

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER	PAGE 1 OF 17
2. CONTRACT NO. SPE3S1-17-D-Z209	3. AWARD/EFFECTIVE DATE 2017 APR 06	4. ORDER NUMBER	5. SOLICITATION NUMBER	6. SOLICITATION ISSUE DATE	
7. FOR SOLICITATION INFORMATION CALL:	a. NAME		b. TELEPHONE NUMBER (No collect calls)		8. OFFER DUE DATE/ LOCAL TIME
	9. ISSUED BY DLA TROOP SUPPORT SUBSISTENCE SUPPLY CHAIN 700 ROBBINS AVENUE PHILADELPHIA PA 19111-5096 USA Local Admin: Jennifer Dam PSPTRA3 Tel: 215-737-7898 Fax: 215-737-4115 Email: JENNIFER.DAM@DLA.MIL		CODE	SPE3S1	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR: <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB NAICS: 311920 <input type="checkbox"/> 8 (A) SIZE STANDARD:
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS Net 30 days		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING
15. DELIVER TO SEE SCHEDULE		CODE	16. ADMINISTERED BY SEE BLOCK 9 Criticality: PAS: None		CODE SPE3S1
17a. CONTRACTOR/OFFEROR NEX-XOS WORLDWIDE LLC 3922 PEMBROKE RD HOLLYWOOD FL 33021-8127 USA TELEPHONE NO. 9543170576	CODE	72UW3	FACILITY CODE	18a. PAYMENT WILL BE MADE BY DEF FIN AND ACCOUNTING SVC BSM P O BOX 182317 COLUMBUS OH 43218-2317 USA	
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
	See Schedule			23. UNIT PRICE	24. AMOUNT
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only) \$6,810,637.32	
<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		<input type="checkbox"/> ARE		<input type="checkbox"/> ARE NOT ATTACHED.	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA		<input type="checkbox"/> ARE		<input type="checkbox"/> ARE NOT ATTACHED.	
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			29. AWARD OF CONTRACT: REF. <u>Nex-Xos Worlwide, LLC</u> OFFER DATED <u>2017-Feb-28</u> . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH, HEREIN IS ACCEPTED AS TO ITEMS: <u>Feb 3, 16 and 27, 2017</u>		
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) Thomas Haley THOMAS.HALEY@DLA.MIL PSPFTA4		31c. DATE SIGNED 2017 APR 06

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

32a. QUANTITY IN COLUMN 21 HAS BEEN

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

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

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	
	42b. RECEIVED AT (<i>Location</i>)	
		42c. DATE REC'D (<i>YY/MM/DD</i>)
		42d. TOTAL CONTAINERS

Part 12 Clauses

...
The following are the NSN and full item description of all items:

NSN	ITEM DESCRIPTION	Quantity	Unit of Issue	Product Brand
8915-01-623-6133	APPLE JUICE, CONCENTRATE, SHELF STABLE, 100% JUICE 11.5 OZ CN	27,048	EA	Welch's
8940-01-487-7780	CREAMER, NONDAIRY, dry, 25/3 grams pgs per intermediate box, CID A-A-20043B	89,100	CO	Vendor Pack
8955-01-484-9676	CAPPUCCINO, Instant, Powder, French Vanilla, 1 oz.(28.35 g) pg, 25 pgs/co., CID A-A-20336A, type II , style A, regular, flavor 1	21,900	BX	S&D Coffee
8955-01-513-4514	CAPPUCCINO, COFFEE, INST, regular, irish cream, 1 oz pg, 25pgs/co, CID A-A-20336A, flavor 4	19,200	BX	S&D Coffee
8955-01-519-5603	COFFEE, ROASTED, filter pack, grd, jet grind, arabica blend, five 1.25 oz. filter pgs/module co, 1.75 gal yield, vacuum sealed and waterproof for extended shelf life, 31 module co/case (for Unitized Group Ration)	126,000	CO	S&D Coffee
8955-01-540-7860	Iced Tea Mix, Peach, pdr, non-nutritive sweetener, ind. serving pg., 10 pgs/box, CID A-A-20183C, variety I, style B, type 1, flavor d (for Unitized Group Ration).	3,540	BX	Jel Sert
8955-01-451-1572	TEA MIX, INST, pdr, lemon flavored, w/sugar, 24 oz pkg, 2 gallon yield, CID A-A-20098E, type 1 or 2, class 6	31,860	BX	Compact Industries
8960-01-487-7787	COCOA BEV PDR, swt, nonfortified, 16 oz pgs per intermediate box, CID A-A-20189B	21,900	BX	Compact Industries
8960-01-395-1139	BEV BASE, lemonade, pink, swt, w/ascorbic acid, 24 oz pkg, 2 gal yield, CID A-A-20098E, flavor 19, type II (for UGR)	10,620	PG	Sqwincher
8960-01-419-3689	BEV BASE, grape, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg, 2 gal yield pg, CID A-A-20098E, form a or b, flavor 5, type II (for UGR)	35,640	PG	Sqwincher
8960-01-419-3690	BEV BASE, orange, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg, 2 gal yield pg, CID A-A-20098E, form a or b, flavor 1, type II (for UGR).	37,620	PG	Sqwincher
8960-01-419-3691	BEV BASE, cherry, swt, pdr, 24 oz pg, 2 gal yield/pg, CID A-A-20098E, form a or b, flavor 6, type II (for UGR).	19,260	PG	Sqwincher
8960-01-419-3693	BEV BASE, lemonade, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg, 2 gal yield pg, CID A-A-20098E, form a or b, flavor 8, type II (for UGR)	54,000	PG	Sqwincher
8960-01-540-7857	Bev. Base, Lemonade, pdr, non-nutritive sweetener, ind. serving pg, 10 pgs/box, CID A-A-20098E, flavor 8, type III (for UGR).	3,540	BX	Sqwincher
8960-01-585-8062	Bev. Base, Lemon Lime, sugar free, 10 count per box, CID A-A-20098, type III, flavor 4, for UGR E and Heat & Serve	3,540	BX	Sqwincher
8960-01-585-8064	Bev. Base, Fruit Punch, sugar free, 20 count per box, CID A-A-20098, type III, flavor 7, for UGR E and Heat & Serve	10,620	BX	Jel Sert
8960-01-623-6087	SPORTS DRINK BASE, POWDER, FRUIT PUNCH 21OZ PG	8,694	EA	Compact Industries
8960-01-623-	SPORTS DRINK BASE, POWDER, GRAPE 21OZ PG	8,694	EA	Compact

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6088				Industrie s
8960-01-623- 6081	SPORTS DRINK BASE, POWDER, MIXED BERRY 21OZ PG	8,694	EA	Compact Industrie s
8960-01-623- 6085	SPORTS DRINK BASE, ORANGE 21OZ PG	14,490	EA	Compact Industrie s
8955-01-623- 6277	TEA BAGS, BLACK PEKOE, INDIVIDUALLY WRAPPED, 100BG/ BX	7,728	EA	Eastern Tea Corp

This is a five 12-Month Tier Periods Fixed Price Indefinite Delivery Type contract with formula pricing i.e. Cost of goods plus a Fixed Distribution Fee.

The effective period of the contract is:

- Tier 1: 4/6/2017 – 4/5/2018
- Tier 2: 4/6/2018 – 4/5/2019
- Tier 3: 4/6/2019 – 4/5/2020
- Tier 4: 4/6/2020 – 4/5/2021
- Tier 5: 4/6/2021 – 4/5/2022

All terms and conditions of solicitation SPE3S1-16-R-0004, as amended and Contractor's proposal dated Sep 12, 2017, letter dated Feb 3, 16 and 27, 2017 and final proposal of Feb 28, 2017 are hereby incorporated into this contract.

PRICE ADJUSTMENT

All prices invoiced under this contract shall be computed in accordance the following pricing formula:

Unit Price = Delivered Price + Distribution Price

The distribution price of each item remains fixed for each tier period. Only the delivered price fluctuates. Even though the distribution price is fixed, it is requested that the unit price (= distribution price + delivered price) is submitted for unit price adjustment. After receipt of a delivery order, the contractor can request change to the delivered price, if the actual invoice prices paid for the product delivered to the distribution point have significantly changed from the current contract price. In order for an adjustment to be applicable, requests must be received within 15 days of issuance of the delivery order.

Pricing shown are FOB destination.

NSN	ITEM DESCRIPTION	Total Delivered price	Year 1 Dist. Price	Year 1 Unit Price	Year 1 Est. Total Dollar Value	Year 2 Dist. Price	Year 3 Dist. Price	Year 4 Dist. Price	Year 5 Dist. Price
8915-01-623-6133	APPLE JUICE, CONCENTRATE, SHELF STABLE, 100% JUICE 11.5 OZ CN	\$ 1.59	\$ 0.30	\$ 1.89	\$ 51,120.72	\$ 0.30	\$ 0.29	\$ 0.29	\$ 0.28

8940-01-487-7780	CREAMER, NONDAIRY, dry, 25/3 grams pgs	\$ 0.73	\$ 0.09	\$ 0.82	\$ 73,062.00	\$ 0.09	\$ 0.09	\$ 0.09	\$ 0.08
8955-01-484-9676	CAPPUCCINO, Instant, Powder, French Vanilla, 1 oz.(28.35 g) pg, 25 pgs/co.	\$ 1.63	\$ 0.66	\$ 2.29	\$ 50,151.00	\$ 0.66	\$ 0.64	\$ 0.63	\$ 0.61
8955-01-513-4514	CAPPUCCINO, COFFEE, INST, regular, irish cream, 1 oz pg, 25pgs/co	\$ 1.70	\$ 0.69	\$ 2.39	\$ 45,888.00	\$ 0.69	\$ 0.67	\$ 0.66	\$ 0.64
8955-01-519-5603	COFFEE, ROASTED, filter pack, grd, jet grind, arabica blend, five 1.25 oz. filter pgs/module co	\$ 1.26	\$ 0.51	\$ 1.77	\$ 223,020.00	\$ 0.51	\$ 0.50	\$ 0.48	\$ 0.47
8955-01-540-7860	Iced Tea Mix, Peach, pdr, non-nutritive sweetener, ind. serving pg., 10 pgs/box	\$ 0.95	\$ 0.46	\$ 1.41	\$ 4,991.40	\$ 0.46	\$ 0.45	\$ 0.44	\$ 0.43
8955-01-451-1572	TEA MIX, INST, pdr, lemon flavored, w/sugar, 24 oz pkg	\$ 1.52	\$ 0.12	\$ 1.64	\$ 52,250.40	\$ 0.12	\$ 0.12	\$ 0.11	\$ 0.11
8960-01-487-7787	COCOA BEV PDR, swt, nonfortified, 16 oz pgs	\$ 1.53	\$ 0.83	\$ 2.36	\$ 51,684.00	\$ 0.83	\$ 0.81	\$ 0.79	\$ 0.77
8960-01-395-1139	BEV BASE, lemonade, pink, swt, w/ascorbic acid, 24 oz pg	\$ 1.03	\$ 0.31	\$ 1.34	\$ 14,230.80	\$ 0.31	\$ 0.30	\$ 0.29	\$ 0.29
8960-01-419-3689	BEV BASE, grape, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg	\$ 1.03	\$ 0.31	\$ 1.34	\$ 47,757.60	\$ 0.31	\$ 0.30	\$ 0.29	\$ 0.29
8960-01-419-3690	BEV BASE, orange, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg	\$ 1.03	\$ 0.31	\$ 1.34	\$ 50,410.80	\$ 0.31	\$ 0.30	\$ 0.29	\$ 0.29
8960-01-419-3691	BEV BASE, cherry, swt, pdr, 24 oz pg	\$ 1.03	\$ 0.31	\$ 1.34	\$ 25,808.40	\$ 0.31	\$ 0.30	\$ 0.29	\$ 0.29
8960-01-419-3693	BEV BASE, lemonade, pdr, swt, w/ or w/o ascorbic acid, 24 oz pg	\$ 1.03	\$ 0.31	\$ 1.34	\$ 72,360.00	\$ 0.31	\$ 0.30	\$ 0.29	\$ 0.29
8960-01-540-7857	Bev. Base, Lemonade, pdr, non-nutritive sweetener, ind. serving pg, 10 pgs/bx	\$ 0.95	\$ 0.51	\$ 1.46	\$ 5,168.40	\$ 0.51	\$ 0.50	\$ 0.48	\$ 0.47

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8960-01-585-8062	Bev. Base, Lemon Lime, sugar free, 10 count per box	\$ 0.91	\$ 0.49	\$ 1.40	\$ 4,956.00	\$ 0.49	\$ 0.48	\$ 0.47	\$ 0.45
8960-01-585-8064	Bev. Base, Fruit Punch, sugar free, 20 count per box	\$ 1.27	\$ 0.69	\$ 1.96	\$ 20,815.20	\$ 0.69	\$ 0.67	\$ 0.66	\$ 0.64
8960-01-623-6087	SPORTS DRINK BASE, POWDER, FRUIT PUNCH 21OZ PG	\$ 1.51	\$ 0.82	\$ 2.33	\$ 20,257.02	\$ 0.82	\$ 0.80	\$ 0.78	\$ 0.76
8960-01-623-6088	SPORTS DRINK BASE, POWDER, GRAPE 21OZ PG	\$ 1.57	\$ 0.76	\$ 2.33	\$ 20,257.02	\$ 0.76	\$ 0.74	\$ 0.72	\$ 0.70
8960-01-623-6081	SPORTS DRINK BASE, POWDER, MIXED BERRY 21OZ PG	\$ 1.82	\$ 0.64	\$ 2.46	\$ 21,387.24	\$ 0.64	\$ 0.62	\$ 0.61	\$ 0.59
8960-01-623-6085	SPORTS DRINK BASE, ORANGE 21OZ PG	\$ 1.77	\$ 0.65	\$ 2.42	\$ 35,065.80	\$ 0.65	\$ 0.63	\$ 0.62	\$ 0.60
8955-01-623-6277	TEA BAGS, BLACK PEKOE, INDIVIDUALLY WRAPPED, 100BG/ BX	\$ 1.97	\$ 1.19	\$ 3.16	\$ 24,420.48	\$ 1.19	\$ 1.16	\$ 1.13	\$ 1.10

The total minimum contract dollar value for five-year period is \$227,021.44.
The total maximum contract dollar value for five-year period is \$6,810,637.32.

ORDERING

Delivery Orders may be issued from the date of award through 1824 days thereafter.

All Delivery Orders issued will allow a minimum of **45 days lead-time** for delivery. Due to contract leadtime, orders will be accepted during the effective contract period but deliveries might fall outside of the contract ordering period.

For the purposes of the Delivery Order Limitations Clause 52.216-19, the minimum order quantity is one full pallet layer.

The following is the complete delivery address:

DODAAC: W62G2T
Address:
Defense Depot Tracy
DLA DISTRIBUTION San Joaquin
25600 S. CHRISMAN ROAD
WAREHOUSE No. 30, Section 2 – UGR
TRACY, CA 95376-5000

For appointment call (209)839-4496, 24 hr prior to delivery.

The shelf life requirement is 18 months.

Product Brand/Label changes:

The contractor may also propose, in writing to the Contracting Officer at any time, another brand/label of product for any contract item. If another brand/label is proposed, the government may request new product samples. If the Government considers the new proposed item an improvement, and a better value considering price, it will advise the contractor in writing of its acceptance of the replacement brand/label, and the new item will be the contract brand/label evaluated for future delivery orders. An approved brand/label replacement shall not modify any existing delivery order(s), unless such delivery order is formally modified.

TECHNICAL/QUALITY DATA

1. INSPECTION AND ACCEPTANCE REQUIREMENTS

A. For the purposes of Inspection/Acceptance and Shipment/Delivery, a manufacturer's "lot" shall be considered no greater than a single shift's production.

Note: When product is being delivered to Tracy Depot in California, lot numbers will not be mixed on the same pallet.

B. OPTIONAL CONTRACTOR TESTING is provided by the alternate inspection requirements of DLAD 52.246-9024, Alternative Inspection Requirements for Selected Items.

2. PACKAGING:

Preservation, packaging, etc. furnished by suppliers shall meet or exceed the following requirements: Unit packages shall be designed and constructed so that the contents of each package shall be protected from damage during shipment and storage. Unit packages shall also be able to withstand subsequent handling. Unit packs susceptible to corrosion or deterioration shall be protected by preservative coatings. Items requiring protection from physical damage, or which are fragile in nature (i.e., glass) shall be protected by wrapping, cushioning, etc. or other means to mitigate damage during handling and shipment. If screw caps are used, they shall be secured to the bottles with a band of plastic shrink film or plastic tape. All bottles shall be hermetically sealed (inner seal) and secured to withstand any position in the shipping container without leaking.

3. LABELING:

Labeling for unit and intermediate containers shall meet those used in the commercial distribution or over the counter retail sales. The labeling shall be sufficient to clearly and visibly identify the contents of the package. All markings must comply with the applicable laws as set forth by the Federal Food Drug and Cosmetic Act and regulations promulgated there under.

4. PACKING:

The shipping container (including any necessary blocking, bracing cushioning or waterproofing) shall comply with the regulations of the carrier used and provide safe delivery to the destination point at the lowest possible tariff cost. It shall be capable of multiple handling and storage under favorable conditions for a minimum of one year.

5. TRACEABILITY:

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In order to facilitate an effective traceability for the Unitized Group Ration Program, the contractor shall ensure that each primary container (unit pack) and intermediate container, if required, has a lot number and Date of Pack (DOP). The date of pack on the Placards shall be identical to the material code on each individual case. These package codes shall be permanent and legible. Failure to comply will result in delayed payment. Use of the Julian Date for the lot number and a time stamp (hour and minute of filling/sealing) is preferred. For example (1296 12:15), 1296 = October 23, 2011 and 12:15 representing the time of filling/sealing. When not required by specification, the contractor's lot identification may be of their own coding, i.e. a closed code, but the contractor shall provide the coding information for the primary containers and the contract data markings upon delivery. Package codes per case lot number shall be identified on the appropriate accompanying Bill of Lading/DD Form 250 upon delivery. Additionally, the contractor shall ensure that traceability records include identifying ALL ingredients and ALL sources for those ingredients. This shall be accomplished for the each item, brand and component that is shipped to the Defense Depot (Assembler) for the Unitized Group Ration Programs. This information shall be made available within 24 hours.

6. DATE OF PACK

Acceptance will be limited to product processed and packed subsequent to date of award of delivery order. Additionally, all shipments of components/product from a producer to destination/assembly points shall not be older than 60 days prior to delivery; except that for annual pack items, products are required to be from the latest seasonal pack.

7. MISCELLANEOUS REQUIREMENTS

Compliance with the provisions contained in Title 21, Code of Federal Regulations Part 110 "Current Good Manufacturing Practice in Manufacturing, Packaging or Holding Human Food," and all regulations referenced herein, is required. In addition, the contractor is required to comply with all the provisions contained within specific parts of the Code of Federal Regulations. For example, low-acid canned food manufacturers, Part 110 and 113 are applicable.

The Contracting Officer or any Government personnel designated by him shall be permitted entry into the contractor's and subcontractor's plants during performance of manufacturing operations. Except for inspection service, the Contracting Officer shall give prior notice of the purpose of the meetings and shall furnish dates of the visit.

8. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS

As required by 48 CFR 246.471 Authorizing Shipment of Supplies, AR 40-657, Veterinary/Medical Food Safety, Quality Assurance and Laboratory Service, DLAR 4155.3, Inspections of Subsistence Supplies and Services, DLAD 52.246-9044, "SANITARY CONDITIONS (APR 2014), and as clarified by the Armed Forces Food Risk Evaluation Committee, 31 JAN 1996, all Operational Ration Food Components will originate from sanitarily approved establishments. Acceptable sanitary approval is constituted by listing in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement," published by the U.S. Army Institute of Public Health (USAIPH), or an establishment inspected and approved by the U.S. Department of Agriculture (USDA) or the U.S. Department of Commerce (USDC) and possessing a USDA/USDC establishment number. This requirement applies to all GFM and CFM Operational Ration Food Components and to all Operational Ration types. Requests for inspection and "Directory" listing by USAIPH will be routed through DLA Troop Support-FTSC for coordination and action. Situations involving sole sources of supply,

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proprietary supply sources, and commercial Brand Name items will be evaluated directly by the Chief, DLA Troop Support-FTSC, in coordination with the Chief, Approved Sources Division, USAIPH.

SANITARY CONDITIONS**(a) Food establishments.**

(1) All establishments and distributors furnishing subsistence items under DLA Troop Support contracts are subject to sanitation approval and surveillance as deemed appropriate by the Military Medical Service or by other Federal agencies recognized by the Military Medical Service. The Government does not intend to make any award for, nor accept, any subsistence products manufactured, processed, or stored in a facility which fails to maintain acceptable levels of food safety and food defense, is operating under such unsanitary conditions as may lead to product contamination or adulteration constituting a health hazard, or which has not been listed in an appropriate Government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the U.S. Army Institute of Public Health (USAIPH) Circular 40-1, Worldwide Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement, (Worldwide Directory) (available at:

<http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx>). Compliance with the current edition of DoD Military Standard 3006A, Sanitation Requirements for Food Establishments, is mandatory for listing of establishments in the Worldwide Directory. Suppliers also agree to inform the Contracting Officer immediately upon notification that a facility is no longer sanitarily approved and/or removed from the Worldwide Directory and/or other Federal agency's listing, as indicated in paragraph (2) below. Suppliers also agree to inform the Contracting Officer when sanitary approval is regained and listing is reinstated.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the worldwide directory. Additional guidance on specific listing requirements for products/plants included in or exempt from listing is provided in Appendix A of the worldwide directory.

(i) Meat and meat products and poultry and poultry products may be supplied from establishments which are currently listed in the "Meat, Poultry and Egg Inspection Directory," published by the United States Department of Agriculture, Food Safety and Inspection Service (USDA, FSIS), at

<http://www/fsis/usda.gov/wps/portal/fsis/topics/inspection/mpi-directory>. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the USDA shield and applicable establishment number. USDA listed establishments processing products not subject to the Federal Meat and Poultry Products Inspection Acts must be listed in the Worldwide Directory for those items.

(ii) Intrastate commerce of meat and meat products and poultry and poultry products for direct delivery to military installations within the same state (intrastate) may be supplied when the items are processed in establishments under state inspection programs certified by the USDA as being "at least equal to" the Federal Meat and Poultry Products Inspection Acts. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the inspection agency and applicable establishment number.

(iii) Shell eggs may be supplied from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published by the USDA, Agriculture Marketing Service (AMS) at <http://www.ams.usda.gov/poultry/grading.htm>.

(iv) Egg products (liquid, dehydrated, frozen) may be supplied from establishments listed in the "Meat, Poultry and Egg Product Inspection Directory" published by the USDA FSIS at http://apps.ams.usda.gov/plantbook/Query_Pages/PlantBook_Query.asp. 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:

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seafood.nmfs.noaa.gov). All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the full name and address of the producing facility.

(vi) Pasteurized milk and milk products may be supplied from plants having a pasteurization plant compliance rating of 90 percent or higher, as certified by a state milk sanitation officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers" (IMS), published by the U.S. Department of Health and Human Services, Food and Drug Administration (USDHHS, FDA) at

<http://www.fda.gov/Food/GuidanceRegulation/FederalStateFoodPrograms/ucm2007965.htm>. These plants may serve as sources of pasteurized milk and milk products as defined in Section I of the "Grade 'A' Pasteurized Milk Ordinance" (PMO) published by the USDHHS, FDA at

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/default.htm>.

(vii) Manufactured or processed dairy products only from plants listed in Section I of the "Dairy Plants Surveyed and Approved for USDA Grading Service", published electronically by Dairy Grading Branch, AMS, USDA (available at: <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRD3651022>) may serve as sources of manufactured or processed dairy products as listed by the specific USDA product/operation code. Plants producing products not specifically listed by USDA product/operation code must be Worldwide Directory listed (e.g., plant is coded to produce cubed cheddar but not shredded cheddar; or, plant is coded for cubed cheddar but not cubed mozzarella). Plants listed in Section II and denoted as "P" codes (packaging and processing) must be Worldwide Directory listed.

(viii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists" (ICSSL), published by the USDHHS, FDA at

<http://www.fda.gov/food/guidanceregulation/federalstatefoodprograms/ucm2006753.htm>.

(3) Establishments exempt from Worldwide Directory listing. Refer to AR 40-657/NAVSUPINST 4355.4H/MCO P1010.31H, Veterinary/Medical Food Safety, Quality Assurance, and Laboratory Service, for a list of establishment types that may be exempt from Worldwide Directory listing. (AR 40-657 is available from National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312 ; 1-888-584-8332 ; or download from web site: http://www.apd.army.mil/pdf/files/r40_657.pdf) For the most current listing of exempt plants/products, see the Worldwide Directory (available at:

<http://phc.amedd.army.mil/topics/foodwater/ca/Pages/DoDApprovedFoodSources.aspx>).

(4) Subsistence items other than those exempt from listing in the Worldwide Directory, bearing labels reading "Distributed By", "Manufactured For", etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

(5) When the Military Medical Service or other Federal agency acceptable to the Military Medical Service determines the levels of food safety and food defense of the establishment or its products have or may lead to product contamination or adulteration, the Contracting Officer will suspend the work until such conditions are remedied to the satisfaction of the appropriate inspection agency. Suspension of the work shall not extend the life of the contract, nor shall it be considered sufficient cause for the Contractor to request an extension of any delivery date. In the event the Contractor fails to correct such objectionable conditions within the time specified by the Contracting Officer, the Government shall have the right to terminate the contract in accordance with the "Default" clause of the contract.

(b) Delivery conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent tampering with and /or adulteration or contamination of the supplies, and if applicable, equipped to maintain a prescribed temperature. The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, adulteration, constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, or the transport results in product 'unfit for intended purpose', supplies tendered for acceptance may be rejected without further inspection.

9. MARKING OF SHIPPING CONTAINERS AND MARKING OF UNIT LOADS

All Shipping Containers and Unit Loads shall be clearly marked, in accordance with DLA Troop Support Form 3556 entitled "Marking Instructions for Boxes, Sacks, and Unit Loads of Perishable and Semi-perishable

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Subsistence, dated April 2014, with the following information on two adjacent sides of the load with the largest characters possible as follows:

Unitized Ration Component

National Stock Number

Item Name

Date of Pack and Lot Number

Number of Shipping Containers per Pallet

Contract Number

Contractor's name and Address

Inspection Test Date (ITD)

Note: For the Inspection Test Date, the expected shelf life is found in the applicable solicitation/contract. To calculate the ITD, add the shelf life value to the month/year date of pack.

Example, if the Date of Pack is June 2007, and the shelf life is 36 months (3 years), then the ITD is computed as follows: 6/07 + 3 years = 6/10. If labels are used, they shall be permanently affixed with water-resistant adhesive tape.

Shipments without the appropriate Shipping Container and Unit Load Markings will be rejected and returned to origin, or at the Contracting Officers discretion, reworked at a labor rate determined by the destination activity (not DLA Troop Support).

10. UNITIZATION

Unit loads shall have the shipping containers arranged on a 40 inch by 48 inch commercial wood or plywood four-way entry pallet, or on a 48 inch by 40 inch Grocery Manufacturers of America wood four-way entry pallet. The load shall be bonded with non-metallic strapping, shrink or stretch film, or others means that comply with carrier rules and regulations applicable to the mode of transportation (adhesive bonding is not acceptable).

Bonding material shall secure the load to the pallet to form a consolidated, stable cargo which can be handled as a unit. For example, when strapping is used to secure the load, the straps shall pass under the top deck boards of the pallet. When stretch or shrink film is used, it must be applied low enough on the pallet to secure the load to the pallet. The unit load height shall not exceed 50 inches.

Inspection of unit loads shall be in accordance with classification Type III, Class G of DLA Troop Support Form 3507 of April 2014 entitled "Loads, Unit: Preparation of Semi-perishable Subsistence Items."

NOTE: The unit load dimensions are 40 inches in length by 48 inches in width and 50 inches in height (Please note: In the height dimension, this includes the 1-3/8" slave board that the pallet and material are placed on).

These dimensions are exact and can be no larger than what is specified. No overhang is permitted.

11. QUALITY ASSURANCE PROVISIONS

FAR Clause 52.246-2 is applicable.

By submitting an offer, the contractor certifies that the product offered meets: the specified finished product salient characteristics and all requirements of this contract; conforms to the producer's own specifications and standards, including product characteristics, manufacturing procedures, quality control procedures, and storage and handling practices; has a national or regional distribution from storage facilities located within the United States, its territories, or possessions; and is sold on the commercial market.

The Government reserves the right to determine proof of such conformance prior to the first delivery from the point of origin and any time thereafter, as may be necessary, to include delivery at final destination, and for the time the product is covered under warranty, to determine conformance with the provisions of the contract.

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End item lots determined nonconforming may be reworked to correct or screen out the defective units. Rework shall only be considered acceptable to the Government when the rework procedure has a reasonable probability of correcting the deficiency.

Any rework plan at a minimum will be approved by DSCP-FTRA, except for instances involving a rejection/retention of a lot due to foreign material. A lot rejected/retained due to the actual presence of foreign material or the likelihood of the presence of foreign material shall be retained in full and will require coordination with DSCP-FTRA prior to initiation of any rework.

A nonconforming lot, other than a lot retained for the presence of foreign material, may only be reworked one time without any specific authorization from the Contracting Officer. If a contractor elects to rework a lot a second time, a petition with supporting valid technical reasons as to why a second rework will provide more success than the first must be submitted in writing to the Contracting Officer for approval. An end item lot rejected by the contractor or Government must be reworked and re-offered within 30 days from the date of initial rejection.

The supplies or products furnished under the contract shall be produced in accordance with the provisions of 21 CFR, Part 110, "Current Good Manufacturing Practices in Manufacturing, Packing or Holding Human Food," and all regulations referenced therein.

12. GOVERNMENT INSPECTION/ACCEPTANCE

The contractor must meet all characteristics specified herein. Government inspection and acceptance shall be at destination for identity, count and condition for all terms and conditions of the contract. This shall include but is not limited to the following:

1. All shipments must be accompanied by a Bill of Lading or DD-250, and a WAWF report.
2. All unit loads must be marked in accordance with DLA Troop Support Form 3507.
3. All unit loads shall be stable and not exceed 50 inches in height including pallet material.
4. All delivered product shall be free of defects.
5. All shipments must contain the correct quantity as specified by DLA Troop Support.
6. Appointments must be scheduled with the receiving activity prior to delivery.
7. All delivered product must meet or exceed the appropriate product requirements as described in this Solicitation.
8. All delivered products must meet the required date of pack/shelf life requirements.
9. To determine the date of pack, any closed date code must be accompanied with documentation deciphering the closed product code.
10. All delivered products must be free of insect and rodent infestation.

Failure to comply with ANY of the above conditions may result in the shipment(s) being rejected and returned to origin, or at the Contracting Officer's discretion reworked at a labor rate determined by the destination activity (not DLA Troop Support).

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

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

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

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

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“Covered defense information” means unclassified information that—

(1) Is—

(i) Provided to the contractor by or on behalf of DoD in connection with the performance of the contract; or
(ii) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract; and

(2) Falls in any of the following categories:

(i) Controlled technical information.

(ii) *Critical information (operations security)*. Specific facts identified through the Operations Security process about friendly intentions, capabilities, and activities vitally needed by adversaries for them to plan and act effectively so as to guarantee failure or unacceptable consequences for friendly mission accomplishment (part of Operations Security process).

(iii) *Export control*. Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. To include dual use items; items identified in export administration regulations, international traffic in arms regulations and munitions list; license applications; and sensitive nuclear technology information.

(iv) Any other information, marked or otherwise identified in the contract, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies (e.g., privacy, proprietary business information).

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

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

(1) The Contractor shall access and use the information only for the purpose of furnishing advice or technical assistance directly to the Government in support of the Government’s activities related to clause 252.204-7012, and shall not be used for any other purpose.

(2) The Contractor shall protect the information against unauthorized release or disclosure.

(3) The Contractor shall ensure that its employees are subject to use and non-disclosure obligations consistent with this clause prior to the employees being provided access to or use of the information.

(4) The third-party contractor that reported the cyber incident is a third-party beneficiary of the non-disclosure agreement between the Government and Contractor, as required by paragraph (b)(3) of this clause.

(5) A breach of these obligations or restrictions may subject the Contractor to—

(i) Criminal, civil, administrative, and contractual actions in law and equity for penalties, damages, and other appropriate remedies by the United States; and

(ii) Civil actions for damages and other appropriate remedies by the third party that reported the cyber incident, as a third party beneficiary of this clause.

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

(End of clause)

**252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (OCT 2016)
DFARS**

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

“Adequate security” means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

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

“Contractor attributional/proprietary information” means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

“Contractor information system” means an information system belonging to, or operated by or for, the Contractor.

“Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B through F using the criteria set forth in DoD

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Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

"Covered contractor information system" means an information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

"Covered defense information" means unclassified information that—

(i) Is—

(A) Provided to the contractor by or on behalf of DoD in connection with the performance of the contract; or
(B) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract; and

(ii) Falls in any of the following categories:

(A) *Controlled technical information.*

(B) *Critical information (operations security).* Specific facts identified through the Operations Security process about friendly intentions, capabilities, and activities vitally needed by adversaries for them to plan and act effectively so as to guarantee failure or unacceptable consequences for friendly mission accomplishment (part of Operations Security process).

(C) *Export control.* Unclassified information concerning certain items, commodities, technology, software, or other information whose export could reasonably be expected to adversely affect the United States national security and nonproliferation objectives. To include dual use items; items identified in export administration regulations, international traffic in arms regulations and munitions list; license applications; and sensitive nuclear technology information.

(D) Any other information, marked or otherwise identified in the contract, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies (e.g., privacy, proprietary business information).

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

"Forensic analysis" means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

"Malicious software" means computer software or firm ware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

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

"Operationally critical support" means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

"Rapid(ly) report(ing)" means within 72 hours of discovery of any cyber incident.

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

(b) *Adequate security.* The Contractor shall provide adequate security for all covered defense information on all covered contractor information systems that support the performance of work under this contract. To provide adequate security, the Contractor shall—

(1) Implement information systems security protections on all covered contractor information systems including, at a minimum—

(i) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government—

(A) Cloud computing services shall be subject to the security requirements specified in the clause 252.239-7010, Cloud Computing Services, of this contract; and

(B) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract; or

(ii) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1)(i) of this clause—

(A) The security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, "Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations," <http://dx.doi.org/10.6028/NIST.SP.800-171> that is in effect at the time the

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solicitation is issued or as authorized by the Contracting Officer, as soon as practical, but not later than December 31, 2017. The Contractor shall notify the DoD CIO, via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award; or

(B) Alternative but equally effective security measures used to compensate for the inability to satisfy a particular requirement and achieve equivalent protection accepted in writing by an authorized representative of the DoD CIO; and

(2) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraph (b)(1) of this clause, may be required to provide adequate security in a dynamic environment based on an assessed risk or vulnerability.

(c) *Cyber incident reporting requirement.*

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support, the Contractor shall—

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at <http://dibnet.dod.mil>.

(2) *Cyber incident report.* The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <http://dibnet.dod.mil>.

(3) *Medium assurance certificate requirement.* In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <http://iase.disa.mil/pki/eca/Pages/index.aspx>.

(d) *Malicious software.* The Contractor or subcontractors that discover and isolate malicious software in connection with a reported cyber incident shall submit the malicious software in accordance with instructions provided by the Contracting Officer.

(e) *Media preservation and protection.* When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) *Access to additional information or equipment necessary for forensic analysis.* Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) *Cyber incident damage assessment activities.* If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) *DoD safeguarding and use of contractor attributional/proprietary information.* The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) *Use and release of contractor attributional/proprietary information not created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD—

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor ("recipient") that is directly supporting Government activities under a contract that includes the clause at 252.204-7009, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) *Use and release of contractor attributional/proprietary information created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) *Other safeguarding or reporting requirements.* The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) *Subcontracts.* The Contractor shall—

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve a covered contractor information system, including subcontracts for commercial items, without alteration, except to identify the parties; and

(2) When this clause is included in a subcontract, require subcontractors to rapidly report cyber incidents directly to DoD at <http://dibnet.dod.mil> and the prime Contractor. This includes providing the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable.

(End of clause)