING, LABELING AND MARKINGS 20

DELIVERY INSTRUCTIONS 20

INSPECTION AND ACCEPTANCE..... 21

AUTHORIZED RETURNS 22

REJECTION/RETURN PROCEDURES 22

INVOICING 23

PRICE AUDITS 26

 Price Verification Audits 26

FILL RATE 27

HOLIDAYS 28

EMERGENCY ORDERS..... 28

SEASONAL ACQUISITON PLAN 28

CONTRACTOR QUALITY PROGRAM..... 28

WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT..... 29

MANAGEMENT REPORTS 33

 1. Product Line Grower/Supplier Listing..... 33

 2. Fill Rate Report..... 33

 3. Rebate Reports 34

CENTRAL CONTRACTS 35

 a. Agreement Holder..... 35

 b. National Allowance Program..... 36

 c. National Allowance Program Agreements (NAPA)'s..... 36

NAPA TRACKING PROGRAM 37

 B. Frequency of Submission..... 37

 C. Contents of the Data File 37

CONTRACT ADMINISTRATION INFORMATION 39

 CONTRACTING AUTHORITY 39

 PAYMENTS..... 40

 ADMINISTRATION..... 41

Clauses..... 41

SUBMISSION INFORMATION 96

Mandatory Submission Requirements – Plans..... 97

 SEASONAL ACQUISITION PLAN..... 98

 FORCE PROTECTION..... 98

 SURGE/MOBILIZATION..... 98

 EDI IMPLEMENTATION 98

 THIRD PARTY WAREHOUSE AUDITS..... 98

EXPLANATION OF PRICE SUBMISSION REQUIREMENTS..... 99

 SAMPLE FORMAT FOR BUSINESS PROPOSAL SPREADSHEET 102

EVALUATION FACTORS FOR AWARD..... 103

 PRICE EVALUATION 103

 Pricing-Schedule of Items..... 103

CAUTION NOTICE

This solicitation is a 100% Small Business Set Aside. The NAICS is 111998 and size standard is 500. This contract contains a one (2-year) base period plus one (2-year) option period.

This acquisition will use a commercial paperless ordering system. Delivery orders will be placed against it at the current catalog price. The awardee(s) will be required to have a computer system capable of accepting purchase orders and processing Electronic Data Interchange (EDI) transactions. This contract will require the contractor to have electronic commerce/electric data interchange EC/EDI capabilities. Information regarding EDI can be found in the EDI attachment of this document. The EBS system will be available for viewing on the DIBBS Website: <http://www.dibbs.bsm.dla.mil>.

The resulting contract made against this solicitation (SPM300 11 R 0020) will be an Indefinite Quantity Contract (IQC) Fixed Price with an Economic Price Adjustment based on cost of materials. An IQC will provide for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (FAR 16.504(a)).

CHECKLIST - DID YOU REMEMBER TO?

1. Fill in Block 17a of 1449?
2. Indicate remittance address, block XX. if different, in offer?
3. Sign in Block 30a, name in Block 30 b, and date in Block 30c?
4. Sign and return any/all amendments?
5. Return one (1) complete copy of the solicitation?
6. Submit prices for every item listed in the Schedule of Items s.
7. Submit a list of distribution centers/warehouse locations that will directly support the proposed customers. Warehouses that function as backups should be designated as such.

STATEMENT OF WORK

SCOPE

INTRODUCTION

- A. The DLA Troop Support intends to enter into an Indefinite Quantity Contract (IQC) contracts with commercial firms to supply a full line of USDA No.1 or better Fresh Fruit and Vegetable (FF&V) products to Department of Defense (DoD) Troop Issue customers and non-DoD customers. Non-DoD customers include USDA supported schools and Indian Tribal Organizations located in Oklahoma and Texas Panhandle.
- B. This solicitation consists of two groups to be serviced in one zone, Oklahoma/Texas Panhandle Zone. Group 1 will consist of Department of Defense (DoD) customers, while Group 2 will be made up of Non DoD customers to include USDA supported schools and Indian Tribal Organizations. The Government intends to make one award, covering both groups, but reserves the right to award a separate contract to each group. Offerors are required to offer on all items in the **Schedule of Items** for a Group, failure to do so may result in exclusion from award consideration.
- C. This solicitation is a total Small Business Set-Aside.
- D. Any award made against this solicitation will result in an Indefinite Quantity Contract (IQC) Fixed Price with an Economic Price Adjustment based on cost of materials. An IQC will provide for an indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (reference FAR 16.504(a)).
- E. The resultant contract will be made based on the lowest evaluated price of proposals meeting:
 1. The ability to provide a full line of USDA No. 1 or better Fresh Fruit and Vegetable (FF&V) products in accordance with the item description; and
 2. The ability to deliver the product in accordance with the delivery schedule; and
 3. The ability to meet all other terms and conditions.

EFFECTIVE PERIOD OF CONTRACT

This contract includes a two year base period and a two year option period commencing with the first order placed under the contract. The Government anticipates orders beginning no sooner than **April 5, 2011**.

OPTIONS

- A. There is one (2-year) option period in this solicitation. Acceptance of this option by the successful contractor is mandatory. Distribution Prices must be submitted for each option period, as well as for the base term. The Distribution Prices offered on each option year will be calculated with the delivered price proposed for each evaluated item. The Distribution Price for each option period may be offered as a dollar value, increase or decrease, from the base period. **Changes expressed as a percentage will not be accepted.**
- B. Prices will be evaluated inclusive of the option, i.e., the totals for all prices for the base period plus option period will be added together to arrive at the total aggregate dollar value. This dollar value will be used in the evaluation of offers.
- C. Failure to propose an increase or decrease of distribution prices in the option period will be considered and evaluated as no change in distribution price per option period.

The base term of the resultant contract, and the term of any option under that contract, will not exceed 2 years, respectively. The total length of the contract will not exceed forty-eight (48) months, or four (4) years.

ESTIMATED DOLLAR VALUE/GUARANTEED MINIMUM/MAXIMUM

- A. This solicitation's 4-year total estimated value is \$22,299,884.24. The following chart includes the 4 year estimated dollar value along with the guaranteed 10% minimum and 200% maximum. The guaranteed minimum, although based on estimates, is a firm dollar amount calculated as a percentage of the estimated dollar value; that firm dollar amount constitutes the Government's legal ordering obligation under the contract.

Oklahoma and Texas Panhandle Area	2- Year Estimate (Base Year)	4 Year Estimate (Total incl. Options)	10% MIN (4 Years)	200% MAX (4 Years)
Group I DOD- Troop	\$3,258,316.06	\$6,516,632.12	\$651,663.21	\$13,033,264.24
Group II Non-DOD - Schools	\$4,445,491.48	\$8,890,982.96	\$889,098.30	\$17,781,965.92
Group II Non-DOD-Reservations	\$3,446,134.58	\$6,892,269.16	\$689,226.92	\$13,784,538.32
Totals	\$11,149,942.12	\$22,299,884.24	\$2,229,988.43	\$44,599,768.48

The term "2 Year Estimate" refers to the Government's good faith estimate of the requirement for each period.

The overall maximum contract dollar value is \$44,599,768.48.

REQUIREMENTS

I. START-UP PERIOD

The Contractor's start up period will take place prior to the first order. The Contractor shall submit a proposed implementation schedule to the Contracting Officer within fifteen (15) days after award highlighting the steps that will be taken to implement a fully functional distribution account, including all EDI transactions, for all customers covered by this solicitation. An additional 30 days will be granted for actual implementation. No more than forty-five (45) days after award will be permitted for each contractor to have fully functional distribution accounts in place for all customers.

II. ORDERING CATALOGS

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

III. CATALOG MAINTENANCE

- A. In accordance with clause 52.216-9064, Economic Price Adjustment—Actual Material Costs for Subsistence Delivered Price Business Model, vendors may change prices in their Subsistence Total Order and Receipt Electronic System (STORES) Catalogs weekly. The submissions are to be made by **Wednesday, 2:00 PM EST**, to be in effect the following Sunday. All catalog changes to STORES must be submitted to DLA TROOP SUPPORT via 832 EDI Transaction Set. All catalog changes must be received by Wednesday, **2:00 PM EST**. DLA TROOP SUPPORT will review all catalog updates to check for price and other changes; however, **the accuracy of the vendor item catalogs is the responsibility of the vendor.** **If catalog updates is not submitted by Wednesday they shall only be submitted with approval from Contracting Officer.**

NEW ITEMS

1. Prior to commencement of the first order, DLA TROOP SUPPORT, the customer and the vendor will collaborate to identify items not found in the Schedule of Items which are to be added to the ordering catalog. Neither the vendor nor customer is permitted to add a new item to the catalog without initiating a new item request to the Contracting Officer.
2. After ordering commencement, if a customer desires to order a Fresh Fruit and Vegetable (FF&V) item that is not part of the ordering catalog, the contractor will be allowed a maximum of twenty (20) days to source the item, obtain a stock number from DLA TROOP SUPPORT (if required) and add the item to the ordering catalog via an 832 catalog transaction. These items should then become a permanent part of the contractor's inventory, dependent upon availability, after the Contracting Officer's determination of fair and reasonable pricing. The contractor shall utilize the Contracting Officer provided form when requesting all item approvals (additions and/or changes). The form is **mandatory** and is attached under "New Item Form".

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

CATALOG PRICING

1. **BEST PRICE GUARANTEE:** During contract performance, the contractor shall provide unit prices that are equal or lower than its most favored commercial customers, including any applicable discounts and allowances.
2. **SCHEDULE OF ITEMS PRICING:** Items priced in the Schedule of Items (See Schedule of Items attachment) will be included in the ordering catalog following award. Schedule of Items will be determined fair and reasonable prior to award. The final proposed price for each item in the Schedule of Items will be the catalog price during the first week of customer ordering.
3. **CATALOG PRICE CHANGES:** Once an item is listed on the ordering catalog, the contracting officer will make on-going price reasonableness determinations. In accordance with the Economic Price Adjustment—Actual Material Costs for Subsistence Delivered Price Business Model, contractors are permitted to submit a weekly EPA for items found on the catalog. For each item the vendor is requesting a price change, the contracting officer will conduct a separate price reasonableness determination. If proposed price changes are not determined fair and reasonable by the Contracting Officer, the item will not be added to the catalog that week.
4. **CATALOG ADDITIONS:** Before an item is added to the catalog vendors are required to submit to the contracting officer a request of proposed catalog additions. The request shall include the stock number, Government item description, proposed unit price and a corresponding supplier invoice or quote, and proposed distribution price. **The request is due by 9:00 AM EST on the Monday prior to inclusion of the Wednesday catalog updates.** The contracting officer will review the catalog addition request and upon determining the price fair and reasonable will contact the contractor to indicate acceptance. The contractor shall then include the item on Wednesday's catalog update. Should the proposed price fail to be determined fair and reasonable, the contracting officer will conduct negotiations with the

vendor. If after negotiations the proposed pricing still cannot be determined fair and reasonable the item will not be added to the catalog.

5. PRICING REQUIREMENTS: The final negotiated contract fixed unit price for each item for each zone delivered to all customers located in that zone shall be in effect for a minimum of all orders issued during the first ordering week (from Sunday at 12:01 AM through the following Saturday until midnight) The prices shall remain in effect for all subsequent ordering weeks except as otherwise adjusted IAW. DLAD 52.216-9064, Economic Price Adjustment—Actual Material Costs for Subsistence Delivered Price Business Model

REBATES/DISCOUNTS & PRICE RELATED PROVISIONS

A. DEFINITIONS.

(1) *“Added value”* means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government (e.g., processing orders of parts or services, maintaining inventory, reducing delivery lead times, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).

(2) *“Excessive pass-through charge,”* with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government by the Contractor or subcontractor that is for indirect costs or profit on work performed by a subcontractor (other than charges for the costs of managing subcontracts and applicable indirect costs and profit based on such costs).

(3) *“No or negligible value”* means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract (including task or delivery orders).

(4) *“Subcontract”* means any contract, as defined in section 2.101 of the Federal Acquisition Regulation, entered into by a subcontractor to furnish supplies or services for performance of the contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

(5) *“Subcontractor”* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for the Contractor or another subcontractor.

B. The Contractor or subcontractor shall not include excessive pass-through charges in their contract prices to the Government. If the Contracting Officer determines that excessive pass-through charges exist, the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price. The Contracting Officer (or authorized representative) shall have the right to examine and audit all the Contractor's records as necessary to determine whether the Contractor proposed, billed, or claimed excessive pass-through charges.

C. The Contractor shall employ all 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 of this contract.

D. All discounts, rebates, allowances and other monies provided by the Supplier to the Contractor, or directly by the Contractor, for the benefit of the customers supported under this contract, shall be returned to DLA TROOP SUPPORT in the form of a reduced Delivered price, and designated as the Product Allowance portion of the contract unit prices. Monies provided by the Supplier to the Contractor as compensation for services rendered by the Contractor (sometimes called Earned Income) and monies provided for an Early-Pay Discount, which are not designated by the supplier to be returned to customers in the way of a delivered price reduction, may be retained by the Contractor, subject to the terms below.

E. All discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the Supplier invoice (referred to as "off-invoice allowances") or designated by the Supplier to be passed on to the Government or to any commercial customer, shall be passed by the Contractor to the Government in the form of an up-front price reduction. The total of these discounts, rebates, or allowances (Product Allowance) shall be reflected via a reduced 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 coordinated with the Contracting Officer, and any such rebates must be submitted to the Government via check made to the US Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and CLIN number.

F. The Contractor may retain Earned Income that meets the following conditions:

- (1) Earned Income that the Vendor obtains from the Supplier and retains for its own use as payment for value added services for product Suppliers, such as supply chain management, product development, regional and national marketing, freight management, procurement leverage, quality assurance, and performance-based product marketing, and is received and retained in the normal course of its commercial business. Earned income may be retained by the Contractor and is not required to be included in the Product Allowance component of the Contract Unit Price.
- (2) Earned income does not include Supplier generated discounts, rebates, or allowances that are reflected on the face of the Supplier invoice or otherwise designated by Supplier to be passed on to customers; and

G. The Contractor may retain Early Payment Discounts that meet the following conditions:

- (1) The Early Payment discount is an incentive to encourage payment earlier than the normal payment due date;
- (2) The Early Payment discount is consistent with commercial practice;
- (3) The Early Payment discount is routinely given by the suppliers to customers other than the Contractor at the same discount rate and under the same conditions as provided to the Contractor and not to exceed 2% / 10 days.
- (4) 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; and
- (5) The contractor actually made the required payment within the time period required to receive the discount. 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.

H. Verification and Audit.

- (1) The Government has the unilateral right to perform price verification analyses, and to post-acceptance audit, for any and all contract unit prices, to include existing catalog items, price changes to existing catalog items, and new items being added to the catalog.

- (2) The Government may require the contractor to submit invoices and other documentation from all subcontractor tiers, any supplier or commercial customer sales, or person in the delivered price supply chain, to substantiate that all discounts, rebates, allowances or other similar economic incentives or benefits, provided by the Supplier or the Contractor, are passed on to the Government as required. The Vendor shall keep all delivered price invoices for a period of at least three (3) years after issuance of the applicable delivery order, or as otherwise required by the terms of the contract.

- (3) If the contracting officer determines that a discount, rebate, allowance or other similar economic incentive or benefit was not passed on to the Government, or if price verifications reveal any instances of overpricing, the Government shall be entitled to a prospective delivered price reduction and a retroactive refund for the amount of the overcharges. The contractor shall promptly refund any overcharges discovered during this process. Overcharges will probably also result in more frequent price verification analyses. No credit will be given the Contractor for any undercharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.

- (4) The Contracting Officer, or authorized representative, shall have the right to examine and audit all the Contractor's records relevant to the existence of discounts, rebates, allowances or other similar economic incentives or benefits, and most favored customer delivered prices. Failure to exercise this right shall not constitute a defense or alter the Government's entitlement to any other remedies by contract or by law.

- (5) The parties specifically acknowledge that the finding of overcharges may result in more frequent and extensive price verifications, or a determination by DLA TROOP SUPPORT to discontinue the placing of further delivery orders and performance under the contract.

DEFENSE APPROPRIATIONS ACT

A Class Domestic Non-Availability Determination (DNAD) for Federal Supply Class 8915, Fresh Fruits and Vegetables, dated 16 May 2008 has been approved under

the DLA TROOP SUPPORT/DLA Produce Long-Term Contracts. This DNAD establishes a limited Berry Amendment waiver to the requirements of DFARS 252.225-7012, Preference for Certain Domestic Commodities (JUN 2004), which is applicable to this solicitation. As a result of the DNAD, non-domestic FF&V may be supplied under this contract when domestic FF&V of satisfactory quality and sufficient quantity cannot be procured as and when needed at U.S. market prices. This determination will remain in effect until these circumstances have changed and the DNAD is formally rescinded.

Notwithstanding this DNAD, the USDA requires that produce supplied via Federal Entitlement for Reservation or School lunch funding must be domestic. If State funding is utilized, this policy may vary for individual states. Contact the Contracting Officer for guidance on specific state board funding policy.

CUSTOMERS

A. Individual Customer Estimates.

Annual customer estimates are listed in the Schedule of Items attachment.

B. Additional Customers: The Government reserves the right to add and remove DoD and non-DoD customers in the solicited area to each resulting contract based on a mutually agreed upon implementation plan at no additional cost to the Government.

CUSTOMER SERVICE

A. Vendors shall treat every customer covered under its contract as its best customers. Therefore, any treatment and/or customer service policy given to other accounts shall also be given to the customers under these contracts.

B. Military, USDA School Lunch Program, and DoD customers have periodic food menu board, school district and other types of meetings in which the vendor may be required to attend. At these meetings the customers not only review their internal business practices, but the offeror can utilize this forum to show new products, demonstrate produce preparation, provide nutritional information, and address, or any other method of communicating with the representative, shall be furnished to the customers after award.

- C. Vendors shall provide at least one (1) full time Customer Service representative to maintain continuous contact with all of the ordering activities. The name of the representative and the phone number, mobile phone number beeper number, email address, or any other method of communicating with the representative, shall be furnished to the customer after award.
- D. The vendor shall assume the responsibility of introducing new food items to the customers, as well as to show cost effective alternatives to their choices.
- E. Since many of our customers only have access to the Government phone network, it is strongly preferred that a toll free number be provided.

VALUE ADDED SERVICES

Market Forecast: The vendor is required to provide the customer and the contracting officer with a weekly produce market forecast bulletin on Friday which outlines, for the following week, information regarding supply availability, product quality, associated growing areas, price trends, weather conditions, and handling tips.

ORDERING SYSTEM

A. SUBSISTENCE TOTAL ORDER & RECEIPT ELECTRONIC SYSTEM

1. Accessed via the Internet, 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 contractor payment and customer billing. Additional EDI information has been provided as an attachment. USDA customers will order via a Favors Web, which is a web-based ordering tool.
2. Customers will be able to order all of their requirements through STORES. The System will transmit orders to the vendor and DLA TROOP SUPPORT.
3. The awardee shall be required to interface with STORES and must be able to support the following EDI transactions:

810 Electronic Invoice

820 Payment Voucher Information

832	Catalog (Outbound - Vendor to DLA TROOP SUPPORT)
850	Purchase Order
861	Receipt
997	Functional Acknowledgement

A complete description of these transaction sets is included in the “EDI Implementation Guidelines” can be found at <http://www.DLA Troop Support.dla.mil/subs/produce/pv/index.htm>.

4. The vendor shall have access to the Internet and be able to send and receive electronic mail (email).
5. Unit prices must be formatted not more than two (2) places to the right of the decimal point in all ordering catalogs.
6. Vendors are required to utilize the Government’s item descriptions on all electronic ordering catalogs (832 transmissions) as well as on its invoices, delivery ticket to customer and 810 invoice transaction set.
7. The offeror may be required to transmit 810,832, and 997 transactions, prior to award and during proposed evaluations, in order to demonstrate its EDI capability.
8. The vendor will utilize the DLA TROOP SUPPORT invoice reconciliation process, or other such systems as may become available, to the maximum extent, towards the goal of correcting invoices early and facilitating the payment process.
9. In the event the STORES system or the vendors interface is not operational, the vendor must provide alternate ways for the customer to order (e.g., by fax by phone, pick up orders, etc.)

B. PUBLIC KEY INFRASTRUCTURE (PKI)/ EXTERNAL CERTIFICATE AUTHORITIES (ECA) CERTIFICATES

The Department of Defense (DoD) Public Key Infrastructure (PKI) Certificate will be required for all DoD users. A DoD PKI certificate will be required for all contractors. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.

OBTAINING A PKI CERTIFICATE

Contractors who do not work on-site at a Department of Defense facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are
SPM300 11 R 0020 OK-TX Produce Solicitation

vendors who provide digital certificates to DoD's industry partners who are using their own equipment or working in non – Governmental facilities. Certificate prices range from \$99 - \$115 per certificate per year, with volume discounts at some ECAs. A list of ECAs is available at https://www.daas.dla.mil/daashome/pki_contacts.asp

Each contractor employee accessing CPARS (Contractor Performance Assessment Reporting System) will need an Encryption Certificate. A CPAR assesses a contractor's performance and provides a record, both positive and negative, on a given contractor during a specific period of time. Each assessment is based on objective facts and 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.

Each contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable.

ORDER PLACEMENT

- A. Troop customers shall place their orders to accommodate at a minimum a “skip day” delivery. An order placed on 1 September would have a required delivery date of 3 September. Orders may be placed with longer lead time; however, the minimum lead-time is “skip-day”. Minimum order requirement for any resultant contract is \$100.00. The \$100.00 minimum does not apply to any emergency orders.
- B. School and Reservation customers shall place their orders to accommodate a 3 day order/ship time. For example, the vendor downloads the order on Tuesday, and prepares shipment for Friday in effect, 3 day order/ship time.
- C. All invoice pricing will be based upon the unit price at time of order. For example, for any item ordered on a Friday to be delivered the following week, pricing will be based upon the Friday price, regardless of whether the unit price for that item changed as part of the weekly catalog update.

ITEM AVAILABILITY

- A. Vendors must have access to items in sufficient quantities to fill all ordering activity requirements. All supplies shall be furnished on a “fill or kill” basis.

Partial shipments are acceptable if the customer is notified in advance and agrees to the partial shipments; however, the unfilled quantity is to be reported as not-in-stock (NIS). Offerors are required to have procedures for handling NIS situations. The contractor is required to stipulate timeframes in which the NIS item will be identified to the customer prior to delivery, in order that a substitute item may be requisitioned via a new order. Only substitutes of comparable description, quality, and price may be offered to the customer.

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

PACKAGING, PACKING, LABELING AND MARKINGS

- A. All packaging and packing shall be in accordance with good commercial practice. Labeling shall be in accordance with commercial labeling complying with the Federal Food, Drug and Cosmetic Act and regulations promulgated there under. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.
- B. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as “KEEP REFRIGERATED” shall be used on all cases when appropriate.

DELIVERY INSTRUCTIONS

- A. Vendors shall ensure all products are delivered in sanitary trucks that are of a commercially acceptable standard. All trucks shall maintain proper temperatures, as determined through standard commercial practices. Deliveries shall be F.O.B. destination to all ordering activities and delivery points. All items will be delivered to customer locations, free of damage, with all packaging and packing intact. The contractor shall remove all excess pallets used for delivery from the delivery point. A listing of all the delivery points per zone can be found in the Customer List attachment.

- B. Troop installation & USDA delivery schedules (days and times) routes and stop-off sequence will be coordinated and verified with the customers on a post award basis by the awardee(s). In general, each Troop customer receives three (3) deliveries per week and each USDA customer receives one (1) delivery per week.
- C. 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 and loaded into the delivery vehicle in reverse drop sequence. The intent is to provide expeditious off-loading and delivery to the customer.
- D. The offeror shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer.

INSPECTION AND ACCEPTANCE

- A. Inspection and Acceptance of products will be performed at destination. The inspection is normally limited to identity, count and condition; however, this may be expanded if deemed necessary by either the military Veterinary Inspector, Dining Facility Manager, Food Service Advisor/Officer, or the Contracting Officer. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). In addition, the delivery vehicles will be inspected for cleanliness and condition. Supplies transported in vehicles that are not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected without further inspection.
- B. The authorized receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket shall not be signed prior to the inspection of each product. All overages/shortages/returns are to be noted on the delivery ticket by the receiving official and truck driver. The authorized receiving official's signature and printed name on the delivery ticket is required for acceptance of the product.
- C. The contractor shall forward three (3) copies of the delivery ticket with the shipment. The receiving official will use the delivery ticket as the receipt document. Two (2) copies of the signed and annotated delivery ticket will serve

as the acceptance document. No electronic invoice may be submitted for payment until acceptance is verified. Additionally, upon completing the delivery (or deliveries) and before the carrier leaves the installation, copies of the invoices may be required to be delivered to a central "Accounting/Troop Issue" activity on the installation.

AUTHORIZED RETURNS

The contractor/vendor shall accept returns under the following conditions:

1. Products shipped in error
2. Products damaged in shipment
3. Products with concealed or latent damage
4. Products that are recalled
5. Products that do not meet shelf life requirements
6. Products that do not meet the minimum quality requirements as defined for the items listed in the schedule
7. Products delivered in unsanitary delivery vehicles
8. Products delivered that fail to meet the minimum/maximum specified temperature
9. Quantity excess as a result of order input error and/or purchase ratio factor error
10. Products that are not from a sanitarily approved source.
11. Products that do not comply with DFARS 252.225-7012 Preference for Certain Domestic Commodities (Berry Amendment), if no waiver to this clause has been granted.
12. Any other condition not specified above that is deemed by the customer to be valid reasons for return.

REJECTION/RETURN PROCEDURES

- A. **In the event an item is returned, the delivery ticket/invoice shall be annotated as to the item (s) rejected. These items shall then be deducted from the**

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

- B. In the event a product is rejected after initial delivery is made, the vendor will pick up the rejected product. Credit due to the ordering activity as a result of the rejected product being returned, will be handled through a receipts adjustment process in STORES/FFAVORS. If the vendor has already been paid for the product, a claim will be issued through DLA TROOP SUPPORT's financial system. In all cases, one (1) copy of the credit memo is to be given to the customer and (1) copy of the credit memo is to be sent to the DLA TROOP SUPPORT Contracting Officer
- C. If a customer requires an on-to-one replacement, no additional paper work is necessary; the vendor delivery ticket/invoice will show that product is a replacement for a rejected item. The invoice shall reference the call number, CLIN number, and Purchase Order Number of the originally ordered product.
- D. It is a requirement of this solicitation that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the contractor from responsibility, nor impose liability on any of the customers, for nonconforming supplies. See clause 52.212-4, paragraph (o) and addendum to clause 52.212-4, paragraph 1.

Note: 52.212-4, Contract Terms and Conditions—Commercial Items is incorporated in this solicitation by reference. Its full text may be accessed electronically at <http://www.dla.mil/j-3/j-336/icps.htm>.

INVOICING

- A. Each delivery will be accompanied by the contractor's delivery ticket/invoice. Three (3) copies (an original plus two) shall accompany the shipment. The customer shall sign all copies of the invoice/delivery ticket, keep one (1) copy

and return the **Original** copy to the vendor. **Any changes must be made on the face of the delivery ticket/invoice; attachments are not acceptable.**

- B. **No paper invoices shall be submitted to DFAS for payment.** For all orders placed via STORES and sent via EDI transaction set 850, invoicing for payment is to be filed electronically using EDI transaction set 810 (see <http://www.DLA Troop Support.dla.mil/subs/produce/pv/index.htm> for EDI guidelines).
- C. For all orders downloaded via DLA TROOP SUPPORT's USDA customer ordering web-site, invoicing for payment shall be done via Produce EDI Web Invoicing Tool located at <http://www.DLA Troop Support.dla.mil/subs/prodedi.htm>. All vendors who will be supplying to USDA customers are required to register via the website within two (2) weeks of notice of award.
- D. All invoices submitted by the vendor must be "clean", i.e. all debits and/or credits must be reflected on the invoice prior to its submission. All vendors are required to ensure the accuracy of their invoices; the reconciliation tool provides you that medium.
- E. **Invoice transactions may be submitted to DLA TROOP SUPPORT daily. All internal debit/credit transactions must be completed prior to the submission of the invoice.** Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The vendor will be responsible for correction and re-submission.
- F. The same invoice cannot be submitted with different dollar amounts.
- G. Vendors utilizing EDI for the first time will be required to submit test 810 transactions sets 14 days prior to first order. Invoices may not be submitted as "LIVE DATA" until a test transaction set has been cleared.
- H. Any manually keyed, or emergency order, must contain the word "Emergency" in the Purchase Order field when the invoice is submitted for payment. In addition, the CALL number and CLIN numbers will be entered as "9999" on the invoice. Failure to follow this procedure may result in the rejection of your invoice.
- I. **For catch weight items, standard rounding methods must be observed i.e. <5, rounded down; > or =5, rounded up. All weights must be rounded to whole pounds using standard rounding methods.** Any line submitted for other than whole numbers will be rejected and require correction and re-submission by the

vendor. Note: Currently, no catch weight items apply to this solicitation. This does not preclude the possibility that catch weight items may be added in the future for certain items.

- J. Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point. STORES will not accommodate positions of three (3) and above beyond the decimal point.
- K. Although invoices must be submitted electronically via an 810 Electronic Invoice, the following address must appear in the “Bill To” or “Payment Will Be Made By” block of the contractor’s invoice.

DFAS – Columbus Center

Attn: DFAS-BVDP

P. O. Box 369031

Columbus, OH 43236-9031

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

Contract Number

Call or Delivery Order Number

Purchase Order Number;

DoDAAC

Contract line listed in numeric sequence (also referred to as CLIN order);

Item nomenclature;

LSN or NSN;

Quantity purchased per item in DLA TROOP SUPPORT’s unit of issue;

Total dollar value on each invoice (reflecting changes to the shipment, if applicable).

- L. **Vendor Reconciliation Tool** - in an effort to improve the payment process, vendors have the ability to view what the customer has or has not receipted, via the Business System Modernization (BSM) website. The vendor will have access to “un-reconciled” information, i.e., the invoice does not match the receipt because of the quantity price discrepancy, or because the customer has not posted a receipt. Both invoice information and receipt information will be available for review on the BSM website by the vendor. While the vendor will not have the capability to update customer receipt information, update capability will be available for un-reconciled invoice information for approximately thirty days (30) days. It is the vendor’s responsibility to ensure accurate invoices. This tool has been developed as an additional means for your internal accounting process.

PRICE AUDITS

- A. PRICE VERIFICATION AUDITS. Contractors are advised that the Government intends to conduct price verification analysis in the following manner:
- (i) Monthly, an internal Price Verification Team in conjunction with the Contracting Officer may require the contractor to provide copies of specific invoices from suppliers covering up to 100 items that were previously ordered.
 - (ii) The Price Verification Team will request the above documentation in writing and the contractor will have thirty (30) days after the request to furnish the documentation.
 - (iii) A report of overcharges and undercharges (if applicable) will be forwarded to the contractor, and the contractor will pay the Government for the net amount owed for overcharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.
 - (iv) The Government may elect to expand the scope of the price verification analysis if overcharges are discovered. The Government may also elect to reduce the scope of the price verification analysis if no overcharges are discovered.

- B. The Government reserves the right to conduct additional price audits to verify price accuracy and recoup overcharges. In such instances, contractors will be required to submit invoices and any other supporting price documentation.
- C. The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention.

FILL RATE

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

Cases accepted X 100 = fill rate %

Cases ordered

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

HOLIDAYS

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

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

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

EMERGENCY ORDERS

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

SEASONAL ACQUISITION PLAN

When seasonally available, of USDA #1 or better quality and competitive price, the Government’s preference is for locally grown produce. Offerors are required to maintain a written plan demonstrating its ability and commitment to procure locally grown produce

CONTRACTOR QUALITY PROGRAM

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

1. Standardized product quality;

2. The usage of First-In, First-Out (FIFO) principles;
2. Product shelf life is monitored;
3. Items are free of damage;
4. Correct items and quantities are selected and delivered;
5. Ensure requirements of the DNAD (Berry Amendment) are met;
6. Customer satisfaction is monitored;
7. Product discrepancies and complaints are resolved and corrective action is initiated;
8. Supplier, FDA, or DoD initiated food recalls are promptly reported to customers and DLA TROOP SUPPORT;
9. Compliance with EPA and OSHA requirements;
10. Salvaged items or products shall not be used;
11. Applicable food products delivered originate from a source listed as a Sanitarily Approved Food Establishment for Armed Forces Procurement.

- B. The vendor is responsible to contract for independent third party warehouse audits for each proposed place of performance as part of any resultant contract. At a minimum, the third party audits are to take place annually. The vendor must achieve a passing score without major deficiencies in order to continue performance under any resultant contract. The vendor is to submit a copy of each third party warehouse audit to the contracting officer within 30 calendar days of completion of audit. Failure to submit timely and complete audit reports may result in termination of the contract. **(Third party warehouse audits exclude Government agency audits).**
- C. The vendor shall have in place refrigeration and humidity controls in their warehouse to ensure product is stored at commercially acceptable temperature and humidity settings.

VII. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT

The contractor shall develop and maintain a sanitation program and a stored product pest management program for food and other co-located non-food items

that comply with industry standard programs such as the Code of Federal Regulations, Title 21, part 110, Food Manufacturing Practices, the Federal Insecticide, Fungicide and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as all pertinent state and local laws and regulations. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request. 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.

XXV. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS

Applicable food products, including pre-cut and packaged vegetables and salads, mushrooms and sprouts, delivered to customers listed in this solicitation, as well as any customer added at a later date, 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 Agriculture (USDA). For detailed information see Clause 52.246-9044 "Sanitary Conditions" in this solicitation. A copy of the list of applicable items is attached. It may also be found at <http://vets.amedd.army.mil/vetcom/directory.htm>

XXVI. CONTRACTOR QUALITY AUDITS

The Government reserves the right to conduct formalized audits to verify the vendor's adherence to the contract requirements and the quality of product being supplied under any resultant contract. Contractors shall be responsible for providing a location of the quality audit and the cost of product, up to \$1000.00 per audit at no additional cost to the Government. The Government anticipates conducting audits on an annual basis, but reserves the right to conduct more than one audit annually should conditions warrant.

XXVII. RECALL PROCEDURES REQUIREMENTS

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

- (1) Immediately notify the following personnel:
 - a. Customers that have received the recall product

- b. DLA TROOP SUPPORT Contracting Officer
- c. DLA TROOP SUPPORT Account Manager
- d. DLA TROOP SUPPORT Customer Safety Officer at 215 737 2922

(2) Provide the following information to the DLA TROOP SUPPORT Consumer Safety Officer:

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

(3) The vendor should provide a Final Status Report of Recall, when completed, to the DLA TROOP SUPPORT Consumer Safety Officer.

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

XXVIII. PERISHABLE AGRICULTURAL COMMODITIES ACT (PACA) LICENSE

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

XXIX. NON-COMPETE PROVISION

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

XXX. FORCE PROTECTION

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

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

The offeror shall submit its Food Security Plan to describe what procedures are, or will be, in place to prevent product tampering and contamination, and assure overall plant security and food safety.

XXXI. SURGE/MOBILIZATION**A. Readiness Plans - Surge/Mobilization**

1. Surge: The capability to handle a large increase in case volume for short periods of time with very little lead-time may be required at various times throughout the term of the contract. Services may experience unscheduled arrival of troops, with only a few hours notice, as part of normal operations, where the

order requirements could more than double from their normal usage on a given days notice. The timing of these types of surges will be impossible to anticipate. Pricing for items furnished in this fashion shall be the same as those for routine, non-surge orders.

2. Mobilization: The capability to handle full-scale military mobilization or national emergency wherein consumption could easily triple the case requirements at any site for a protracted period must also be provided for. The offeror must develop a readiness plan outlining how it would meet this increased workload by, for example using additional suppliers, subcontractors, etc. As with surge support, pricing for items furnished in this fashion shall be the same as those for routine, non-mobilization orders.
3. The Government reserves the right to test the vendor's Readiness Plan. Any test will be a paper exercise not subject to compensation. Vendor participation is mandatory; failure to participate may result in termination of contract for cause.
4. When units deploy for training exercises outside their zone, their current vendor will be given the opportunity to supply the unit's requirements. If the current vendor cannot perform this function at no additional cost, or the Vendor does not wish to accept the mission, the requirements will be turned over to the vendor supporting the zone in which training will occur.

MANAGEMENT REPORTS

- A. The contractor shall electronically transmit the following reports to the DLA TROOP SUPPORT Contracting Officer and Account Manager on a monthly basis. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (e.g., reporting period of January 1 through January 31, the reports must be received by February 7).
 1. PRODUCT LINE GROWER/SUPPLIER LISTING - this report shall list all items purchased along with quantity and dollar value. It shall be sorted by Grower/Supplier and annotate whether the grower/supplier is a large business or small business and whether the grower/supplier is local or non-local.
 2. FILL RATE REPORT - the fill-rate is calculated by dividing the number of cases and bins accepted by the customer by the number of cases and bins ordered. No

other method of calculating fill rates should be included. Mis-picks and damaged cases should not be included in this calculation. This report should reflect the fill-rates with and without substitutions. The report should specify fill rates per customer and an overall average fill-rate for all customers under the contract for the month being reported.

3. REBATE REPORTS - All rebates that have been passed along to the customer via off-price reductions, or that are due to the customers, shall be summarized by listing each customer and the rebate amount. Also include the grower/supplier offering the rebate and the product usage. The total should be per customer and per contract.
4. DNAD-On a monthly basis, the contractor shall create and electronically transmit an excel spreadsheet to the contracting office with the stock number, item description, case count, pounds, and dollar value of non-domestic orders filled during the month. All subsequent reports shall be cumulative for one (1) month period and submitted no later than the seventh day of the following month (e.g. reporting period of June 1 through June 30, the report must be received by July 7). The contractor shall code the EDI 832 "Comment" segment with ND for each non-domestic item so that DLA TROOP SUPPORT can evaluate the 832 as a systems solution. If DLA TROOP SUPPORT is able to develop a systematic reporting tool using the EDI 832, the monthly non-domestic reporting requirement will be removed by future modification.
5. FINANCIAL STATUS REPORTS- In order to ensure timely payments, an accounts receivable and/or a "days of outstanding sales" shall be submitted on a monthly basis, at a minimum. Many vendors elect to submit this report, in the form of a spreadsheet, on a weekly basis. The report should contain information on: customer, invoice number, call number, and invoice amount, amount paid, credit adjustments and balance due. It is suggested that this report contain as much information as possible to alleviate problems immediately.
6. CUSTOMER SERVICE REPORT - The contractor shall develop and provide a report summarizing all discrepancies, complaints and all positive feedback from ordering activities and the respective resolutions by providing a summary from customer visits.
7. DESCENDING DOLLAR VALUE REPORT – Sorted by line item; each line is to contain, at a minimum: DLA TROOP SUPPORT stock number, Item Description, pack or size, brand description, quantity, and total dollar value of units shipped. Dollar

amounts will be totaled. This report shall be submitted by individual customer accounts AND also by the total customer base in each zone.

CENTRAL CONTRACTS

In an effort to leverage its buying power on a national level, the DLA Troop Support reserves the right to solicit and award separate Indefinite Delivery Contracts whereby DLA TROOP SUPPORT contracts directly with growers and/or suppliers for specific Fresh Fruit and Vegetable items. The contractor shall use any existing or new Central Contract grower/suppliers as mandatory sources of supply. The price charged by the contractor will not exceed the DLA TROOP SUPPORT negotiated Central Contract price plus the contractor's distribution price, which will not change if a Central Contractor is used as a source of supply. During contract performance, DLA TROOP SUPPORT will notify the contractor via contract modification of the implementation of any Central Contract. The contractor shall have 30 days in which to implement the terms and conditions of any awarded Central Contract.

XXXIV_BACK-UP CONTRACTORS

The awardee(s) for each zone will become a potential backup supplier for other zones should a vendor in an adjacent or nearby zone be unable to support, one, some, or all of the customers in that assigned zone. The Offeror's agreement to perform as a potential backup vendor is required; however, if this rare situation does arise, a contractor's assignment to act as a backup to any or all customers in another zone would be negotiated through a bilateral agreement/modification to the contract and will result in an increase to the contract ceiling equal to the value of any back-up requirements awarded under this clause. A Back-Up Contractor will be required to perform only those duties as outlined in this Statement of Work. As part of this agreement, the distribution prices for the backup vendor to support the customers of another zone would be negotiated at that time. These measures would be taken to preclude the need to re-solicit for support to the affected customers, as well as to maintain the required service to these customers.

XXXV NATIONAL ALLOWANCE PROGRAM AGREEMENT (NAPA)

A. Definitions:

- a. AGREEMENT HOLDER – the grower or supplier or manufacturer that has agreed to offer discounts to DLA TROOP SUPPORT on product ordered under DLA TROOP SUPPORT Vendor contracts.

- b. NATIONAL ALLOWANCE PROGRAM – the program implemented by The DLA Troop Support (DLA TROOP SUPPORT) to maximize the leverage of DLA TROOP SUPPORT’s buying power and reduce the overall delivered price under long term contracts to the customers of DLA TROOP SUPPORT.
 - c. NATIONAL ALLOWANCE PROGRAM AGREEMENTS (NAPA)’s – agreements between DLA TROOP SUPPORT and grower/suppliers/manufacturers that identify product category allowances. These allowances or discounts apply only to the delivered/invoice/ price of the product. The NAPA does not affect the vendor’s distribution price or fee in any way.
- B. DLA TROOP SUPPORT has implemented a NAPA Program as part of the Subsistence Food Services Prime Vendor program. While there are no current NAPA agreements for FF&V items, the Government reserves the right to incorporate FF&V items into the NAPA Program. Under the NAPA Program, DLA TROOP SUPPORT will enter into agreements with growers/suppliers/manufacturers offering domestic products.
- C. Under the NAPA Program, Agreement Holders will:
- a. Authorize and consent to allow the contractor to distribute its products to ordering activities under the Program.
 - b. Offer discounts on the delivered price of the product ordered under DLA TROOP SUPPORT FF&V contracts, in the form of discounts, whereby the price to the customer includes the discount. The discounted price is the price that will be submitted via the 832-catalog transaction.
- D. NAPA’s neither obligate the 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 a customer for products covered by a NAPA, in which case the invoice price must reflect the NAPA.
- E. If a vendor has a pricing agreement/arrangement with more favorable terms and/or pricing structure, then it is required to pass on these savings to the customer.
- F. Under a contract resulting from this solicitation:
- a. Within five (5) working days from notification of award, the awardee will contact John Steenberge, Program Manager, NAPA Team, 215-737-8461.

The NAPA Team will provide general instructions and a password to access the allowances on the NAPA website.

- b. The 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 vendor within a time period mutually agreeable to the vendor and the agreement holder.
- c. Any disputes involving the NAPA between the vendor and the agreement holder will be resolved between them according to their own commercial practice. However DLA TROOP SUPPORT will attempt to facilitate any such disputes.

NAPA TRACKING PROGRAM

A. The Vendor agrees to comply with the requirements of DLA TROOP SUPPORT'S Tracking Program for NAPA's and shall provide the required product information to support the NAPA allowance and sales tracking web site.

a. Data shall be submitted as follows:

- i. Format. The required information shall be formatted in an excel sheet, 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 approval.

b. Transmission of Data. Information shall be submitted electronically via

- i. email to data@one2oneus.com. Include contract number(s) in email title.
- ii. FTP to <ftp://ftp.one2oneus.com>. Inquire for a username and password.

B. FREQUENCY OF SUBMISSION.

Information shall be submitted as often as the data may change but no more than weekly.

C. 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.

<u>Field #</u>	<u>Field Description</u>	<u>Field Name</u>	<u>Width</u>	<u>Format</u>	<u>Note</u>
1	Vendor Part Number	PVPARTNO	15	Alpha-Numeric	
2	Product Description	DESC	45	Alpha-Numeric	
3	Unit of Measure	UOM	3	Alpha-Numeric	
4	Manufacture SKU or UPC	MFGNO	15	Alpha-Numeric	Note 1
5	Brand Label or Manufacturer Name	MFG	45	Alpha-Numeric	Note 2
6*	Unit Allowance Amount	ALLOW	12	9999999.99	Note 3
7*	Allowance UOM	ALLUOM	3	Alpha-Numeric	Note 4
8*	Allowance to Ship Conversion	ALLCONV	12	9999999.99	Note 5
9	Vendor Markup Amount	PVMARKUP	12	9999999.99	Note 6

*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.

NOTES:

- 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.

- 2 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 indicting 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 the firm that supplied you the product.
- 3 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.
- 4 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.
- 5 Conversion to the Unit of Issue UOM. The conversion factors to equalize the allowance UOM to the unit of issue UOM. For example, if the unit of issue UOM is "CA", 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 50lbs in a case. If the product is not subject to a NAPA allowance then please set this field to zero.
- 6 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.
- 7 The NAPA Program is for the exclusive use of DLA TROOP SUPPORT customers purchasing product under the resultant contract. The successful awardee(s) agrees not to extend NAPA allowances to any customers not supported under this solicitation.

CONTRACT ADMINISTRATION INFORMATION

CONTRACTING AUTHORITY

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.

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

Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA TROOP SUPPORT Contracting Officer.

PAYMENTS

DFAS Columbus Center is the payment office for this acquisition.

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

Payment will be made in ten (10) days after the receipt of a proper invoice, however, is still subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903). **All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.**

All offerors must have the ability to accept an 820 transaction set from its financial institution. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.

The Government intends to make payments under the resultant contract by electronic funds transfer (EFT) based on the information contained in the Central Contractor Registration (CCR). Reference Clause 52.232-33, "Mandatory Information for Electronic Funds Transfer Payment" appearing in the section of this solicitation entitled "Contract Clauses". However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

ADMINISTRATION

- A. The DLA TROOP SUPPORT Supplier Operations - Produce Division will perform administration of the contract.
- B. A designated representative at the ordering activity will perform administration of the individual delivery order. This includes approving product substitutions and delivery changes.
- C. The DLA TROOP SUPPORT Contracting Officer must approve any changes to the resultant contract.

**ADDENDUM TO 52-212-4 CONTRACT TERMS AND CONDITIONS---COMMERCIAL ITEMS
(Mar 2009)**

CLAUSES

The clauses listed below are incorporated by reference with the same force and effect as if they were given in full text. Upon, request, the contracting officer will make their full text available. Also, the full text of the solicitation clauses and provisions may be accessed electronically at the following website.

FARS & DFARS clause and provisions are shown at the website below:

[http:// www.DLA Troop Support.dla.mil/contract/policy.htm](http://www.DLA Troop Support.dla.mil/contract/policy.htm)

Note: 52.212-4, Contract Terms and Conditions—Commercial Items is incorporated in this solicitation by reference. Its full text may be accessed electronically at <http://www.dla.mil/j-3/j-336/icps.htm>.

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 receiving official.”

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

3. Paragraph (m), Termination for Cause.

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

(m) *Termination for Cause*. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If this contract is terminated in whole or in part for cause, and the supplies or services covered by the contract so terminated are repurchased by the Government, the Government will incur administrative costs in such repurchases.

The Contractor and the Government expressly agree that, in addition to any excess costs of repurchase, or any other damages resulting from such default, the Contractor shall pay, and the Government shall accept, the sum of \$1155.00 as payment in full for the administrative costs of such repurchase. This assessment of damages for administrative costs shall apply for any termination for cause following which the Government repurchases the terminated supplies or services together with any incidental or consequential damages incurred because of the termination. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

4. Paragraph (r) Compliance with laws unique to Government contracts. is revised to include the following:

(r)The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; Section 1553 of the American Recovery and Reinvestment Act of 2009 relating to whistleblower protections for contracts funded under that Act; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

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

Add the following:

(5) Definitions.

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

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

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

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

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

“Registered in the CCR Database” means that—

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

52.212-5 -- Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items.

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

Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Jun 2010)

(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) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

_____ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to

implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

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

(4) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Mar 2009) (Pub. L. 111-5).

(5) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).

(6) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jul 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

(7) [Reserved]

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

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

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

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

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

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

(10) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).

(11) (i) 52.219-9, Small Business Subcontracting Plan (Apr 2008) (15 U.S.C. 637 (d)(4).)

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

- ___ (iii) Alternate II (Oct 2001) of 52.219-9.
- ___ (12) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- ___ (13) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ___ (14) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- ___ (ii) Alternate I (June 2003) of 52.219-23.
- ___ (15) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Apr 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (16) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (17) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).
- ___ (18) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).
- (19) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (20) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Aug 2009) (E.O. 13126).
- (21) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (22) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- (23) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).
- (24) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).
- (25) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).

___ (26) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

___ (27) (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.)

___ (28) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

___ (29) (i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

___ (ii) Alternate I (Dec 2007) of 52.223-16.

X (30) 52.225-1, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

___ (31) (i) 52.225-3, Buy American Act –Free Trade Agreements – Israeli Trade Act (Jun 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-301, 109-53, 109-169, 109-283, and 110-138).

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

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

___ (32) 52.225-5, Trade Agreements (Aug 2009) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

X (33) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (34) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (35) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (36) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

___ (37) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

___ (38) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003) (31 U.S.C. 3332).

X (39) 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

___ (40) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

___ (41) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (42) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

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

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

[Contracting Officer check as appropriate.]

___ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*).

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

___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

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

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

___ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247).

___ (8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

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

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

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

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

(e)

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).

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

(vii) [Reserved]

(viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), (41 U.S.C. 351, *et seq.*)

(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

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

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

(xii) 52.222-54, Employment Eligibility Verification (Jan 2009).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 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.

252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

As prescribed in 212.301(f)(iii), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES
OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF
COMMERCIAL ITEMS (JUN 2010)

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

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

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

(1) 252.203-7000, Requirements Relating to Compensation of Former DoD Officials (JAN 2009) (Section 847 of Pub. L. 110-181).

(2) 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

(3) 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (APR 2007) (15 U.S.C. 637).

(4) 252.219-7004, Small Business Subcontracting Plan (Test Program) (AUG 2008) (15 U.S.C. 637 note).

(5) 252.225-7001, Buy American Act and Balance of Payments Program (JAN 2009) (41 U.S.C. 10a-10d, E.O. 10582).

(6) 252.225-7008,
Restriction on Acquisition of Specialty Metals (JUL 2009) (10 U.S.C. 2533b).

(7) 252.225-7009,
Restriction on Acquisition of Certain Articles Containing Specialty Metals (JUL 2009) (10 U.S.C. 2533b).

- (8) 252.225-7012, Preference for Certain Domestic Commodities (JUN 2010) (10 U.S.C. 2533a).
- (9) 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
- (10) 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (MAR 2006) (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).
- (11) (i) 252.225-7021, Trade Agreements (APR 2010) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- (ii) Alternate I (SEP 2008)
- (12) 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- (13) 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- (14)(i) 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program (JUL 2009) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- (ii) Alternate I (JUL 2009) of 252.225-7036.
- (15) 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
- (16) 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Public Law 107-248 and similar sections in subsequent DoD appropriations acts).
- (17) 252.227-7015, Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- (18) 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- (19) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).

(20) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).

(21) 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

(22) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUL 2009) (Section 884 of Public Law 110-417).

(23)(i) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(ii) Alternate I (MAR 2000) of 252.247-7023.

(iii) Alternate II (MAR 2000) of 252.247-7023.

(iv) Alternate III (MAY 2002) of 252.247-7023.

(24) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

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

(1) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).

(2) 252.247-7003, Pass-Through of Motor Carrier Fuel Surcharge Adjustment to the Cost Bearer (JUL 2009) (Section 884 of Public Law 110-417).

(3) 252.247-7023, Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).

(4) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

52.212-9000 CHANGES – MILITARY READINESS (MAR 2001) DLAD

The commercial changes clause at FAR 52.212-4(c) is applicable to this contract in lieu of the changes clause at FAR 52.243-1. However, in the event of a Contingency Operation or a Humanitarian or Peace Keeping Operation, as defined below, the contracting officer may, by written order, change—

- (1) the method of shipment or packing, and
- (2) the place of delivery.

If any such change causes an increase in the cost of, or the time required for performance, the contracting officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract. The contractor must assert its right to an adjustment within 30 days from the date of receipt of the modification.

“Contingency Operation” means a military operation that—

(i) Is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(ii) Results in the call or order to, or retention on, active duty of members of the uniformed services under 10 U.S.C. 688, 12301(a), 12302, 12304, 12305, or 12406, chapter 15 of U.S.C., or any other provision of law during a war or during a national emergency declared by the President or Congress (10 U.S.C. 101(a)(13)).

“Humanitarian or Peacekeeping Operation” means a military operation in support of the provision of humanitarian or foreign disaster assistance or in support of peacekeeping operation under Chapter VI or VII of the Charter of the United Nations. The term does not include routine training, force rotation, or stationing. (10 U.S.C. 2302(8) and 41 U.S.C. 259(d)(2)(B)).

52.211-9046 FDA Compliance (APR 2008 MEDICAL and SUBSISTENCE) – DLAD

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 continental 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.

The following ADDITIONAL CLAUSES are set forth in FULL TEXT:

52.215-9P09 PRE-PROPOSAL CONFERENCE (MAY 2004) DLA TROOP SUPPORT

(a) DLA TROOP SUPPORT will hold a pre-proposal teleconference to explain and clarify the requirements of this solicitation and to respond to general questions raised by prospective offerors. Interested firms are encouraged to attend. Write or call one of the individuals identified in Block 7(a) of SF 1449 (page 1 of this document), if you plan to attend.

(b) Prospective offerors are requested to submit questions in writing at least five (5) business days prior to the conference to allow inclusion of the questions in the agenda. Questions will be considered at any time prior to or during the conference, however, offerors will be asked to confirm verbal questions in writing. Responses to all questions will be incorporated in an amendment to the solicitation.

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

(d) Offerors are cautioned that remarks and explanation provided at the conference shall not change the terms of this solicitation unless the solicitation is amended in writing.

(e) The conference will be held via:

Call-In Phone number: 1-877-507-7913

Participant Pass Code: 3457263

Date: Thursday, December 2, 2010

Time: 2:00PM – 3:30PM (EST)

NOTE: The cutoff date for receipt of questions to be added to the agenda is Wednesday, December 1, 2010.

52.216-18 – Ordering. (Oct 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from order commencement date yet to be determined through the six year period.

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

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

52.216-22 -- Indefinite Quantity (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 24 months from order commencement.

**52.216-9064 ECONOMIC PRICE ADJUSTMENT (EPA) – ACTUAL MATERIAL COSTS FOR
SUBSISTENCE DELIVERED PRICE BUSINESS MODEL (NOV 2009) – DLAD**

(a) WARRANTIES. 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 fixed price per unit charged to DLA TROOP SUPPORT for a product delivered to DLA TROOP SUPPORT's customers. The Contract Unit Price consists of two components: Delivered Price and Distribution Price. The unit price sum of the two component prices shall be rounded up or down as applicable, to the nearest cent.

(2) "Delivered Price" is the most recent supplier price per unit to the Contractor, inclusive of standard freight, for that product delivered to the initial point of entry into the Contractor's distribution network (normally referred to as the landed or delivered price). For this contract, the Delivered Price shall be the contractor's last Delivered Price through close of business Wednesday, 2:00PM EST for submission not later than Wednesday, 2:00PM EST for updating the following week's Ordering Catalog price. The Delivered Price shall have any and all Product Allowance subtractions made prior to presenting the Delivered Price to DLA TROOP SUPPORT.

(3) "Product Allowance" are discounts, rebates, and allowances to be passed on to the Government. All discounts, rebates, or allowances on particular items which are reflected in the amounts shown on the face of the Supplier invoice (referred to as "off-invoice allowances") or designated by the Supplier to be passed on to the Government or to similar commercial customers, shall be passed by the Contractor in the form of an up-front price reduction. The total of these discounts, rebates, and allowances (Product Allowance), shall be reflected via a reduced 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 US Treasury, attached with itemized listing of all customer purchases by line item to include contract number, call number, purchase order number and CLIN number.

(4) "Distribution Price" means the firm fixed price portion of the Contract Unit Price, offered as a dollar amount per unit of issue, rounded up or down to the nearest cent. The Distribution Price is the only method for the Contractor to bill the Government for all costs of contract performance other than Delivered Price; for example, operational costs, overhead and profit. The Distribution price shall remain constant for the entire contract period.

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

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

(c) PRICE ADJUSTMENTS.

(1) General.

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

(B) All notices and requests for price changes shall be submitted weekly, no later than Wednesday 2:00PM EST to be effective in the following Ordering Week's Ordering Catalog prices. The Contractor shall notify the Contracting Officer of its notice/request in the form of an EDI 832 transaction set. The change notice shall include the Contractor's adjustment in the Delivered Price component of the applicable Contract Unit Price. Upon the Contracting Officer's acceptance of such 832 price changes in accordance with D below, the price change transaction sets will post in the next week's Ordering Catalog and each contract unit price shall be

changed by the same dollar amount of the change in the Delivered Price in the next week's Ordering Catalog.

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

(D) 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 Friday, 6:00PM EST that a price or a price change request is being questioned or has been found to be erroneous, the price change(s) will post to the ordering catalog effective the beginning of the following Ordering Week. The posting of updated prices in the Ordering Catalog, calculated in accordance with this clause, constitutes a modification to this contract. No further contract modification is required to effect this change.

(E) Should the Contracting Officer determine or question that a price change request contained an erroneous unit price or price change, or cannot otherwise determine the changed price(s) to be fair and reasonable, such as when the changed price(s) is(are) higher than lower Delivered Prices for items of comparable quality which are reasonably available to the Government or Contractor from other sources, the Contracting Officer will so advise the Contractor, prior to Friday, 6:00PM EST. If the Contracting Officer cannot determine or 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 does not take the appropriate corrective action. 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.

(F) 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 proposal for any amounts paid to the Contractor resulting from the erroneous price. In the event of an erroneous price decrease in the Ordering Catalog, if the Contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor, the Contractor may submit a request for equitable adjustment for consideration by the Contracting Officer.

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

(A) Supplies for which the Delivered Price is not affected by such changes;

(B) Changes in unit prices other than those in or subsequently added in the Ordering Catalog;

(C) Changes in the quantities of material; and

(D) 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 unit price increases for each item under this clause during any contract period shall not exceed 90 percent (%) of the initial Contract unit price in such performance period, except as provided below: (Buyer shall insert the appropriate item price ceiling percentage(s) considering market volatility of each item covered by the contract.)

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. In the event the latest actual market price for an item would result in a contract unit price that will exceed the allowable ceiling price under the contract, then the Contractor shall immediately notify the

Contracting Officer in writing or via its EDI 832 price change request and separate email no later than the time specified in paragraph (c)(1)(B) 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 pending or future orders for such items, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing. After evaluation of a requested actual price increase, if the Contracting Officer authorizes the change in the contract unit price, the Contractor shall submit an EDI 832 price change. The price change shall be posted for the following weeks ordering catalog.

(e) There is no downward limitation on the aggregated percentage of decreases that may be made under this clause.

(f) EXAMINATION OF RECORDS.

The Contracting Officer or designated representative shall have the right to examine the Contractor's books, records, documents and other data, to include commercial sales data, 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 by this clause.

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

52.217-5 -- Evaluation of Options.

As prescribed in [17.208\(c\)](#), insert a provision substantially the same as the following:

Evaluation of Options (Jul 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by

adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of Provision)

52.217-9 -- Option to Extend the Term of the Contract. (Mar 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 2 days of expiration of the ordering period; provided, that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 48 months.

52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS.

As prescribed in [19.308\(a\)\(1\)](#), insert the following provision:

SMALL BUSINESS PROGRAM REPRESENTATIONS (MAY 2004)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is 111998.

(2) The small business size standard is 500.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) Representations.

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

(2) [**Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.**] The offeror represents, for general statistical purposes, that it is, or is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

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

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

(5) [**Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.**] The offeror represents as part of its offer that it o is, o is not a service-disabled veteran-owned small business concern.

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

(i) It o is, o 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 change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It o is, o is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [**The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.**] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

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

“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 the size standard in paragraph (a) of this provision.

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

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

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

"Women-owned small business 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.

(d) Notice.

(1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.

(2) Under [15 U.S.C. 645\(d\)](#), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—

(i) Be punished by imposition of fine, imprisonment, or both;

(ii) Be subject to administrative remedies, including suspension and debarment; and

(iii) Be ineligible for participation in programs conducted under the authority of the Act.

(End of provision)

Alternate 1 (Apr 2002). As prescribed in [19.308\(a\)\(2\)](#), add the following paragraph (b)(7) to the basic provision:

(7) [Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.] The offeror shall check the category in which its ownership falls:

_____ Black American.

_____ Hispanic American.

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

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

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

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

52.246-9044 Sanitary Conditions(AUG 2008) – DLAD

(a) Food Establishments.

(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 Veterinary Command (VETCOM) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments

for Armed Forces Procurement, (Worldwide Directory) (available at: <https://vets.amedd.army.mil/vetcom>) Compliance with the current edition of DoD Military Standard 3006, 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 and Poultry Inspection Directory", published electronically by the U. S. Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS) (available at: http://www.fsis.usda.gov/Regulations/Meat_Poultry_Egg_Inspection_Directory/index.asp). 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 electronically by the USDA, Agriculture Marketing Service (AMS) (available 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 electronically by the USDA FSIS (available at:

[http://www.fsis.usda.gov/Regulations & Policies/Meat Poultry Egg Inspection Directory /index.asp](http://www.fsis.usda.gov/Regulations%20&%20Policies/Meat%20Poultry%20Egg%20Inspection%20Directory/index.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 electronically by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) (available at: <http://www.cfsan.fda.gov/~ear/ims-toc.html>). 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 electronically by the USDHHS, FDA (available at: <http://www.cfsan.fda.gov/~ear/pmo03toc.html>).

(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/dairy/dypubs.htm>) 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 (i.e. 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 electronically by the USDHHS, FDA (available at: <http://www.cfsan.fda.gov/~ear/shellfis.html>).

(3). Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4F/MCO P1010.31G, Veterinary/Medical Food Inspection 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, 5285 Port Royal Road, Springfield, VA 22161; 1-800-553-6847; or download from web site: <http://www.usapa.army.mil/> .) For the most current listing of exempt plants/products see the Worldwide Directory (available at: <https://vets.amedd.army.mil/vetcom>).

(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.

52.246-9045 FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESALE MEAT ACT (AUG 2008) - DLAD

- (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 thereunder. 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 thereunder 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 right is reserved to give notice of breach of this warranty at any time within such applicable 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 determined 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, 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 of a question of fact 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.

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

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

<http://www.dla.mil/j-3/j-336/icps.htm>

OR <http://www.dla.mil/j-3/j-336/logisticpolicy/procurementlinks2.htm>.

The following additional clauses are incorporated by REFERENCE:

<u>CLAUSE NUMBER</u>	<u>TITLE</u>	<u>DATE</u>
52.204-7	Central Contractor Registration	APR 2008
52.208-9	Contractor Use of Mandatory Sources of Supplies or Services	OCT 2008
52.247-34	F.O.B. Destination	NOV 1991
52.251-1	Government Supply Sources	APR 1984

**ADDENDUM TO 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*.

a. See Standard Form 1449 (Submission Sheet), on page 2, for any specific instructions on how to submit your offer if mailed or handcarried.

b. Faxed offers are NOT authorized for this solicitation.

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

Period of acceptance is **180** days.

3. Paragraph (f), *Late Submissions, Modifications, Revisions, and Withdrawals of Offers*, is deleted in its entirety and replaced with the following:

(f) Late Submissions, Modifications, Revision, and Withdrawals of Offers.

(1) Any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers will not be considered unless it is received before award is made and:

(i) It was sent by mail or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after the receipt at the Government installation.

(ii) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals.

(iii) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement; or it is the only proposal received.

(2) Any modification or revision of a proposal or response to requested information, including any final proposal revision, is subject to the same conditions indicated above.

(3) Notwithstanding the above, a late modification or revision of any otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(4) Proposals may be withdrawn by written notice (including facsimile) received at any time before award.

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

The Government intends to make one award per group per zone, but reserves the right to make multiple awards per zone.

52.212-3 -- Offeror Representations and Certifications -- Commercial Items.

As prescribed in [12.301\(b\)\(2\)](#), insert the following provision:

Offeror Representations and Certifications -- Commercial Items (Aug 2009)

An offeror shall complete only paragraphs (b) of this provision if the offeror has completed the annual representations and certificates electronically at <http://orca.bpn.gov> . If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (m) of this provision.

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

“Emerging small business” means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

“Forced or indentured child labor” means all work or service—

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

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

“Inverted domestic corporation” means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

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

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

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

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

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

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

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

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

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

(6) Have been voluntarily suspended.

“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.

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

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

not less than 51 percent of the stock of which is owned by one or more veterans; and

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

“Women-owned business concern” means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the 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.

(b)

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

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representation and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____. *[Offeror to identify the applicable paragraphs at (c) through (n) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the*

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

(c) Offerors must complete the following representations when the resulting contract is to 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, for general statistical purposes, that it is, is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

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

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) *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.

(7) *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:

(8) Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. *[Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]*

(i) *[Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the designated industry groups (DIGs).]* The offeror represents as part of its offer that it is, is not an emerging small business.

(ii) *[Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or designated industry groups (DIGs).]* Offeror represents as follows:

(A) Offeror’s number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror’s average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

<u>Number of Employees</u>	<u>Average Annual Gross Revenues</u>
50 or fewer	\$1 million or less
51-100	\$1,000,001-\$2 million
101-250	\$2,000,001-\$3.5 million

251-500	\$3,500,001-\$5 million
501-750	\$5,000,001-\$10 million
751-1,000	\$10,000,001-\$17 million
Over 1,000	Over \$17 million

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

(i) *General.* The offeror represents that either—

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

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

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of

its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.*]

(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 change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It is, not a 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 the HUBZone small business concern or concerns that are participating in the joint venture. [*The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.*] Each HUBZone small business concern participating in the 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 \$100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

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

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

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

(g)

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

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

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

Free Trade Agreement Country End Products (Other than Bahrainian or Moroccan End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

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

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

Canadian End Products:

Line Item No.:

[List as necessary]

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

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

Canadian or Israeli End Products:

Line Item No.:	Country of Origin:

[List as necessary]

(4) *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)(4)(ii) of this provision, is a U.S.-made or designated country end product as defined in the clause of this solicitation entitled “Trade Agreements.”

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

Other End Products

Line Item No.:	Country of Origin:

[List as necessary]

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

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

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

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

statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

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

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

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

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

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

(ii) Examples.

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

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals Contesting the lien

filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

(1) Listed End Product

Listed End Product:	Listed Countries of Origin:

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

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

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

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

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

(2) Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Taxpayer Identification Number (TIN).

TIN: _____.

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other _____.

(5) Common parent.

Offeror is not owned or controlled by a common parent:

Name and TIN of common parent:

Name _____

TIN _____

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

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) *Relation to Internal Revenue Code.* A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at 26 U.S.C. 7874 (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR 9.108).

(2) *Representation.* By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

(End of Provision)

Alternate I (Apr 2002). As prescribed in [12.301\(b\)\(2\)](#), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(9) of this provision.)

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

Black American.

Hispanic American.

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

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

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

Individual/concern, other than one of the preceding.

Alternate II (Oct 2000). As prescribed in [12.301\(b\)\(2\)](#), add the following paragraph (c)(9)(iii) to the basic provision:

(iii) Address. The offeror represents that its address [] is, [] is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part

124, subpart B. For joint ventures, “address” refers to the address of the small disadvantaged business concern that is participating in the joint venture.

DFARS 252.225-7000 - BUY AMERICAN ACT – BALANCE OF PAYMENTS PROGRAM
CERTIFICATE (JAN 2009)

(a) *Definitions.*

“Commercially available off-the-shelf (COTS) item,” “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” and “United States” have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.*

The Government—

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

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

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

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

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

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

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

Line Item Number

Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in

the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:

Line Item Number

Country of Origin (If known)

The following **ADDITIONAL PROVISIONS** are set forth in **FULL TEXT**:

52.215-6 PLACE OF PERFORMANCE (OCT 1997)

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

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

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

NOTE: If using one or more plants or facilities as indicated, offeror/respondent shall provide the following additional information for each plant location to be used in the performance of a contract resulting from this solicitation.

<u>Item</u>	<u>Business Size Status</u>

52.233-9000

52.233-9001 AGENCY PROTESTS (SEP 1999) DLAD

Companies protesting this procurement may file a protest 1) with the contracting officer, 2) with the General Accounting Office, or 3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity’s Chief of the Contracting Office. Protests filed with the agency should clearly state that they are an “Agency Level Protest under Executive Order No. 12979.” (Note: DLA procedures for Agency Level Protests filed under Executive Order No. 12979 allow for a higher level decision on the initial protest than would occur with a protest to the contracting officer; this process is not an appellate review of a contracting officer’s decision on a protest previously filed with the contracting officer). Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the contracting officer.

52.233-9001 DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (JUN 2001) DLAD

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

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

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

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

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

<http://www.dla.mil/j-3/j-336/icps.htm>

OR <http://www.dla.mil/j-3/j-336/logisticpolicy/procurementlinks2.htm>.

The following additional provisions are incorporated by REFERENCE:

<u>Provision Number</u>	<u>Title</u>	<u>Date</u>
FAR 52.209-6	Protecting the Government's Interests When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment	SEP 2006
FAR 52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement	DEC 2007
FAR 52.232-17	Interest	OCT 2008
FAR 52.242-13	Bankruptcy	JULY 1995

FAR 52.242-15	Stop-Work Order	AUG 1989
DFARS 252.204-7003	Control of Government Personnel Work Product	APR 1992
DFARS 252.204-7004	Alternate A	SEP 2007
DFARS 252.209-7001	Disclosure of Ownership or Control by the Government of a Terrorist Country	JAN 2009
DFARS 252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Terrorist Country	DEC 2006
DFARS 252.225-7002	Qualifying Countries as Subcontractors	APR 2003
DFARS 252.232-7010	Levies on Contract Payments	DEC 2006
DLAD 52.233-9000	Agency Protests	SEP 1999
DLAD 52.233-9001	Disputes: Agreement to Use Alternative Dispute Resolution	JUN 2001

SUBMISSION INFORMATION

I. PRICING

The pricing for each zone will be measured through the Schedule of Items Approach. The Schedule of Items Approach is a grouping of items along with the estimated quantities. The items found in the Schedule of Items represent 100% of the estimated dollar value for 24 months for that particular group. Offerors are required to submit their unit price for each item, broken down into the corresponding Delivered Price and Distribution Price components.

A. Pricing will be based on the following formula:

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

B. Definitions:

1. Unit Price - The unit price is defined as the total price charged to DLA TROOP SUPPORT per unit for a product delivered to the Government.

2. Delivered Price - means the current net price per unit charged to the Contractor for supplying the Contractor a representative weekly requirement for an item covered in the ordering catalog to the Contractor's distribution point not later than the Wednesday, 2:00PM ET cutoff for updating the following ordering week's ordering catalog price. The last (most recent) vendor price for an item should usually meet this definition if covering a substantial quantity of the Contractor's deliveries for the subsequent weekly period. Only the delivered price component of the contract unit price is subject to adjustment under this clause.

3. Distribution Price - The distribution price is defined as a firm fixed price, offered as a dollar amount, which represents all elements of the contract price other than the delivered price. The distribution price typically consists of the contractor's projected general and administrative expenses, overhead, packaging costs, transportation costs from the contractor's distribution point, split case, back haul, trans-loading, shipments between corporate and/or partnership locations and any other projected expenses associated with delivery and profit. **The distribution prices shall remain constant for each term of the contract; however, the bid can remain the same, increase, or decrease for each term.** For example, an offeror may choose to keep its option year distribution pricing the same as the base year, or may choose to either increase or decrease the distribution price offered under the base year.

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

If multiple groups are covered under this solicitation, the offeror may submit a separate distribution price for each group. However, only one distribution price shall be offered per group.

MANDATORY SUBMISSION REQUIREMENTS – PLANS

The following plans shall be submitted with offerors' proposals. These will not be evaluated, and they are not part of the separate, rated and business proposal submissions. The purpose of these plans is to demonstrate the offeror's comprehension of the requirements of this solicitation's statement of work.

Whether or not formal discussions of the business proposals are deemed necessary by the Contracting Officer, the Government may request further explanation of the plans in order to enhance its understanding of the proposals. These questions and responses will not be considered in the business evaluations, except to the extent that such response may directly impact those evaluations.

SEASONAL ACQUISITION PLAN

As part of its proposal, offerors are required to submit a Seasonal Acquisition Plan that demonstrates the offeror's ability to supply local produce. The plan will include your firm's definition of local produce, the FF&V items your firm procures from local sources throughout the year and any planned local outreach efforts.

FORCE PROTECTION

As part of its proposal, offerors are required to submit a Force Protection plan that demonstrates compliance with Force Protection requirements.

SURGE/MOBILIZATION

As part of its proposal, vendors are required to submit a Readiness Plan that demonstrates compliance with Surge and Mobilization requirements. The Readiness Plan shall document how additional product, personnel, delivery vehicles and warehouse space will be secured to support a surge or mobilization along with any corresponding timeframes. Include copies of any agreements (i.e. mfg/grower letter of support, lease commitments for additional resources, etc.) and any other information the offeror deems important to support such measures. The offeror shall indicate any history of handling surge and/or mobilization events for either DoD or commercial accounts. Provide the name of the individual as a central POC who will coordinate your firm's surge and mobilization support efforts.

EDI IMPLEMENTATION

As part of its proposal, vendors are required to submit a EDI Implementation plan that demonstrates compliance with EDI requirements found under Order System section of the Statement of Work. If the offeror is not currently EDI capable, the plan must include time frames for compliance at least one week prior to order commencement (required only if zone includes support for non-USDA customers).

THIRD PARTY WAREHOUSE AUDITS

As part of its proposal, vendors are required to submit their most recent third party warehouse audit. If your firm does not currently employ the services of a third party warehouse audit firm, provide a written documentation of your firm's intent to implement this requirement. Documentation should include the name and address of the third party firm and scheduled audit date. **(Third party warehouse audits exclude Government agency audits).**

EXPLANATION OF PRICE SUBMISSION REQUIREMENTS

1. SCHEDULE OF ITEMS: PRICING

- A. For each Zone/Group, the Government has selected a Schedule of Items for evaluation that represents 100% of the estimated dollar value (see Schedule of Items attachment). Offerors must submit pricing information. The unit prices of all items found in the Schedule of Items will be comparatively assessed to identify any unusually high or low priced items.
- B. **Estimated quantities for the two-year and four-year periods are indicated next to each item and are for information and evaluation purposes only.** The items found in the **Schedule of Items will be weighed against the estimated 4-year requirements** of the ordering activities and evaluated for the lowest overall aggregate cost to the Government.
- C. Offerors are to submit the most current unit prices (valid within two weeks prior to submission of closing) for each of these items. This unit price must be in a format that shows the delivered price and the distribution price as separate entries, then totaled. For example, if the delivered price is \$2.00 and the distribution price is \$0.50, pricing should be formulated as follows:

$$\text{\$ 2.00} + \text{\$.50} = \text{\$ 2.50}$$

(Prices used for illustrative purposes only)

- i. Do Not Submit only the Unit Price; the two (2) elements must be shown separately, as two distinct evaluations are being performed.
- ii. DO NOT deduct any Food Show allowances from the delivered price in your business proposal.
- iii. Prices for all items are to be submitted according to the Government's Unit of Issue (THERE ARE NO EXCEPTIONS). All items listed in the solicitation will ultimately become part of the vendor's

catalog. The most recent prices submitted prior to award will be incorporated into the vendor's catalog.

2. DISTRIBUTION PRICES

1. The offeror shall provide separate standard distribution pricing for all categories of items for Groups 1 and 2. Offerors can submit the same distribution price for both Groups of customers. Each distribution price shall be a case price.
2. The distribution prices shall remain constant for each term of the contract. The distribution price for the base year does not have to be the same as the price of the each option period. These prices can differ or remain the same; but must remain constant through the length of each term.

Example (Prices are for illustrative purposes ONLY):

\$1.00 for Base Year – this price will remain \$1.00 for the entire 2-year base period.

\$1.25 for Option Year 1 – this price will remain \$1.25 for the entire 2-year Option period.

3. DELIVERED PRICES

- A. ALL offered delivered prices **must be** substantiated with a copy of the grower/supplier's invoice for each item in the solicitation. The Item Number must be marked on each invoice so as to identify the invoice's corresponding item. The preferred documentation is the grower/supplier invoice. If you do not have an invoice, a written quote from the grower/supplier will be accepted. All invoices and quotes must be from sources the offeror currently uses or plans to use to support the resultant contract. Any quote must be presented in the following manner:

1. Detailed on grower/manufacture letterhead;
2. Date price quote was supplied;
3. Time period price quote is effective; to include expiration date
4. Quantity covered by price quote;

5. Grower/Manufacturer part number; and
 6. Grower/Manufacturer's point of contact: including name, title, address, and phone number.
- B. The invoices should reflect the prices effective within two (2) weeks prior to closing. If invoices are not available for that time period, the most recent invoices shall be submitted. The Government has a strong preference for invoices over market quotes and prices within two (2) weeks from closing over earlier dates. Invoices that reflect small quantities will be considered the equivalent of a quote. For evaluation purposes, the offeror is required to submit pricing on all items that will meet the government's minimum requirement.
- C. Prices must not extend more than two [2] places to the right of the decimal point. Standard rounding methods should be observed. For example, a delivered price of \$4.578 should be rounded to \$4.58
- D. If an offeror carries a variety of brands for the same item, the price submitted shall be for the lowest priced, technically acceptable, item that meets the Government's minimum requirements.
- E. All items procured under the resultant contract are subject to all contractual clauses and regulations, including, but not limited to DFARS 252.225-7012 Preference for Certain Domestic Commodities and procured from a Sanitarily Approved Source. All invoices and quotes must reflect compliance to contract terms and conditions.
- F. Offerors are required to submit this portion of the Business Proposal on a spreadsheet containing the following information:
1. **Stock Number**
 2. **Item Description** – Government Item Description
 3. **Identical Match** – Use “Y” or “N”
 4. **Estimated Quantity** - Quantity given
 5. **Unit of Issue** – Self-explanatory. Note: Unit of Issue must be same as Government's listed in the Market Basket of Items.

- 6. **Delivered Price (DEP)** - the price you actually paid for the item, as substantiated by grower/manufacturer invoice.
- 7. **Distribution Price (DIP)** - your distribution price per case price.
- 8. **Unit Price** - Delivered Price + Distribution Price
- 9. **Total** - Estimated Quantity multiplied by Unit Price
- 10. **Gov't Average Case Weight** - provided
- 11. **Case Weight** – Weight, in lbs, of the offeror’s invoice or quoted item. If the case weight varies, provide the weight range.

SAMPLE FORMAT FOR BUSINESS PROPOSAL SPREADSHEET –

DO NOT DEVIATE

HEADING: Base Period OR Option Period

COLUMNS:

STOCK NUMBER	ITEM DESCRIPTION	IDENTICAL MATCH	ESTIMATED QUANTITY	UNIT OF ISSUE	DEP	DIP	UNIT PRICE	TOTAL	GOV'T AVG CS WT	OFFER CS WT
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J. When preparing the spreadsheet, totals must appear at the bottom of the “TOTAL” column (#8) and the “DP AGG” column (#10). Each firm must submit a hard copy of their spreadsheet, for the base period and each option period, as well as a copy of the spreadsheet(s) on a disk. (This means five spreadsheets or one spreadsheet with a sheet labeled for the base term plus each option period.)

K. The offeror must also submit option year unit prices, expressed as the delivered price plus the distribution price. All components of the option period unit price must be rounded to two (2) places beyond the decimal point. If an offeror does not submit option year prices, the offeror’s proposal may be rejected. **Option year price increases or decreases are to be expressed in dollars and cents only.** The

firm may also elect to offer no change in the distribution prices over the life of the contract.

4. INVOICES

If the price on the invoice does not match the offered price due to a freight charge, the freight charge must be indicated on the invoice. This can be handwritten, but must appear on the invoice submitted by the offeror.

Items referenced on the invoice must be numbered to reflect the item listed on the schedule of items. For example, if Oranges 88 CT 40 LB CS is listed as item #2 on the schedule of items, the invoice should have the number 2 clearly circled on the invoice to indicate that this invoice reflects item #2.

INVOICES MUST REFLECT PRICES BETWEEN NOVEMBER 7 – NOVEMBER 20, 2010.

EVALUATION FACTORS FOR AWARD

Award is based on Low Price, Technically Acceptable ranking.

PRICE EVALUATION

Schedule of Items Pricing - Pricing is required for all items found in the Schedule of Items. The Government will perform an aggregate price analysis on all the items found in the Schedule of Items. The estimated quantities in the Schedule of Items shall be multiplied by the unit prices to determine the lowest aggregate price to the Government.

PRICING-SCHEDULE OF ITEMS

Offerors are required to submit this portion of the Business Proposal of the Schedule of Items (attached) on a spreadsheet containing the following information:

1. Item number.
2. Gov't Average Case Weight-provided.
3. Case Weight-Weight in lbs, of the offeror's invoice or quoted item.
4. Item Description-Government Item Description.

5. Identical Match-Use "Y" or "N".
6. Estimated Quantity-Quantity given.
7. Unit of Issue--Self-explanatory. Note: Unit of Issue must be the same as Government's listed in the Schedule of Items.
8. Delivered Price (DEP) = the price you actually paid for the item, as substantiated by grower/manufacturer invoice.
9. Distribution Price (DIP) = your distribution price.
10. Unit Price = Delivered Price + Distribution Price.
11. Total Eval Price = Total DIP + Total DEP.

If the case weight varies, provide the weight range.

When preparing the spreadsheet(s) totals must appear at the bottom of the total column.

Each firm must submit a CD copy of their spreadsheet for the 24 month period. Pricing spreadsheets must be saved to a CD and included in the offeror's business proposal.

Only fill in the white boxes which are the following: vendor's case weight, identical match (Y/N), delivered pricing including freight, and distribution price. Do not touch the gray areas. In the place provided on the spreadsheet, be sure to fill your company's name and cage code, which is located on top of the spreadsheet.

ATTACHMENTS

EDI Implementation Guidelines for Subsistence Prime Vendor (STORES) Link:
http://www.dscp.dla.mil/subs/STORES_and_EDI_Requirements.pdf