

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

1. REQUISITION NUMBER: PAGE 1 OF 50
 2. CONTRACT NO.: 3. AWARD/EFFECTIVE DATE: 4. ORDER NUMBER: 5. SOLICITATION NUMBER: **SPM300-04-R-0328**
 6. SOLICITATION ISSUE DATE: **13 August, 2004**

7. FOR SOLICITATION INFORMATION CALL: **Patrick Dillon- Contract Specialist- HFVW**
 a. NAME: **Patrick Dillon- Contract Specialist- HFVW**
 b. TELEPHONE NUMBER (No collect calls): **(215) 737-4567**
 8. OFFER DUE DATE/ LOCAL TIME: **See page #2**

9. ISSUED BY: **Defense Supply Center Philadelphia**
Directorate of Subsistence- Building# 6C
700 Robbins Ave.
Philadelphia, Pa 19111
Contracting Officer: William C. Smith
215-737-4298
 CODE: **SPM300**
 10. THIS ACQUISITION IS:
 UNRESTRICTED
 SET ASIDE: %FOR
 SMALL BUSINESS
 SMALL DISADV. BUSINESS
 8(A)
 SIC:
 SIZE STANDARD:
 11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED:
 SEE SCHEDULE
 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)
 12. DISCOUNT TERMS:
 13b. RATING:
 14. THIS ACQUISITION IS:
 RFO IFB RFP

15. DELIVER TO: **DLI Monterey, Ca**
NAS Lamoore
 CODE:
 16. ADMINISTERED BY: CODE:

17a. CONTRACTOR/OFFEROR: CODE: FACILITY CODE:
 18a. PAYMENT WILL BE MADE BY: **DFAS-Columbus**
DFAS-LSCBB
PO Box 182317
Columbus, Ohio 43218
 CODE: **S33150**
 TELEPHONE NO.:

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER
 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED
 SEE ADDENDUM

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
ALL	Bread and Bakery Products				
	Ordering Period: 28 NOV 2004 - 26 NOV 2006				
	Delivery Period: 01 DEC 2004 - 29 NOV 2006				
<i>(Attach Additional Sheets as Necessary)</i>					

25. ACCOUNTING AND APPROPRIATION DATA: 26. TOTAL AWARD AMOUNT (For Govt. Use Only):

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ARE ARE NOT ATTACHED.
 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA ARE ARE NOT ATTACHED.

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN one(1) COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE DATED YOUR OFFER ON SOLICITATION (BLOCK \$), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

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:

32a. QUANTITY IN COLUMN 21 HAS BEEN:
 RECEIVED INSPECTED ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED
 33. SHIP NUMBER: 34. VOUCHER NUMBER: 35. AMOUNT VERIFIED CORRECT FOR:
 PARTIAL FINAL
 36. PAYMENT: COMPLETE PARTIAL FINAL
 37. CHECK NUMBER:
 38. S/R ACCOUNT NUMBER: 39. S/R VOUCHER NUMBER: 40. PAID BY:
 42a. RECEIVED BY (Print):

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT
 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER: 41c. DATE SIGNED:
 42b. RECEIVED AT (Location):
 42c. DATE REC'D (YY/MM/DD):

Page 1, continued

1. Block 8 (continued)

Offer Due Date/Local Time: September 14, 2004 2:00 p.m.

2. Block 9 (continued)

Mailed offers should be sent to: Defense Logistics Agency
Defense Supply Center Philadelphia
Post Office Box 56667
Philadelphia, PA 19111-6667

Handcarried offers, including delivery by commercial carrier, should be delivered to: Defense Supply Center Philadelphia
Business Opportunities Office
Bldg. 36, 2nd Floor, Wing E
700 Robbins Avenue
Philadelphia, PA 19111-5092

Note: All handcarried offers are to be delivered to the Business Opportunities Office between 8:00 a.m. and 5:00 p.m., Monday through Friday, except for legal federal holidays as set forth in 5 USC 6103. Offerors using a commercial carrier service must ensure that the carrier service "handcarries" the package to the Business Opportunities Office specified above for handcarried offers prior to the scheduled opening/closing time. Package must be plainly marked **ON THE OUTSIDE OF THE COMMERCIAL CARRIER'S ENVELOPE** with the solicitation number, date, and time set forth for receipt of offers as indicated in **Block 8 of the Standard Form 1449.**

Facsimile offers (if authorized; see "Addendum" to 52.212-1(b)) or offer modifications/withdrawals should be transmitted to: (215) 737-9300, 9301, 9302 or 9303

3. Block 17a: Offeror's assigned DUNS Number: _____
(If you do not have a DUNS number, contact the individual identified in Block 7a or see 52.212-1, Instructions to Offerors—Commercial Items (paragraph j) for information on contacting Dun and Bradstreet.)

4. Block 17b: Remittance Address: (if different from Contractor/Offeror address in block 17a.)

Continuation of Blocks on the Standard Form

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**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS -- SF 1449
(CONTINUATION SHEET)**

**Schedule of Supplies/Services
(Blocks 19-24)**

1. Items to be procured: Bread and Bakery Products
2. Estimated contract \$ value for the stipulated two-year period: \$320,000.00
3. Requirements for: DLI Monterey, Ca and NAS Lemoore, Ca
4. This solicitation is hereby issued on an "unrestricted" basis.
5. **Effective Period: Two (2) Years - 03 December 2004 through 06 December 2006**
6. **Minimum/Maximum Quantities:** The quantities shown on the schedule of items represent the quantities (estimated to be delivered) over the course of the delivery period. Offers will be evaluated based upon the estimated quantities. The estimated total contract amount will be calculated based upon the aggregate unit prices for all items at the estimated quantities. Actual quantities ordered may vary amongst the line items. The contract minimum amount to be ordered under any contract(s) is 25% of the total estimated contract dollar value. The maximum amount that can be ordered under any contract(s) is 25% over the estimated contract dollar value.
7. **The solicitation requires that a copy of your current catalog or wholesale price list be forwarded with your offer.**
8. **Bid Prices: Are limited to a maximum of two decimal places. Please refer to Clause #: 52.214-9P06.**
9. Offeror's are requested to list any qualifications at the end of the schedule of items. Qualifications pertain to any conditions, deviations, or contingencies upon which the offered prices are based. ***Government Qualification: "All items to be awarded will be awarded to one offeror."***
10. **Additional Items:** Customers will be able to add additional food items to this contract during the post award phase of this procurement action. The prices for these items must be determined to be fair and reasonable by the cognizant Contracting Officer, be of acceptable quality, and come from the same categories of subsistence items as those previously represented in this solicitation.

11. Additional Customers: Other military, federal, and non-DOD customers located in the same general geographic area as covered in this solicitation may be subsequently add to any resulting contract based upon a mutually agreed upon implementation plan. These potential customers can not increase the total estimated dollar value of the subject contracting action by more than 25%. The capability to add customers will not be evaluated prior to award.
12. This acquisition is for bread and bakery products and is solicited on an "all or none" basis. The resulting award(s) will be made based upon the lowest evaluated price of proposals that meet or exceed the following technically acceptable standards:
 - Ability to provide the required product in accordance with the noted item description
 - Ability to deliver the product within the required delivery schedule.

SCHEDULE OF ITEMS

Group I: DLI Monterey, Ca

NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	BREAD, WHITE, SANDWICH, PAN BAKED, ENRICHED, FRESH NSN# 892001E113037				
1.	Package size: 24 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	9192	LB	_____	_____
	BREAD, WHITE, THICK SLICE, TEXAS TOAST, ENRICHED, PAN BAKED FRESH NSN# 892001E113024				
2.	Package size: 24 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	9068	LB	_____	_____
	BREAD, WHOLE WHEAT, BUTTER TOP PAN BAKED, FRESH NSN# 892001E114388				
3.	Package size: 24 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	6462	LB	_____	_____
	BREAD, WHOLE WHEAT SLICED, PAN BAKED NSN# 892001E113833				
4.	Package size: 24 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	480	LB	_____	_____

Group I: DLI Monterey, Ca

NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	BREAD, RAISIN, ROUND TOP, PAN BAKED, FRESH Nsn#892001E113038				
5.	Package size: 16 OZ Loaf Package Price: _____ Product Code _____ Wholesale Price: _____	1648	LB	_____	_____
	BREAD, RYE, ROUND TOP, PAN BAKED, FRESH, SLICED NSN#892001E113039				
6.	Package size: 16 OZ Loaf Package Price: _____ Product Code _____ Wholesale Price: _____	1064	LB	_____	_____
	BREAD, FRENCH, HEARTH BAKED, FRESH NSN#892001E113220				
7.	Package Size: 16 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	248	LB	_____	_____
	BAGELS, PLAIN, SLICED, FRESH NSN#892001E114277				
8.	Package Size: 6 per Package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	5580	LB	_____	_____
	MUFFIN, ENGLISH, FRESH NSN#892001E113212				
9.	Package Size: 6 per Package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	1880	LB	_____	_____

Group I: DLI Monterey.

NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
	ROLLS, WHOLE WHEAT, HAMBURGER, PAN BAKED, SLICED, FRESH NSN#892001E113379				
10.	Package size: 12 per Package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	98	LB	_____	_____
	ROLLS, WHITE, ENRICHED, SOFT, PAN BAKED, HAMBURGER, FRESH NSN#892001E114351				
11.	Package size: 12 per Package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	22,088	LB	_____	_____
	ROLLS, WHITE, PAN BAKED, PARKERHOUSE, FRESH NSN# 892001E111610				
12.	Package size: 12 per Package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	4864	LB	_____	_____
	ROLLS, WHITE, ENRICHED, SOFT, PAN BAKED, DINNER FRESH NSN# 892001E114304				
13.	Package size: 12 per package Count per Package: _____ Package Price: _____ Product Code: _____ Wholesale Price: _____	768	LB	_____	_____
	ROLLS, SUB/ HOAGIE, FRESH NSN# 892001E114271				
14.	Package size: 6 per Package Count per Package: _____	4708	LB	_____	_____

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Package Price: _____
Product Code: _____
Wholesale Price: _____

**ROLLS, FRANKFURTER, PAN BAKED,
WHITE, ENRICHED, FRESH
NSN# 892001E113225**

15. Package size: 12 per Package
Count per Package: _____ 4188 LB _____
Package Price: _____
Product Code: _____
Wholesale Price: _____

**BREAD, GARLIC, FRESH, SLICED
W/PARMESAN CHEESE
NSN# 892001E116555**

16. Package size: 16 OZ Loaf
Package Price: _____ 250 LB _____
Product Code: _____
Wholesale Price: _____

ESTIMATED TOTAL FOR GROUP I: _____

GOVERNMENT QUALIFICATION: "All items to be awarded will be awarded to one offeror."

CONTRACTOR QUALIFICATIONS:

PLEASE INDICATE YOUR REGULARLY SCHEDULED NON-BAKE DAYS:

POC (WHERE) ORDERS ARE TO BE PLACED:

PHONE NUMBER (WHERE) ORDERS ARE TO BE PLACED:

DELIVERY SCHEDULE

Delivery Tickets must show the total loaves/packages delivered for each line item and the total weight delivered for each line item. Also, the contract number, call number, lead CLIN, purchase order number, and DODAAC are required on the delivery ticket. This information can be extracted from the computerized faxed purchase order generated by STORES.

DELIVERY SCHEDULE

Location	Time of Delivery	Frequency / Limitations
DLI Monterey Combs Dining Hall and Kiosk Building#627	5:30 AM – 9:00:00 AM	Five(5) Deliveries per Week: Monday, Tuesday, Thursday, Friday, and Saturday
DLI Monterey Belas Dining Hall Building # 838	8:00 AM – 11:00 AM	Two(2) Deliveries per Week: Tuesday and Thursday
MWR Child Development Center Building 7693 Monterey Road POM Annex, CA 831-899-9363	8:00 AM – 11:00 AM	Two(2) Deliveries per Week. Tuesday and Thursday
Youth Center Building # 4283 North - South Road POM Annex, CA	8:00 AM – 3:00 PM	Two Deliveries per Week: Monday and Friday

MAIL INVOICES TO AND PAYMENT WILL BE MADE BY:

REGULAR MAIL	FED-EX
DFAS Columbus Center ATTN: DFAS-CO-LSCBB PO Box 182317 Columbus, OH. 43218-6260	DFAS Columbus Center ATTN: DFAS-CO-LSCBB 4280 E. 5 th Avenue Columbus, OH. 43219

Please designate the Point of Contact and Phone number for the person in your company who will be responsible for handling invoicing and payment problems:

Name: _____

Phone number: _____

Group II: NAS LEMOORE, Ca

NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
BREAD, WHITE, SLICED, SANDWICH, ENRICHED PAN BAKED, FRESH NSN# 892001E113037					
17.	Package size: 24 OZ Loaf Package Price: _____ Product Code: _____ Wholesale Price: _____	8448	LB	_____	_____
ROLLS, BAGELS, PLAIN, SLICED, FRESH NSN# 892001E114277					
18.	Package size: 6 CT per Package Package Price: _____ Product Code: _____ Wholesale Price: _____	6512	LB	_____	_____
ENGLISH MUFFINS, FRESH NSN# 892001E113212					
19.	Package size: 6ct per Package Package Price: _____ Product Code: _____ Wholesale Price: _____	6080	LB	_____	_____
ROLLS, HAMBURGER, SLICED, FRESH W/SESAME SEEDS, PAN BAKED, ENRICHED NSN# 892001E113644					
20.	Package size: 12 CT per Package Package Price: _____ Product Code: _____ Wholesale Price: _____	22,916	LB	_____	_____
BREAD, WHOLE, WHEAT, SLICED, PAN BAKED, FRESH NSN#892001E113833					
21.	Package size: 24 OZ Loaf Package Price: _____	4,480	LB	_____	_____

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Product Code: _____

Wholesale Price: _____

**ROLLS, SUB/ HOAGIE, FRESH
NSN# 892001E114271**

22. Package size: 6 per Package
Count per Package: _____ 6536 LB _____
Package Price: _____
Product Code: _____
Wholesale Price: _____

**ROLLS, FRANFURTER, FRESH,
PAN BAKED, ENRICHED
NSN# 892001E115225**

23. Package size: 8 per 12oz Package
Count per Package: _____ 23040 LB _____
Package Price: _____
Product Code: _____
Wholesale Price: _____

**BREAD, WHITE, THICK SLICE, TEXAS
TOAST, ENRICHED, PAN BAKED FRESH
NSN# 892001E113024**

24. Package size: 24 OZ Loaf
Package Price: _____ 4480 LB _____
Product Code: _____
Wholesale Price: _____

ESTIMATED TOTAL FOR GROUP II: _____

GOVERNMENT QUALIFICATION: "All items to be awarded will be awarded to one offeror."

CONTRACTOR QUALIFICATIONS:

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PLEASE INDICATE YOUR REGULARLY SCHEDULED NON-BAKE DAYS:

POC (WHERE) ORDERS ARE TO BE PLACED:

PHONE NUMBER (WHERE) ORDERS ARE TO BE PLACED:

DELIVERY SCHEDULE

Delivery Tickets must show the total loaves/packages delivered for each line item and the total weight delivered for each line item. Also, the contract number, call number, lead CLIN, purchase order number, and DODAAC are required on the delivery ticket. This information can be extracted from the computerized faxed purchase order generated by STORES.

ALL DELIVERIES EXCLUDE SUNDAYS AND NATIONAL LEGAL HOLIDAYS.

DELIVERY SCHEDULE

Location	Time of Delivery	Frequency / Limitations
NAS Lemoore Main Gallery Building # 860	8:00 AM – 3:00 PM	Two Deliveries per Week: Monday and Friday

MAIL INVOICES TO AND PAYMENT WILL BE MADE BY:

REGULAR MAIL	FED-EX
DFAS Columbus Center ATTN: DFAS-CO-LSCBB PO Box 182317 Columbus, OH. 43218-6260	DFAS Columbus Center ATTN: DFAS-CO-LSCBB 4280 E. 5 th Avenue Columbus, OH. 43219

Please designate the Point of Contact and Phone number for the person in your company who will be responsible for handling invoicing and payment problems:

Name: _____

Phone number: _____

FRESHNESS REQUIREMENTS FOR BAKERY PRODUCTS:

Fresh bakery products shall conform to the following freshness requirements:

1. Bread, Cakes, Doughnuts, Muffins, Pies, and Rolls must be delivered 24 hours after baking (except following a non-bake day, 48 hours)
2. Brown & Serve Rolls must be delivered 36 hours after production.

PACKAGING, PACKING, AND LABELING:

- 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 thereunder.
- B. All items must be identified with readable dates (open code dates), or coded dates. Contractors who do not use open dating will provide a product code number "key" listing. The product code number "key" listing shall explain the actual date of production or processing. Copies of the "key" code listing will be furnished to each destination receiving officer and each destination inspection agency with the first order.

**52.212-4 CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS
(OCT 2003)**

(a) Inspection/Acceptance.

The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights--

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

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

(b) Assignment.

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

(c) Changes.

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

(d) Disputes.

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

(e) Definitions.

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

(f) Excusable Delays.

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

(g) Invoice.

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

52.212-4 (continued)

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

(x) Electronic funds transfer (EFT) banking information.

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

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

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

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

(h) Patent Indemnity.

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

(i) Payment.

(1) Items Accepted.

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

(2) Prompt Payment.

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

(3) Electronic Funds Transfer (EFT).

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

(4) Discount.

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

52.212-4 (continued)

(5) **Overpayments.**

If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) **Risk of Loss.**

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

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

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

(k) **Taxes.**

The contract price includes all applicable Federal, State, and local taxes and duties.

(l) **Termination for the Government's Convenience.**

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

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

(m) **Termination for Cause.**

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

(n) **Title.**

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

(o) **Warranty.**

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

(p) **Limitation of Liability.**

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

52.212-4 (continued)

(q) Other Compliances.

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

(r) Compliance with Laws Unique to Government Contracts.

The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) Order of Precedence.

Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) the schedule of supplies/services;
- (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause;
- (3) the clause at 52.212-5;
- (4) addenda to this solicitation or contract, including any license agreements for computer software;
- (5) solicitation provisions if this is a solicitation;
- (6) other paragraphs of this clause;
- (7) the Standard Form 1449;
- (8) other documents, exhibits, and attachments; and
- (9) the specification.

(t) Central Contractor Registration (CCR).

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

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

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

52.212-4 (continued)

be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

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

ADENDUM TO 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS

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

1. Paragraph (i), Payment.

[] Delete the 1st sentence and substitute the following: **Fast Payment** procedures apply. The Government will pay invoices based on the Contractor's delivery of supplies to a post office or common carrier (or, in shipments by other means), to the point of first receipt by the Government.

2. 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 (OCT 2003)[DEVIATION]

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clause, which is incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items: **52.233-3**, Protest after Award (AUG 1996) (31 U.S.C. 3553).

(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:

- (1) **52.203-6**, Restrictions on Subcontractor Sales to the Government (JUL 1995), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) **52.219-3**, Notice of Total HUB-Zone Set-Aside (Jan 1999) (15 U.S.C. 2402).
- (3) **52.219-4**, Notice of Price Evaluation Preference for HUB-Zone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
- (4)(i) **52.219-5**, Very Small Business Set-Aside (JUN 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
- (4)(ii) **Alternate I** (MAR 1999) of 52.219-5.
- (4)(iii) **Alternate II** (JUN 2003) of 52.219-5.
- (5)(i) **52.219-6**, Notice of Total Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
- (5)(ii) **Alternate I** (OCT 1995) of 52.219-6.
- (6)(i) **52.219-7**, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
- (6)(ii) **Alternate I** (OCT 1995) of 52.219-7
- (7) **52.219-8**, Utilization of Small Business Concerns (OCT 2000) (15 U.S.C. 637 (d)(2) and (3)).
- (8)(i) **52.219-9**, Small Business Subcontracting Plan (JAN 2002) (15 U.S.C. 637 (d)(4)).
- (8)(ii) **Alternate I** (OCT 2001) of 52.219-9
- (8)(iii) **Alternate II** (OCT 2001) of 52.219-9
- (9) **52.219-14**, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).
- (10)(i) **52.219-23**, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (JUN 2003) (Pub L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (10)(ii) **Alternate I** (JUN 2003) of 52.219-23.
- (11) **52.219-25**, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (OCT 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (12) **52.219-26**, Small Disadvantaged Business Participation Program—Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (13) **52.222-3**, Convict Labor (JUN 2003) (E.O. 11755).

52.212-5 (continued)

- X (14) **52.222-19**, Child Labor—Cooperation with Authorities and Remedies (SEP 2002) (E.O. 13126).
- X (15) **52.222-21**, Prohibition of Segregated Facilities (Feb 1999).
- X (16) **52.222-26**, Equal Opportunity (APR 2002) (E.O. 11246).
- X (17) **52.222-35**, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).
- X (18) **52.222-36**, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- X (19) **52.222-37**, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212).
- ___ (20)(i) **52.223-9**, Estimate of Percentage of Recovered Material Content for EPA- Designated Products (AUG 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).
- ___ (20)(ii) **Alternate I** (AUG 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
Paragraphs (21) through (23) are not applicable and have been deleted.
- ___ (24) **52.225-13**, Restrictions on Certain Foreign Purchases (OCT 2003) (E.g., proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
Paragraphs (25) and (26) are not applicable to DoD acquisitions and have been deleted.
- ___ (27) **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)).
- ___ (28) **52.232-30**, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 225(f), 10 U.S.C. 2307(f)).
- X (29) **52.232-33**, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- ___ (30) **52.232-34**, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- ___ (31) **52.232-36**, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).
- ___ (32) **52.239-1**, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a)
- X (33)(i) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631).
- ___ (33)(ii) **Alternate I** (APR 1984) 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:

- ___ (1) **52.222-41**, Service Contract Act of 1965, as amended (MAY 1989) (41 U.S.C. 351, et seq.).
Subcontracts for certain commercial services may be exempt from coverage if they meet the criteria in FAR 22.1003-4(c) or (d) (See DoD Class Deviation Number 2000-00006).
- ___ (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.).

52.212-5 (continued)

- ___ (3) **52.222-43**, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (MAY 1989) 29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (4) **52.222-44**, Fair Labor Standards Act and Service Contract Act – Price Adjustment (FEB 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- ___ (5) **52.222-47**, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (MAY 1989) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record.

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

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

(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) or (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vi) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) **52.219-8**, Utilization of Small Business Concerns (OCT 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

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

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

(v) **52.222-41**, Service Contract Act of 1965, as amended (MAY 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.).

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(vi) **52.247-64**, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

52.212-5 (continued)

(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 (DEC 2003) DFARS

(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.

- 252.205-7000** Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
- 252.219-7003** Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).
- 252.219-7004** Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).
- 252.225-7001** Buy American Act and Balance of Payments Program (APR 2003) 41 U.S.C. 10a-10d, E.O. 10582).
- 252.225-7012** Preference for Certain Domestic Commodities (FEB 2003) (10 U.S.C. 2533a).
- 252.225-7014** Preference for Domestic Specialty Metals (APR 2003) (10 U.S.C. 2533a).
- 252.225-7015** Restriction on Acquisition of Hand or Measuring Tools (APR 2003) (10 U.S.C. 2533a).
- 252.225-7016** Restriction on Acquisition of Ball and Roller Bearings (APR 2003) (Alternate I) (APR 2003) (10 U.S.C. 2534 and Section 8099 of Pub. L. 104-61 and similar sections in subsequent DoD appropriations acts).
- 252.225-7021** Trade Agreements (AUG 2003) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- 252.225-7027** Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C.2779).
- 252.225-7028** Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

252.212-7001 (continued)

- 252.225-7036** Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payment Program (APR 2003) (Alternate I) (APR 2003) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- 252.225-7038** Restriction on Acquisition of Air Circuit Breakers (APR 2003) (10 U.S.C. 2534(a)(3)).
- 252.226-7001** Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (OCT 2003) (Section 8021 of Pub. L. 107-248).
- 252.227-7015** Technical Data -- Commercial Items (NOV 1995) (10 U.S.C. 2320).
- 252.227-7037** Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- 252.232-7003** Electronic Submission of Payment Requests (DEC 2003) (10 U.S.C. 2227).
- 252.243-7002** Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- 252.247-7023** Transportation of Supplies by Sea (MAY 2002) (Alternate I) (MAR 2000) (Alternate II) (MAR 2000) (Alternate III) (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024** Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract (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:

- 252.225-7014** Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.247-7023** Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024** Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

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—

52.212-9000 (continued)

(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)).

ADDENDUM

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

252.211-7003 ITEM IDENTIFICATION AND VALUATION (JAN 2004)

(a) *Definitions.*

As used in this clause—

“Automatic identification device” means a device, such as a reader or interrogator, used to retrieve data encoded on machine-readable media.

“Commonly accepted commercial marks” means any system of marking products for identification that is in use generally throughout commercial industry or within commercial industry sectors. Some examples of commonly accepted commercial marks are: EAN.UCC Global Trade Item Number; Automotive Industry Action Group B-4 Parts Identification and Tracking Application Standard, and B-2 Vehicle Identification Number Bar Code Label Standard; American Trucking Association Vehicle Maintenance Reporting Standards; Electronic Industries Alliance EIA 802 Product Marking Standard; and Telecommunications Manufacturers Common Language Equipment Identification Code.

“Data qualifier” means a specified character (or string of characters) that immediately precedes a data field that defines the general category or intended use of the data that follows.

“DoD recognized unique identification equivalent” means a unique identification method that is in commercial use that can be used to uniquely identify DoD items that are purchased from commercial industries that use the unique identification equivalents. Some examples are: EAN.UCC Global Individual Asset Identifier, health care capital assets labeled with the Health Industry Bar Code Standard, and the Automotive Industry Action Group B-2 Vehicle Identification Number Bar Code Label Standard.

“Enterprise” means the entity (i.e., a manufacturer or vendor) responsible for assigning unique item identifiers to items.

“Enterprise identifier” means a code that is uniquely assigned to an enterprise by a registration (or controlling) authority.

“Government’s acquisition cost” means—

(1) For fixed-price contracts, the unit price identified at contract award, updated by any contract modifications; and

(2) For cost-type contracts, the Contractor’s fully burdened actual cost that has been accumulated, plus a proportionate amount of fee for each item at the time the item is delivered.

“Issuing agency code” means a code that designates the registration (or controlling) authority.

“Item” means a single article or unit formed by a grouping of component or constituent parts required to be delivered in accordance with the terms and conditions of this contract. Under this contract, an item is any article produced, stocked, stored, issued, or used; or any product, including systems, materiel, parts, subassemblies, sets, or accessories.

“Machine-readable” means an automatic information technology media, such as bar codes, contact memory buttons, radio frequency identification, or optical memory cards.

“Original part number” means a combination of numbers or letters assigned by the enterprise at asset creation to a class of items with the same form, fit, function, and interface.

“Registration (or controlling) authority” means an organization responsible for assigning a non-repeatable identifier to an enterprise (i.e., Dun & Bradstreet’s Data Universal Numbering System (DUNS) Number, Uniform Code Council (UCC/EAN International (EAN) Company

252.211-7003 (Continued)

Prefix, or Defense Logistics Information System (DLIS) Commercial and Government Entity (CAGE) Number).

“Serial number within the enterprise identifier” or “unique serial number” means a combination of numbers, letters, or symbols assigned by the enterprise to an item that provides for the differentiation of that item from any other like and unlike item and is never used again within the enterprise.

“Serial number within the part number” or “serial number” means a combination of numbers or letters assigned by the enterprise to an item that provides for the differentiation of that item from any other like item within a part number assignment.

“Serialization within the enterprise identifier” means each item produced is assigned a serial number that is unique among all the tangible items produced by the enterprise and is never used again. The enterprise is responsible for ensuring unique serialization within the enterprise identifier.

“Serialization within the part number” means each item of a particular part number is assigned a unique serial number within that part number assignment. The enterprise is responsible for ensuring unique serialization within the part number within the enterprise identifier.

“Unique item identifier” means a set of data marked on items that is globally unique, unambiguous, and robust enough to ensure data information quality throughout life and to support multifaceted business applications and users.

(b) *Unique Item Identification.*

(1) The Contractor shall provide unique item identification marking, or a DoD recognized unique identification equivalent (if one is not already marked), for—

(i) All items delivered under this contract for which the Government’s acquisition cost is \$5,000 or more; and

(ii) The following items to be delivered under this contract:

<u>Contract Line Item</u>	<u>Description</u>
_____	_____
_____	_____
_____	_____
_____	_____

(2) The unique item identifier and the component data elements of the unique item identifier shall not change over the life of the item.

(3) Data Elements.

(i) For items that are serialized within the enterprise identifier, the unique identifier shall include the data elements of issuing agency code, enterprise identifier, and a unique serial number.

(ii) For items that are serialized within the part number within the enterprise identifier, the unique identifier shall include the data elements of issuing agency code, enterprise identifier, the original part number, and the serial number.

252.211-7003 (Continued)

(iii) The issuing agency code shall be derived from the data qualifier for the enterprise identifier.

(iv) The issuing agency code shall not be placed on the item.

(4) Data Syntax and Semantics.

The Contractor shall—

(i) Mark the encoded data elements (except issuing agency code) on the item using any of the following three types of data qualifiers, as specified elsewhere in the contract:

(A) Data Identifiers (Dis) (Format 06).

(B) Application Identifiers (Ais) (Format 05), in accordance with ISO/IEC International Standard 15418, Information Technology – EAN/UCC Application Identifiers and ASC MH 10 Data Identifiers and ASC MH 10 Data Identifiers and Maintenance.

(C) Text Element Identifiers (TEIs), in accordance with the DoD collaborative solution “DD” format for use until the final solution is approved by ISO JTC1/SC 31. (Note: The DoD collaborative solution is described in Appendix D of the DoD guide to Uniquely Identifying Tangible Items, available at <http://www.acq.osd.mil/uid>.)

(ii) Use high capacity automatic identification devices in unique identification that conform to ISO/IEC International Standard 15434, Information Technology – Syntax for High Capacity Automatic Data Capture Media.

(5) Marking Items.

Unless otherwise specified in the contract, data elements for unique identification (enterprise identifier, serial number, and, for serialization within the part number only, original part number) shall be placed on items requiring marking by paragraph (b)(1) of this clause in accordance with the standard practice of MIL-STD-130K, Identification Marking of U.S. Military Property.

(c) Commonly Accepted Commercial Marks.

The Contractor shall provide commonly accepted commercial marking for items delivered under this contract that are not required to have unique identification or a DoD-recognized unique identification equivalent under paragraph (b) of this clause.

(d) Item Records.

Records of all items delivered to the Government shall include, at a minimum, the following information:

(1) Description.

(2) Unique item identifier concatenated or other approved item identifier.

(3) Quantity shipped.

(4) Unit of measure.

(5) Acquisition cost.

(6) Ship-to code.

(7) Shipment date.

(8) Enterprise identifier.

(9) Serial number.

(10) Original part number.

(e) Valuation.

The Contractor shall report the Government’s acquisition cost of items delivered under this contract as follows:

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(1) Except as specified in paragraph (e)(3)(ii) of this clause, the Contractor shall report the Government's acquisition cost of items under separately priced contract line item numbers, sub-line item numbers, or informational sub-line item numbers.

252.211-7003 (Continued)

(2) When information sub-line items are used only for identification of the Government's acquisition cost, they will be clearly identified as such and shall not be used as a basis for payment.

(3) The Contractor shall normally report the Government's acquisition cost for items under cost-type contracts to the Contracting Officer at the time of delivery, but in no event later than the close of the Contractor's fiscal period during which the delivery was made.

(i) When a unique item identifier is required, the Contractor shall report the actual cost that has been accumulated for each item identified in paragraph (b) of this clause and set forth in a contract line item or sub-line item.

(ii) When a commonly accepted commercial mark is required, the Contractor shall report the actual cost that has been accumulated for each item, whether or not listed in paragraph (b) of this clause. In many cases, such items will have been combined under a single contract line item or sub-line item.

(f) *Subcontracts.*

The Contractor shall include the requirements of this clause in all subcontracts that will result in delivery of items under this contract.

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 address: <http://www.dla.mil/j-3/j-336/icps.htm> **OR** <http://www.dla.mil/j-3/j-336/logisticspolicy/procurementlinks2.htm>.

52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (JAN 2004)

(a) North American Industry Classification System (NAICS) Code and Small Business Size Standard.

The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) Submission of Offers.

Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show--

- (1) The solicitation number;
- (2) The time specified in the solicitation for receipt of offers;
- (3) The name, address, and telephone number of the offeror;
- (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
- (5) Terms of any express warranty;
- (6) Price and any discount terms;
- (7) "Remit to" address, if different than mailing address;
- (8) A completed copy of the representations and certifications at FAR 52.212-3;
- (9) Acknowledgment of Solicitation Amendments;
- (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
- (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) Period for Acceptance of Offers.

The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) Product Samples.

When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during pre-award testing.

(e) Multiple Offers.

Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

52.212-1 (continued)

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

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

52.212-1 (continued)

(g) Contract Award (not applicable to Invitation for Bids).

The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) Multiple Awards.

The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) Availability of Requirements Documents Cited in the Solicitation.

(1) (i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA Federal Supply Service Specifications Section
Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925
Facsimile (202) 619-8978

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the--

Department of Defense Single Stock Point (DoDSSP)
Building 4, Section D
700 Robbins Avenue
Philadelphia, PA 19111-5094
Telephone (215) 697-2667/2179
Facsimile (215) 697-1462

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained--

(A) By telephone at (215) 697-2667/2179; or

(B) Through the DoDSSP Internet site at <http://dodssp.daps.mil>.

52.212-1 (continued)

(3) Non-government (voluntary) standards must be obtained from the organization responsible for their preparation, publication or maintenance.

(j) Data Universal Numbering System (DUNS) Number.

(Applies to offers exceeding \$25,000, and offers of \$25,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database.)

The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same parent concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.dnb.com>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number.

(k) Central Contractor Registration.

Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(l) Debriefing.

If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award.

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

ADDENDUM TO 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL

The following paragraphs of 52.212-1 are amended as indicated below:

1. Paragraph (b), *Submission of Offers.*

See Standard Form 1449 (Continuation Sheet), on page 3, for any specific instructions on how to submit your offer if mailed, handcarried or faxed (when authorized).

- Faxed offers are NOT authorized for this solicitation.
 Faxed offers are authorized for this solicitation.

Facsimile offers that fail to furnish required representations, or information, or that reject any of the terms, conditions and provisions of the solicitations, may be excluded from consideration. Facsimile offers must contain the required signatures. The Government reserves the right to make award solely on the facsimile offer. However, if requested to do so by the Contracting Officer, the apparently successful offeror agrees to promptly submit the complete original signed proposal. The Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile offer.

2. Paragraph (c), *Period for Acceptance of Offers.*

- Period of acceptance is 90 days.

3. Paragraph (e), *Multiple Offers.*

- Alternative commercial items may not be considered for award on this instant acquisition, however, may be utilized for market research on future requirements.

4. Paragraph (h), *Multiple Awards.*

- The Government intends to make one award.
 Offers may be submitted for quantities less than those specified.

52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

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

Technical Capability
Past Performance
Adherence to Required Delivery Schedules
Delivery (Transportation) System
Emergency Delivery Requirements

Technical and past performance, when combined are:

- Significantly more important than cost or price
- Approximately equal to cost or price
- Significantly less important than cost or price

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced.

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

52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (JUN 2003) ALTERNATE I (APR 2002)

(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 North American Industry Classification System (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.

“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 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 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) *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 (b)(3) through (b)(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).

52.212-3 (continued)

(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 _____

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

(1) *Small Business Concern.*

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

(2) *Veteran-Owned Small Business Concern.*

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

The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(3) *Service-Disabled Veteran-Owned Small Business Concern.*

[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.]

The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

52.212-3 (continued)

(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 (i.e. \$100,000.00).

(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 four 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 four 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):

Number of Employees
___ 50 or fewer

Average Annual Gross Revenues
___ \$1 million or less

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51 - 100
 101 - 250

\$1,000,001 - \$2 million
 \$2,000,001 - \$3.5 million

52.212-3 (continued)

251 - 500
 501 - 750
 751 - 1,000
 Over 1,000

\$3,500,001 - \$5 million
 \$5,000,001 - \$10 million
 \$10,000,001-\$17 million
 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 is 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) *HUB-Zone 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 HUB-Zone small business concern listed, on the date of this representation, on the List of Qualified HUB-Zone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUB-Zone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It is, 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

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for the HUB-Zone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUB-Zone small business concern or concerns that are participating in the joint venture: _____.] Each HUB-Zone small business concern participating in the joint venture shall submit a separate signed copy of the HUB-Zone representation.

52.212-3 (continued)

(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 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.

(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 Subparts 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.

(f) Buy American Act Certificate.

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(The certificate in DFARS 252.225-7000 or 7006 shall be completed if it is provided as an Attachment to 52.212-3.)

(g) Buy American Act--North American Free Trade Agreement--Israeli Trade Act Certificate.

(The certificate in DFARS 252.225-7035 shall be completed if it is provided as an Attachment to 52.212-3.)

52.212-3 (continued)

(h) Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549).

(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) The offeror and/or any of its principals are, are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(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, 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.

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).

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

(1) Listed End Products.

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____
_____	_____
_____	_____

(2) Certification.

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

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

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(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.

ATTACHMENT TO 52.212-3

**252.225-7000 BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM
CERTIFICATE (APR 2003) DFARS**

(a) Definitions.

“Domestic end product,” “foreign end product,” “qualifying country,” and “qualifying country end product,” 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) 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:

Line Item Number	Country of Origin (If known)
_____	_____
_____	_____
_____	_____
_____	_____

**252.212-7000 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—
COMMERCIAL ITEMS (NOV 1995) DFARS**

(a) Definitions.

As used in this clause--

(1) Foreign person means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) United States person is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) Certification.

By submitting this offer, the Offeror, if a foreign person, company or entity certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) Representation of Extent of Transportation by Sea. (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation.

The Offeror represents that it--

___ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

___ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include clause 252.247-7023, Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

ADDENDUM

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

52.233-9000 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.

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 address: <http://www.dla.mil/j-3/j-336/icps.htm> **OR** <http://www.dla.mil/j-3/j-336/logisticspolicy/procurementlinks2.htm>.

The following shall apply to all (DSCP) contracts:

1. Force Protection (Background)

The DSCP Subsistence Directorate provides world-class subsistence logistics support during peacetime as well as during regional conflicts, contingency operations, national emergencies, and natural disasters. At any time, the United States Government, its personnel and/or its resources or interests may be the target of enemy aggression to include espionage, sabotage, and/or terrorism. This increased risk requires that DSCP take steps (and ensure that steps are being taken) to prevent deliberate tampering and contamination of subsistence items. The term "force protection" refers to those procedures and plans that in place to safeguard required products.

A. Based upon the above, a determination has been made to incorporate a Force Protection Plan into all subsequent DSCP contracts. Under this force protection plan the vendor is responsible for the following:

1. The vendor will insure that products and/or packaging have not been altered, tampered-with, or otherwise contaminated throughout the manufacturing, storage, and delivery process; and, will inform DSCP (immediately) of any attempt or suspected attempt by any parties, known or unknown, to contaminate supplies. When notifying DSCP of such an event, the following information should be provided:
 - Date of Incident
 - Customer Name, Address, and Phone Number
 - Specific Line Item Affected
 - Observations made by delivery personnel and customers regarding the incident
 - Regulatory agency/agencies involved
 - Were law enforcement agencies contacted?
 - How was the incident resolved, and what conclusions were drawn by the regulatory agency?
 - What changes were made to prevent a recurrence of the event?
2. The contractor's facility should be secured by fences and/or guards and incoming freight carriers should be required to make appointments 24 hours prior to the delivery of the product. All incoming freight carriers will be inspected and their seal numbers matched and recorded by security personnel.
3. Personnel working at the contractor's facility should carry identification badges, and procedures must be in place to limit access to sensitive areas of the facility to only those who require it.
4. When possible, background checks should be conducted on all truck drivers. The contractor should remain in constant contact with delivery personnel throughout the workday. DSCP endorses the use of on-board computer software that tracks an entire day for each trailer.
5. Seals should be used at all times, and procedures should be in place to prevent tampering with seals and/or locks once they are placed on the trailer. Procedures will be put in place for the security of the trailer during delivery and the locking of the trailer following completion of the delivery.

B. The Government reserves the right to inspect the contractor's facility to insure appropriate security measures are in place.

2. Electronic Invoicing by Suppliers via Electronic Commerce/Electronic Data Interchange
Commencing as soon as possible, but no later than February 2004, all suppliers will be required to process electronic invoices. **This will be a condition for contract award.**

An electronic invoicing system will enable expeditious payments by providing a real time system for invoice processing. In an effort to ensure that your firm is paid (promptly) for products that you supply, we (DSCP) want to utilize the best business practices available. The business practices of today reflect increased utilization of Electronic Commerce/Electronic Data Interchange, in effect providing more timely and cost effective ways of information exchange. DSCP –Subsistence is migrating toward the use of available electronic mediums for conducting business with our partners. The Defense Logistics Agency (DLA) is currently undergoing a Business Systems Modernization (BSM) initiative. This (BSM) initiative will change the way in which you currently submit your invoice for payment. BSM conforms to a strict adherence of detailed line item payment in concert with the subject order. Manual paperwork will no longer be a viable alternative for invoicing. Lastly, invoices must be submitted promptly upon delivery in order to receive payment.

Our intention is to provide you with a quick and easy way to submit your invoices for payment and to ensure that the ensuing payments are both prompt and accurate. Efforts have been underway for some time (@ DSCP) to bring resolution to a multitude of payment dilemmas. This has resulted in an increased dependence on Electronic Data Interchange for submission of invoices. Several alternatives are available:

1. If your company is able to exchange information electronically through ANSI X 12 format, we could set-up you company as an EDI vendor (immediately), and you would be able to receive orders and send invoices electronically.
2. There are companies, who for a fee, will turn your flat files into EDI Invoices (810 Transactions).
3. A web-based solution is the Defense Finance and Accounting Service (DFAS) Implemented Web Invoicing System (WinS). WinS application is web-based technology that will create an EDI transaction for the DFAS payment system. For more information and accompanying sample screens, go to <http://ecweb.dfas.mil/notes.html>. This requires creating an invoice line by line on the web, and sending this invoice (electronically) to DFAS for payment.
4. The Market Ready EDI Invoicing is another web application through which to submit your invoices electronically. This system can be found on the DSCP Web Page for Subsistence @ <http://www.dscp.dla.mil/subs/>. You will be issued a User ID and Password after you have properly registered via the noted website. This application will allow you to see your receipts and contract numbers on the website. In addition, you can review specific receipts, and if in agreement, you can simple type-in the corresponding invoice number in order to submit it to DFAS for payment. This receipt information will remain available on the website for eight (8) weeks. The user will also have the ability to add lines or change existing lines to reflect the actual delivery amounts. These changes will then be e-mailed to your DSCP Account Manager (James T. Smith) who will work to resolve any differences, however, your customers must make all corrections electronically. Vendors are encouraged to wait until the receipt is adjusted to submit your final invoices. The system will be updated daily from the corresponding customer receipt files. Invoices submitted using this website will generate an EDI invoice to flow through the payment process @ DFAS. Should you require any additional information on electronic or alternate electronic invoice processing, please

contact your DSCP Account Manager (James T. Smith @ 215-737-8041) or Contracting Officer (William C. Smith @ 215-737-4298.)