

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NUMBER	PAGE 1 OF 60	
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER	5. SOLICITATION NUMBER SPM300-04-R-0348	6. SOLICITATION ISSUE DATE Oct. 4, 2004		
7. FOR SOLICITATION INFORMATION CALL:		a. NAME PAULETTE GARY/WARREN BROWN	b. TELEPHONE NUMBER (No collect calls) (215) 737-2789	8. OFFER DUE DATE/ LOCAL TIME SEE PAGE 6		
9. ISSUED BY DEFENSE SUPPLU CENTER PHILADELPHIA DIRECTORATE OF SUBSISTENCE BLDG 6 700 ROBBINS AVENUE PHILADELPHIA, PA 19111-5092		CODE SPM300	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: <input type="checkbox"/> FOR <input type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV. BUSINESS <input type="checkbox"/> 8(A) SIC: 2026/2024 SIZE STANDARD: 500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK 15 IS MARKED <input type="checkbox"/> SEE SCHEDULE 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. THIS ACQUISITION IS <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO SEEDELIVERY SCHEDULE ON PAGES 7 THRU 10		CODE	16. ADMINISTERED BY		CODE	
17a. CONTRACTOR/OFFEROR	CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY		CODE	
TELEPHONE NO.		17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		18b. SUBMIT INV/ORDS TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM		
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	
	MILK, DAIRY AND ICE CREAM PRODUCTS					
	ORDERING: 06 DEC. 04 THRU 01 DEC. 06					
	DELIVERY: 08 DEC. 04 THRU 08 DEC. 06					
<i>(Attach Additional Sheets as Necessary)</i>				23. UNIT PRICE	24. AMOUNT	
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA				<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.		
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA				<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.		
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.			COPIES	29. AWARD OF CONTRACT: REFERENCE OFFER <input checked="" type="checkbox"/> DATED _____ YOUR OFFER ON SOLICITATION (BLOCK _____) INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS.		
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) WARREN R. BROWN		31c. DATE SIGNED	
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED		33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE		32c. DATE SIGNED	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		37. CHECK NUMBER	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		38. S/R ACCOUNT NUMBER		39. S/R VOUCHER NUMBER	40. PAD BY	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE SIGNED	42a. RECEIVED BY (Print)			
			42b. RECEIVED AT (Location)			
			42c. DATE REC'D (YY/MM/DD)			

PerFORM (DLA)

STANDARD FORM 1449 (EG) (10-95)
Prescribed by GSA FAR (48 CFR) 53.212

NOTICE TO OUR VALUED SUPPLIERS

SOLICITATION SP0300-04-R-0348, MILK DAIRY & ICE CREAM SUBSISTENCE PRODUCTS FOR THE BRIDGEPORT/CA ZONE CAN BE FOUND ON THE DLA PROCUREMENT GATEWAY AT <http://progate.daps.mil/home> or <http://www.dscp.dla.mil/contract/cp0119.htm>. SOLICITATIONS WILL NOT BE MAILED TO OUR CONTRACTORS. OTHER THAN THE ADVERTISEMENT IN THE COMMERCE BUSINESS DAILY, THIS NOTICE WILL BE THE ONLY DOCUMENT YOU WILL RECEIVE TO NOTIFY YOU OF THE UPCOMING AVAILABILITY OF THE SOLICITATION. IT WILL BE CUMBENT ON YOU TO OBTAIN THE ADVERTISED SOLICITATION FROM OUR PROCUREMENT GATEWAY.

FROM THE GATEWAY HOMEPAGE, SELECT "SEARCH RFPs" FROM THE LEFT-HAND SIDEBAR. THEN CHOOSE THE RFP YOU WISH TO VIEW. YOU MUST BE REGISTERED IN ORDER TO DOWNLOAD RFPs. IF YOU ARE NOT, YOU WILL BE DIRECTED TO GET REGISTERED AT TIME OF DOWNLOAD. RFPs ARE IN PORTABLE DOCUMENT FORMAT (PDF). IN ORDER TO DOWNLOAD AND VIEW THESE DOCUMENTS, YOU WILL NEED THE LATEST VERSION OF ADOBE ACROBATE READER. THIS SOFTWARE IS AVAILABLE FREE AT <http://www.adobe.com>.

CONTRACT SPECIALIST , AT (215)737-2789, FAX 215-737-7081 FOR ANY QUESTIONS YOU MAY HAVE.

CAUTION NOTICE

THE 1977 DOD APPROPRIATIONS ACT, AT SECTION 8091, HAS REVOKED THE EXCEPTION OF THE REQUIEMENTS OF THE BERRY AMENDMENT FOR SUBCONTRACTS FOR COMMERCIAL ITEMS WHICH WAS FOUND IN DFARS 225.7002-2(J) AND DFARS 252-225-7012.

ACCORDINGLY, ALL ITEMS SUPPLIED UNDER THE CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION MUST COMPLY WITH THE BERRY AMENDMENT (10 UNITED STATES CODE SECTION 22411, NOTE 1) AND THE PROVISIONS OF (252-225-1). THESE REFERENCES REQUIRE THAT ALL ITEMS SUPPLIED UNDER THE CONTRACT BE GROWN AND PRODUCED IN THE UNITED STATES.

NOTICE TO OUR VALUED SUPPLIERS

The automated STORES (Subsistence Total Order and Receipt Electronic System) will be used to the maximum extent practical on the resultant contracts from this solicitation. Orders will be sent via a computer generated fax (STORES purchase order). In order to facilitate the receipt and payment process, there is specific information contained on the STORES purchase order that must be mirrored on the vendor's invoice.

The following six elements **MUST** be annotated on the invoice. These elements are on the system generated STORES purchase order, and the information needs to be transferred to the invoice:

1. Contract Number – i.e., SPM300-04-D-W000
2. Call number – Julian Date of the Purchase Order
3. Lead Contract Line Item Number (CLIN) – First item on the purchase order
4. Purchase Order Number
5. Required Delivery Date (RDD) – Date of Delivery
6. DODAAC(Customer Identification) 6 digits

The information may be hand written on the invoice. Please ensure the information is correct and legible.

Invoices for those customers placing orders under STORES must be submitted for payment to be following address:

DFAS – BVD (SL4701) -BSM
P.O. Box 369031
Columbus, OH 43218

CAUTION NOTICE

The Defense Supply Center Philadelphia has implemented STORES (Subsistence Total Order and Receipt Electronic System) for ordering items under this solicitation. Initially, all order will be sent via FAX to your company from the DOD customers. Contractors are encouraged to become EDI capable. Orders will eventually be sent electronically using a standard EDI purchase order (ASC X12 version 3040 transaction set 850) which will come from the customer directly to you, the supplier. Your company should consider taking the necessary steps to enable your company to compete for business in the future. Your attention is directed to clauses 52.204-9P02, Information Relating to Electronic Data Interchange (EDI) (Mar 1994) DSCP. Our goal at the Defense Supply Center Philadelphia is to utilize EDI to the maximum extent possible.

This solicitation for commercial items implements the Federal Acquisition Streamlining Act (FASA). Offerors are cautioned that award under this commercial item solicitation may be based on initial offers received. Offerors are therefore advised to submit initial offers accordingly.

**OFFERORS ARE REQUIRED TO IDENTIFY EACH OF THEIR ITEMS
BY PRODUCT CODE**

NOTICE OUR VALUED SUPPLIERS

The following attached forms requires information to be furnished by each offeror.

Any questions may be directed to the directed to the Contract Specialist at the telephone number shown on page 1, block 7.

1. Complete Page 1, Block 17a, 30a, 30b, and 30c
2. Complete all "Schedule sheets (Offered Prices)
3. Complete all "Offeror Representations and Certifications" and the following clauses:

52.215-6	Pages <u>26</u> thru <u>26</u>
52.242-9P18	Pages <u>26</u> thru <u>26</u>
Authorized Negotiators	Pages <u>27</u> thru <u>27</u>
52.212-3	Pages <u>47</u> thru <u>52</u>
52.204-9P01	Pages <u>56</u> thru <u>57</u>

NOTE: All Offerors are required to submit a Wholesale Price List for all items contained in their offer.

NOTE: Please submit the following Identification Numbers:

(DUN & BRADSTREET) DUNS#: _____

CAGE CODE: _____

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

(Page 1, continued)

1. Block 8 (continued)

Offer Due Date/Local Time: October 29, 2004 at 3 0'CLOCK PM, EASTERN TIME

2. Block 9 (continued)

› **Submit "mailed" offers to:** Defense Logistics Agency
Defense Supply Center Philadelphia
Post Office Box 56667
Philadelphia, PA 19111-6667

› **Deliver "handcarried" offers, including delivery by commercial carrier, 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.

› **Transmit "facsimile" offers (if authorized; see "Addendum" to 52.212-1(b)) or offer modifications/withdrawals to:** (215) 737-9300, 9301, 9302 or 9303

3. Block 17a (continued)

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 (continued)

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

MWTC Bridgeport

MILK AND DIARY PRODUCTS

ITEM NO.	SUPPLIES/SERVICES	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
1)	MILK, WHOLE SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,600	½ PT	_____	_____
2)	MILK, LOWFAT (1% MF) SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	2,400	1/2 PT	_____	_____
3)	MILK, LOWFAT (1% MF) SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,600	1/3 QT	_____	_____
4)	MILK, LOWFAT (1% MF) 5,6 OR 7 GAL BIB SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	20,000	GL	_____	_____
5)	MILK, LOWFAT (2% MF) SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,600	½PT	_____	_____
6)	MILK, CHOCOLATE FLAVORED, LOWFAT (2% MF) SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ 5,6, OR 7 GALLON CONTAINER	6,000	GL	_____	_____
7)	SOUR CREAM, CULTURED OR ACIDIFIED SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,400	PT	_____	_____
8)	SOUR CREAM, CULTURED OR ACIDIFIED 5 LB CO SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	400	CO	_____	_____
9)	CHEESE, COTTAGE, LOWFAT (SMALL OR LARGE CURD) SPECIFY PRODUCT CODE: _____ PRICE PER CONTAINER: _____ WHOLE SALE PRICE : _____ 8 OZ TO 16 OZ	4,000	LB	_____	_____

MWTC Bridgeport

MILK AND DIARY PRODUCTS

ITEM NO.	SUPPLIES/SERVICES	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
10)	CHEESE, COTTAGE, LOWFAT (SMALL OR LARGE CURD) SPECIFY PRODUCT CODE: _____ 2,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ 2 LB TO 5 LB	2,000	LB	_____	_____
11)	EGGNOG, (IN SEASON) SPECIFY PRODUCT CODE: _____ 80 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	80	QT	_____	_____
12)	YOGURT, CHILLED, PLAIN SPECIFY PRODUCT CODE: _____ 10,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	10,000	GL	_____	_____
13)	YOGURT, CHILLED, FRUIT PUNCH SPECIFY PRODUCT CODE: _____ 5,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	5,000	GL	_____	_____
14)	YOGURT, CHILLED, ACCORTED FLAVORES SPECIFY PRODUCT CODE: _____ 6,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	6,000	GL	_____	_____
15)	YOGURT, CHILLED, ORANGE SPECIFY PRODUCT CODE: _____ 10,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	10,000	GL	_____	_____
16)	YOGURT, CHILLED, GRAPE SPECIFY PRODUCT CODE: _____ 2,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	2,000	GL	_____	_____
17)	YOGURT, CHILLED, LEMON SPECIFY PRODUCT CODE: _____ 2,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	2,000	GL	_____	_____
18)	ICE MILK MIX, FRESH, LIQUID, SOFT SERVE, STYLE A, VANILLA SPECIFY PRODUCT CODE: _____ 1,400 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,400	GL	_____	_____

MWTC Bridgeport

MILK AND DIARY PRODUCTS

ITEM NO.	SUPPLIES/SERVICES	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
19)	ICE, MILK MIX, FRESH, LIQUID, SOFT SERVE, STYLE B, CHOCOLATE SPECIFY PRODUCT CODE: _____ 1,200 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____	1,200	GL	_____	_____
20)	ICE CREAM, REGULAR, VANILLA, TYPE I, GRADE I, 10% MF SPECIFY PRODUCT CODE: _____ 1,200 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ 3, 4, OR 5 FLUID OZ	1,200	CO	_____	_____
21)	ICE CREAM, REGULAR, CHOCOLATE, FRUIT, NUTS, OR OTHER BULKY FLAVORS TYPE II, GRADE I, 8% MF SPECIFY PRODUCT CODE: _____ 1,200 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ 3, 4, OR 5 FLUID OZ	1,200	CO	_____	_____
22)	SHERBET, REGULAR, TYPE IV SPECIFY PRODUCT CODE: _____ 1,400 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ 3,4, OR 5 FLUID OZ	1,400	CO	_____	_____
23)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ SPECIFY PRODUCT CODE: _____ 1,300 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ CLASS 1, COATED ICE CREAM BAR	1,300	DZ	_____	_____
24)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ SPECIFY PRODUCT CODE: _____ 1,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ CLASS 2, ICE CREAM BAR CONFECTION	1,000	DZ	_____	_____
25)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ SPECIFY PRODUCT CODE: _____ 1,000 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ CLASS3, SHERBET ICE CREAM BAR CONFECTION	1,000	GL	_____	_____
26)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ SPECIFY PRODUCT CODE: _____ 1,500 PRICE PER CONTAINER: _____ WHOLE SALE PRICE: _____ CLASS 4, FUDGE BAR CONFECTION	1,500	GL	_____	_____

MILK AND DIARY PRODUCTS

ITEM NO.	SUPPLIES/SERVICES	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL PRICE
27)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ				
	SPECIFY PRODUCT CODE: _____	4,250	DZ	_____	_____
	PRICE PER CONTAINER: _____				
	WHOLE SALE PRICE: _____				
	CLASS 5, ICE CREAM SANDWICH				
28)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ				
	SPECIFY PRODUCT CODE: _____	100	DZ	_____	_____
	PRICE PER CONTAINER: _____				
	WHOLE SALE PRICE: _____				
	CLASS 6 ICE CREAM CONE, PERFORMED				
29)	NOVELTIES, TYPE VI, MIN 2.50 FLUID OZ				
	SPECIFY PRODUCT CODE: _____	400	CO	_____	_____
	PRICE PER CONTAINER: _____				
	WHOLE SALE PRICE: _____				
	3, 4, OR 5 FLUID OZ CUP				

ESTIMATED TOTAL DOLLARVALUE: _____

Phone Number where orders are to be placed: _____

Facsimile Number where orders are to be placed: _____

POINT OF INSPECTION
MWTC – Bridgeport
HWY #108
Mess Hall (Bldg. 3006)
Bridgeport, CA 95317

DELIVERIES AND PERFORMANCE

I. TERMS OF INDEFINITE QUANTITY CONTRACT:

The duration of the contract is for a two (2) year period beginning with the date of the first order.

II. ITEM AVAILABILITY:

The contractor shall stock items in sufficient quantities to fill all ordering activity requirements. It is critical that items ordered be routinely delivered the second day after transmitting the order. Longer order lead time shall be accommodated for activities requesting delivery in three or more days from date of order.

III. POINT OF DELIVERY:

1. Deliveries shall be F.O.B. Destination to all ordering activities and delivery points. All items will be delivered to loading platform (unless otherwise noted), free of damage, with all packaging and packing intact. Deliveries shall be made anywhere between 5:00 AM and 5:00 PM, depending on the individual requirements of each customer.

2. Deliveries shall average three times per week to each customer, unless less frequent stops are agreed upon by the customer and the contractor. Certain customers, such as hospitals and other facilities serviced, may require more frequent deliveries due to such factors as less storage capacity. Saturday deliveries may occasionally be necessary, and can be agreed upon by the contractor and the customer.

3. Installation delivery routes and stop-off sequence will be coordinated and verified with the installations on a post-award basis by the contractor.

4. Contractors should be aware that projected feeding strengths at each military location are subject to fluctuations based on a variety of factors, i.e. seasonal increases/decreases in personnel, surges in personnel during crisis situations or troop transfers. The Customer Service Representative should maintain open communications with the base to be aware of these fluctuations and work closely with customers to provide the increased quantity and frequency of deliveries needed during these critical times.

5. All deliveries are subject to military medical inspection at destination. Delivery vehicles may be required to stop at a central location for medical inspection before proceeding to the assigned delivery point(s).

LOCATION FREQUENCY, LIMITATIONS, & TIME OF DELIVERY

Bldg. 3006

Delivery: Monday, Wednesday & Friday, 0600 –1400

CONTRACT ADMINISTRATION DATA

INVOICING AND PAYMENT

Mail invoices to and payment shall be made by:

**DFAS – BVD (SL4701) –BSM
P.O. BOX 369031
COLUMBUS, OH 43218**

MWTC Bridgeport

**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 reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights--

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

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

(b) Assignment.

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

(c) Changes.

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

(d) Disputes.

This contract is subject to 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 Electyronic 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.

(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

MWTC Bridgeport

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.

ADDENDUM 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".

I. ADDITIONAL CUSTOMERS:

Other military and federal agency customers located in the same geographic area covered by this solicitation may be added to the contract based on a mutually agreed upon implementation plan. The transition period for implementation will be 15 to 30 days. These potential customers cannot increase the dollar value of the contract by more than twenty-five percent in total. The capability to add customers will not be evaluated prior to award.

III. ADDITIONAL ITEMS:

Federal customers will be able to add additional food items to this contract during the post award phase. The items must be determined by the Contracting Officer to be fair and reasonably priced, of an acceptable quality, and come from the same subsistence categories that are represented in this solicitation. In no case can these items increase the dollar value of the contract more than twenty-five percent.

IV. FRESHNESS REQUIREMENTS:

The contractor shall use a supplier selection or certification program to ensure standardized product quality for each item in the listing regardless of supplier. The product quality shall equal that prescribed in the pertinent item specification (either Government or contractor specifications). Product characteristics shall be standardized to the extent that variations in flavor, odor, texture will be minimized.

V. PACKAGING, PACKING AND LABELING:

1. **All packaging and packing shall be in accordance with good commercial practice. Labeling shall be in accordance with commercial labeling complying with the Federal Food, Drug, and Cosmetic Act and regulations promulgated there under. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification.**
2. **To assure the receiving activity may properly handle and store items, standard commercial precautionary markings such as KEEP FROZEN, KEEP REFRIGERATED, et al. shall be used on the shipping boxes when appropriate.**
3. **All products shall be identified with readable dates, (open code dates), or coded dates, as determined by the type of product delivered. Contractors who do not use open dating will provide a product code number key listing to each customer facility. Items other than semi-perishable, shelf stable products must have readable, open code dates clearly showing use by date, date of production, date of processing/pasteurizing, sell by date, best if used by date, or similar markings.**
4. **Prior to beginning a delivery period, contractors using a code are required to furnish a list of items to be delivered under each contract with key-code information that applies. Copies of key-codes will be furnished to each destination receiving officer and each destination inspection agency.**

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (JUN 2004)

(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 HUBZone Set-Aside (Jan 1999) (15 U.S.C. 2402).
- (3) **52.219-4**, Notice of Price Evaluation Preference for HUBZone 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.
- (5)(iii) **Alternate II**^[dc9] (MAR 2004) 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
- (6)(iii) **Alternate II**^[dc12] (MAR 2004) of 52.219-7
- (7) **52.219-8**, Utilization of Small Business Concerns (MAY 2004) (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).

MWTC Bridgeport

52.212-5 (continued)

- ___ (13) 52.219-27^[dc22], Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (MAY 2004)
- X (14) **52.222-3**, Convict Labor (JUN 2003) (E.O. 11755).
- X (15) **52.222-19**, Child Labor—Cooperation with Authorities and Remedies (JUN 2004) (E.O. 13126).
- X (16) **52.222-21**, Prohibition of Segregated Facilities (Feb 1999).
- X (17) **52.222-26**, Equal Opportunity (APR 2002) (E.O. 11246).
- X (18) **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 (19) **52.222-36**, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- X (20) **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).
- ___ (21)(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)).
- ___ (21)(ii) **Alternate I** (AUG 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
Paragraphs (22) through (24) are not applicable and have been deleted.
- X (25) **52.225-13**, Restrictions on Certain Foreign Purchases (DEC 2003) (E.o.s, 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.
- ___ (28) **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)).
- ___ (29) **52.232-30**, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 225(f), 10 U.S.C. 2307(f)).
- X (30) **52.232-33**, Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- ___ (31) **52.232-34**, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- ___ (32) **52.232-36**, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).
- ___ (33) **52.239-1**, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a)
- ___ (34)(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).
- ___ (34)(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.).
- ___ (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 (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$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.).

(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 (JUN 2004) 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 (JUN 2004) (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 (MAY 2004) (Alternate I)^[dc55] (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 (JAN 2004) (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--Free Trade Agreements--Balance of Payment Program (JAN 2004) (Alternate I)^[dc60] (JAN 2004) (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 (JAN 2004) (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)^[dc68] (MAR 2000) (Alternate II)^[dc69] (MAR 2000) (Alternate III)^[dc70] (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)).

52.211-9P38 PLACE OF PERFORMANCE (MAR 1999) DSCP

(a) The offeror must stipulate in the Place of Performance clause included in this solicitation information pertinent to the place of performance. Failure to furnish this information with the bid may result in rejection of the offer/bid.

(b) No change in the place(s) of performance shall be permitted between the opening/closing date of the bid/offer and the award except where time permits and then only upon receipt of the contracting officer's written approval.

(c) Any change in place(s) of performance cited in this offer and in any resulting contract is prohibited unless it is specifically approved in advance by the contracting officer.

52.215-6 PLACE OF PERFORMANCE (APR 1984)

(a) The offeror or quoter, in the performance of any contract resulting from this solicitation, () intends,
() does not intend (check applicable block) to use one or more plants or facilities located at a different address from the address of the offeror or quoter as indicated in this quotation.

(b) If the offeror or quoter checks "intends" in paragraph (a) above, it shall insert in the spaces provided below the required information.

Place of Performance
(Street, Address, City
County, State, Zip Code)

Name and Address of Owner
and Operator of the Plant or
Facility if other than Offeror
or Quoter

52.242-9P18 MAILING ADDRESS FOR PAYMENT (JAN 1992) DSCP

Offeror shall indicate below the address to which payment should be mailed, if such address is different from that shown by the offeror on page 1 of this solicitation.

AUTHORIZED NEGOTIATORS

The offeror or quote represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations: (list names, titles, and telephone numbers of the authorized negotiators).

PHONE NUMBER _____

FAX NUMBER _____

52.214-9P06 ROUNDING OFF OF OFFER AND AWARD PRICES (JAN 1992) ALTERNATE I (FEB 1998) DSCP

Unit prices shall be limited to a maximum of two decimal places. For evaluation and award purposes, offers containing a unit price of more than two decimal places shall be rounded off to two decimal places, as follows:

\$0.101 to \$0.104 = \$0.10
\$0.105 to \$0.109 = \$0.11
\$0.111 to \$0.114 = \$0.11
\$0.115 to \$0.119 = \$0.12, etc.

52.215-9P05 ALL-OR-NONE OFFERS (JAN 1992) DSCP

All-or-None offers combining requirements listed in one solicitation with requirements listed in any other individually numbered solicitation will not be accepted. In addition, when less than the total line items of a solicitation are identified as being set-aside for small business firms and the balance of the requirements are unrestricted, offers will be evaluated separately for the set-aside and unrestricted portions. Offers combining set-aside items with unrestricted items on an all-or-none basis must be low on both the set-aside and the unrestricted portion to be eligible for award.

52.216-18 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders by individuals or activities designated in the Schedule. Such orders may be issued from 06 Dec. 04 through 01 Dec. 06 EXCEPT WHEN THE CITED COMMENCEMENT DATE FALLS ON A NON-WORKDAY, ORDERS MAY BE PLACED ON THE WORKDAY IMMEDIATELY PRECEDING.

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

(c) If mailed, a delivery order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule. The authorized ordering officer or the duly authorized representative of any base / activity shown in the delivery schedule of this contract is hereby authorized to order from the contract. Oral delivery orders are permitted and will be promptly confirmed in writing by the authorized ordering officer or the duly authorized representative.

OR

Oral delivery orders may be consolidated into a single confirming written delivery order and the original furnished to the contractor on the 15th and 30th of each month, but in no event later than the 30th day subsequent to the oral order. Only the contractor may elect which alternative method of confirmation is to be employed under the contract. Notice of its election must be orally provided to the ordering officer.

52.216-9P06 DELIVERY ORDER LIMITATIONS (JAN 1992) DSCP

(a) Minimum Order.

When the government requires supplies or services covered by this contract in an amount of less than \$25.00, the government is not obligated to purchase, nor is the contractor obligated to furnish, those supplies or services under the contract.

(b) The delivery order(s) shall specify delivery(ies) no less than 48 Hours from the date of issuance of the delivery order. Changes and/or cancellations to delivery order(s) may be made by giving contractor no less than 24 hours notice to be computed from time of receipt by the contractor of the written or oral change(s) or cancellation(s).

52.216-22 INDEFINITE QUANTITY (OCT 1995)

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

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

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

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 04 Dec. 2006.

**52.216-9P04 RESPONSIBILITY FOR ADMINISTRATION OF DELIVERY ORDER (S)
(AUG 1992) DSCP**

Delivery orders issued against this indefinite delivery contract shall be administered by the person who placed the order on behalf of the government, i.e., the commissary ordering officer or the ordering officer responsible for the troop support activity. Ordering officers are authorized to modify delivery orders and perform all administrative functions pertaining to such orders including termination of the order for late deliveries and other product nonconformances. In these cases, the applicable agency, commissary, or activity may reprocur the supplies locally. Ordering officers, however, are not authorized to sign purchase orders or contracts and cannot take any action to charge the account of the contractor unless they are also contracting officers. Only an authorized contracting officer acting on behalf of the agency, commissary or activity can take these particular reprocurment action. Administration of the terms and conditions set forth in the IDC is the responsibility of the DSCP contracting officer. The ordering officer shall also notify the DSCP contracting officer of all terminations and repurchase actions which were processed under the IDC.

**52.217-9P16 EFFECTIVE PERIOD OF CONTRACT - INDEFINITE DELIVERY
CONTRACT
(JAN 1992) DSCP**

The effective period of this contract:

Ordering - 06 Dec. 2004 through 01 Dec. 2006
Delivery - 08 Dec. 2004 through 04 Dec. 2006

52.246-9P31 SANITARY CONDITIONS (JAN 1998) DSCP

(a) Food Establishments.

() (1) establishments furnishing food items under DSCP contracts are subject to approval by the Military Medical Service or another agency acceptable to the Military Medical Service. The government does not intend to make any award for, no accept, any subsistence products manufactured or processed in a plant which is operating under such unsanitary conditions as may lead to product contamination or constitute a health hazard, or which has not been listed in an appropriate government directory as a sanitarly approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the "Directory of Sanitarly Approved Food Establishments for Armed Forces Procurement", published by the U.S. Army Veterinary Command. Suppliers also agree to inform the contracting officer immediately upon notification that a manufacturing plant is no longer sanitarly approved and/or delisted from another agency's listing, as indicated in paragraph (2) below. The contracting officer will also be notified when sanitary approval is regained and listing is reinstated.

MWTC Bridgeport

() (1) establishments furnishing food items under DSCP contracts are subject to approval by the Military Medical Service or another agency acceptable to the Military Medical Service. The government does not intend to make any award for, no accept, any subsistence products manufactured or processed in a plant which is operating under such unsanitary conditions as may lead to product contamination or constitute a health hazard, or which has not been listed in an appropriate government directory as a sanitarily approved establishment when required. Accordingly, the supplier agrees that, except as indicated in paragraphs (2) and (3) below, products furnished as a result of this contract will originate only in establishments listed in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", published by the U.S. Army Veterinary Command. Bread and bakery products from an establishment inspected by the American Institute of Baking need not be listed in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement" if the contractor certifies in writing that the establishment is currently in good standing. If the establishment should lose their good standing with the American Institute of Baking, the contractor must notify the contracting officer and provide a new source of supply.

(2) Establishments furnishing the products listed below and appearing in the publications indicated need not be listed in the "Directory of Sanitarily Approved Food Establishments".

(i) Meat and meat products and poultry and poultry products from establishments which are currently listed in the "Meat and Poultry Inspection Directory", published by the Meat and Poultry Inspection Program AMS, USDA. The item, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the agency.

(ii) Meat and meat products for direct delivery to military installations within the same state may be supplied when the items are processed under state inspection in establishments certified by the USDA as being equal to federal meat inspection requirements.

(iii) Poultry, poultry products, and shell eggs from establishments listed in the "List of Plants Operating under USDA Poultry and Egg Grading Programs" published by Poultry Programs, Grading Branch, AMS, USDA. Egg products (liquid, dehydrated) from establishments listed in the "Meat and Poultry Directory" published by the Food Safety Inspection Service. All products, to be acceptable, shall, on delivery, bear on the product, its wrappers or shipping container, as applicable, the official inspection legend or label of the agency.

(iv) Fish and fishery products from establishments listed in the "Approved List--Sanitary Inspected Fish Establishments", published by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service.

(v) Milk and milk products from plants having a pasteurization plant compliance rating of 90 or more, as certified by a state milk sanitation rating officer and listed in "Sanitation Compliance and Enforcement Ratings of Interstate Milk Shippers", published by the U.S. Public Health Service. These may serve as sources of pasteurized milk and milk products as defined in paragraph N, Section I, Part II of the "Grade 'A' Pasteurized Milk Ordinance, 1978 Recommendations of the U.S. Public Health Service", Public Health Service Publication No. 229.

(vi) "Dairy Plants Surveyed and Approved for USDA Grading Service", published by Dairy Division, Grading Branch, AMS, USDA.

(vii) Oysters, clams and mussels from plants listed in the "Interstate Certified Shellfish Shippers Lists", published by the U.S. Public Health Service.

(3) Establishments furnishing the following products are exempt from appearing in the "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", or other publication, but will remain subject to inspection and approval by the Military Medical Service or by another inspection agency acceptable to the Military Medical Service:

(i) Fruits, vegetables and juices thereof.

MWTC Bridgeport

(ii) Special dietary foods and food specialty preparations (except animal products, unless such animal products are produced in establishments covered by paragraphs (2)(i), (2)(iii), or (2)(iv) above).

(iii) Food oils and fats (except animal products, unless such animal products are produced in establishments covered by paragraph (2)(i), (2)(iii), or (2)(iv) above).

(iv) foreign establishments whose prepackaged finished items are imported by distributors or brokers into the United States as brand name items and then sold to armed forces procurement agencies for commissary store resale.

(4) Subsistence items other than those exempt from listing in the U.S. Army Veterinary Command "Directory of Sanitarily Approved Food Establishments for Armed Forces Procurement", bearing labels reading "Distributed By", etc., are not acceptable unless the source of manufacturing/processing is indicated on the label or on accompanying shipment documentation.

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

(b) Delivery Conveyances.

The supplies delivered under this contract shall be transported in delivery conveyances maintained to prevent contamination of the supplies, and if applicable, equipped to maintain any prescribed temperature. (Semiperishable supplies shall be delivered in a non-refrigerated conveyance.) The delivery conveyances shall be subject to inspection by the government at all reasonable times and places. When the sanitary conditions of the delivery conveyance have led, or may lead to product contamination, or they constitute a health hazard, or the delivery conveyance is not equipped to maintain prescribed temperatures, supplies tendered for acceptance may be rejected without further inspection.

**52.216-9P15 ECONOMIC PRICE ADJUSTMENT (EPA) - ESTABLISHED
MARKET PRICE (MAR 2000) ALTERNATE I (MAR 2000) DSCP**

(a) To the extent that contingent cost increases are provided for by this clause, the contractor warrants that prices included in the contract do not include any amount to protect against such contingent cost increases.

(b) This EPA clause applies to Class I Milk only (i.e., milk used in fluid products, including whole, lowfat, extra light, nonfat and half-and-half). Any package sizes other than gallons will be pro-rated based upon the price adjustment per gallon.

(c) Class I milk, as described in this clause, is subject to the regulations of the California Department of Food and Agriculture under the Stabilization and Marketing Plans for Market Milk.

(d) The economic indicator shall be the "State-Wide Average CWT Class 1 Price Based Upon Production", as released monthly by the California Department of Food and Agriculture Dairy Marketing Branch in the "Minimum Prices for Class 1 Market Milk F.O.B. Processing Plant" price letter. (Note: The California Department of Food and Agriculture is not part of the Federal Milk Marketing Order (FMMO) system and maintains its own milk-marketing program).

(e) Price adjustments shall be based on the following:

(1) The "base price" for the purpose of the initial adjustment calculation under this clause shall be the current month price of the economic indicator in effect at

(i) the closing date for proposals, if no discussions are held, or

(ii) the due date for final proposal revisions, if discussions are held.

The "base price" for each subsequent monthly adjustment calculation shall be the adjusting price from the previous month.

MWTC Bridgeport

(2) The "adjusting price" shall be the monthly price of the economic indicator released following the month used to determine the "base price".

(f) For the purpose of price adjustments pursuant to this clause:

(1) Adjustments will be made in increments of \$0.01 per gallon when and only when the change per gallon in either direction is equal to or greater than +/- \$0.0100.

(2) Adjustments in excess of \$0.0100 per gallon and in excess of \$0.0050 for units other than a gallon (i.e., half gallon, quart, pint and half pint) will be rounded to two decimal places to accommodate systems requirements of the Subsistence Total Order Receipt Electronic System (STORES), as follows:

\$0.0050 to \$0.0099 = \$0.01
 \$0.0100 to \$0.0149 = \$0.01
 \$0.0150 to \$0.0199 = \$0.02
 \$0.0200 to \$0.0249 = \$0.02
 \$0.0250 to \$0.0299 = \$0.03, etc.

(3) One hundred weight (CWT) as used in the price of the economic indicator equates to 11.63 gallons of milk deliverable under this contract.

(g) Promptly following release of the Minimum Price Letter applicable to the following month, the contracting officer shall compute the adjustments, if any, to the current contract prices for the purpose of determining any revised prices applicable to orders for the next month in the manner detailed below:

- (1) Determine adjusting price.
- (2) Determine base price.
- (3) Compute change from base price.
- (4) Convert the price change to price per gallon.
- (5) Compute price change for other units other than a gallon.
- (6) Round price adjustment(s) from lines (4) and (5) to nearest \$0.01 increment (see paragraph (f)(2)).
- (7) Compute adjusted contract unit price(s).

The following sample price computation is an illustration using January as the Base Price and February as the Adjusting Price.

(1) Adjusting Price	\$ 11.75	CWT
(2) Base Price	\$ 11.98	CWT
(3) Change from Base Price per CWT	\$(0.23)	
(4) Price change per gallon (Line (3) divide by 11.63 gallons/cwt)	\$(0.0198)	
(5) Price change per half gallon	\$(0.0099)	
Price change per quart	\$(0.0049)	
Price change per pint	\$(0.0025)	
Price change per half pint	\$(0.0012)	
(6) Price adjustment per gallon	\$ (0.02)	
Price adjustment per half gallon	\$ (0.01)	
Price adjustment per quart	\$ (0.00)	
Price adjustment per pint	\$ (0.00)	
Price adjustment per half pint	\$ (0.00)	
(7) Adjusted contract unit price		
Item per gallon (Current Unit Price - \$0.02)		
Item per half gallon (Contract Unit Price - \$0.01)		
Item per quart (No adjustment)		
Item per pint (No adjustment)		
Item per half pint (No adjustment)		

MWTC Bridgeport

(h) Revised prices will become effective on the 1st Sunday of the next month and will remain in effect until the next price change occurs.

52.217-9P04 SPECIAL PROVISIONS FOR BULK MILK DISPENSING EQUIPMENT (JAN 1992) DSCP

(a) General.

Regulations require that the cost to the government for bulk milk dispensing equipment must be identified and paid for from a different fund than the milk itself. Accordingly, unit and extended prices on each offered item requiring the furnishing of bulk milk dispensing equipment will be broken down and will state separately (1) the charge for the milk itself, and (2) the charge for the bulk milk dispensing equipment called for by that item. The dispensing equipment charge will include the cost of furnishing, installing, servicing, maintaining and removing such equipment. Evaluation of offers will be based on the total charge for each such item. By submission of this offer, the offeror certifies that the separate charges entered for such items represent the true and accurate charges for the milk and bulk milk dispensing equipment, and that the price offered for milk does not include any cost on account of bulk milk dispensing equipment. Dispensing equipment charge will be the per-gallon rate for equipment and services.

(b) Invoices.

Invoices covering items requiring the furnishing of bulk milk dispensing equipment must show separately for each such item the charge for the milk product furnished and the applicable charge for the bulk milk dispensing equipment.

(c) Computations.

(Applicable only in contracts which contemplate the use of both government-furnished and contractor-furnished dispensers.)

(1) Basic.

To the extent both government-furnished and contractor-furnished equipment is to be used in the dispensing of bulk milk required under this contract, the following dispenser charge procedures shall apply. In each case, the government shall give written notice to the contractor stating which of the consumption points will employ contractor-furnished dispensers exclusively. Such points shall be called "contractor dispenser points".

(2) Central Deliveries.

Where bulk milk is delivered to a central delivery point for redistribution by the government both to contractor dispenser points and to other consumption points, data shall be furnished by such central delivery point to the contractor stating the gallonage issued during the invoice period to contractor-dispenser points. Such data shall be the basis of invoicing dispenser charges.

(3) Direct Deliveries.

Where bulk milk is delivered to contractor dispenser points directly by contractor, delivery by contractor, delivery receipt data applicable to such points shall be the basis of such invoicing.

(4) Mixed-Equipment Points.

Where bulk milk is delivered either directly or through a central delivery point to any consumption point where any or all of the dispensers are furnished by the government, no dispenser charges shall be applicable to, such milk, except as provided below. Contractor shall not be required to furnish dispensers at any consumption point where any government dispensers are located, except as provided below.

(5) Urgency Exception.

Where urgent requirements, as determined by the ordering officer, necessitate the use of both government and contractor-furnished dispensers at the same consumption point, the minimum number of contractor-furnished dispensers shall be ordered in writing only and supplied to such point. In such case, dispenser charges (per line item) shall apply to that proportion of the bulk milk delivered to such point which corresponds to the proportion of contractor-furnished dispenser spigots to the total number of spigots at such point. (For example: If half the number of spigots used in dispensing chocolate milk at that point are

contractor-furnished, half of the chocolate milk gallon age there shall be subject to the dispenser charge.)

52.246-9P32 FEDERAL FOOD, DRUG AND COSMETIC ACT-WHOLESOME MEAT ACT (JAN

1992) DSCP

(a) The contractor warrants that the supplies delivered under this contract comply with the Federal Food, Drug and Cosmetic Act and the Wholesome Meat Act, and regulations there under. This warranty will apply regardless of whether or not the supplies have been:

- (1) Shipped in interstate commerce,
- (2) Seized under either act or inspected by the Food and Drug Administration or Department of Agriculture.
- (3) Inspected, accepted, paid for or consumed, or any or all of these, provided however, that the supplies are not required to comply with requirements of said acts and regulations there under when a specific paragraph of the applicable specification directs otherwise and the supplies are being contracted for military rations, not for resale.

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

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

- (1) Retain all or part of the supplies and recover from the contractor, or deduct from the contract price, a sum determined to be equitable under the circumstances;
- (2) Return or offer to return all or part of the supplies to the contractor in place and recover the contract price and transportation, handling, inspection and storage costs expended therefore; provided, that if the supplies are seized under either act, such seizure, at government option, shall be deemed a return of supplies within the meaning of this clause and thereby allow the government to pursue the remedy provided herein. Failure to agree to any deduction or recovery provided herein shall be a dispute of a question of fact within the meaning of the clause of this contract entitled "disputes".

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

The following ADDITIONAL CLAUSES are set forth in FULL TEXT:

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>.

The following ADDITIONAL CLAUSES are set forth in FULL TEXT:

**252.204-7004 REQUIRED CENTRAL CONTRACTOR REGISTRATION (NOV 2001)
DFARS**

(a) Definitions.

As used in this clause--

(1) "Central Contractor Registration (CCR) database" means the primary DoD repository for contractor information required for the conduct of business with DoD.

(2) "Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) "Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned by a parent (controlling) business concern. This 4-digit suffix may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) "Registered in the CCR database" means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code, is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, 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 confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>.

MWTC Bridgeport

<u>CLAUSE NUMBER</u>	<u>TITLE</u>
52.203-3	GRATUITIES (APR 1984)
52.204-6	CONTRACTOR IDENTIFICATION NUMBER-DATA UNIVERSAL NUMBERING SYSTEM (DUNS)
52.213-1	FAST PAYMENT PROCEDURES (AUG 1988)
52.215-18	FACSIMILE PROPOSALS (DEC 1989)
52.215-34	EVALUATION OF OFFERS FOR MULTIPLE AWARDS (MAR 1990)
52.215-43	AUDIT -COMMERCIAL ITEMS (OCT 1995)
52.216-1	TYPE OF CONTRACT (APR 1984) INSERT TYPE OF CONTRACT- Firm Fixed Price, Indefinite Quantity (For Milk add w/EPA Clause)
252.217-7017	TIME OF DELIVERY (DEC 1991) DFARS Paragraph (c): Insert <u>48 hours</u> for Dairy and Bakery items, and <u>5 days</u> for Eggs and Meat items.
252.217-7018	CHANGE IN PLANT LOCATION-BAKERY AND DAIRY PRODUCTS (DEC 1991) DFARS
252.217-7019	SANITARY CONDITIONS (DEC 1991) ALTERNATE 1 (DEC 1991) DFARS
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE. (JUL 1996)*
52.222-24	PREAWARD ON SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (APR 1984)
52.232-18	AVAILABILITY OF FUNDS (APR 1984)
52.245-4	GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (APR 1984)
52.247-34	F.O.B. DESTINATION (NOV 1991)

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

252.211-7003 ITEM IDENTIFICATION AND VALUATION (JAN 2004) DFARS

(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:

(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, subline item numbers, or informational subline item numbers.

252.211-7003 (Continued)

(2) When information subline 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 subline 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 subline 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/logisticpolicy/procurementlinks2.htm>.

52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

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

(b) The use in this solicitation or contract of any Defense FAR Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

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 60 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 preaward 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) Nongovernment (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 ITEMS

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

1. Paragraph (b), Submission of Offers.

a. 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).

b. 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 60 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 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 (MAY 2004) 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 service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

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

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

“Veteran-Owned Small Business Concern” means a small business concern--

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

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

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

MWTC Bridgeport

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
- 51 - 100
- 101 - 250

Average Annual Gross Revenues

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

52.212-3 (continued)

<u> </u> 251 - 500	<u> </u> \$3,500,001 - \$5 million
<u> </u> 501 - 750	<u> </u> \$5,000,001 - \$10 million
<u> </u> 751 - 1,000	<u> </u> \$10,000,001-\$17 million
<u> </u> Over 1,000	<u> </u> 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) HUBZone Small Business Concern.

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

The offeror represents as part of its offer that--

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

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture.

[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.]

MWTC Bridgeport**52.212-3 (continued)**

Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(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.

(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--Free Trade Agreements--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.

(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.

MWTC Bridgeport

**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.

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>..

52.204-9P01 SUBMISSION OF INFORMATION REGARDING ELECTRONIC DATA INTERCHANGE (EDI) (MAR 1994) DSCP

(a) Electronic Data Interchange (EDI) is most commonly defined as the electronic exchange of data contained in normal business transactions, between Trading Partners, using a public standard format.

(b) The Defense Personnel Support Center (DSCP) has implemented a system for EDI, using the Accredited Standards Committee (ASC) X12 and/or Uniform Communication Standard (UCS) Standards, as applicable, that will electronically transmit contracts and/or orders for the item(s) covered by this solicitation. Our goal is to utilize EDI to the maximum extent possible and to possess the capability to receive invoices and transmit payments electronically in addition to sending contracts and/or orders.

(c) *EDI CAPABILITY IS NOT A REQUIREMENT FOR AWARD UNDER THIS SOLICITATION. ANY DATA SUBMITTED IN PARAGRAPH (d) BELOW IS FOR INFORMATION PURPOSES ONLY AND WILL BE CONSIDERED CONFIDENTIAL.* At this time, we are asking that you provide information to help us in our implementation consistent with industry efforts and capabilities in this area.

(d) Please provide the information requested below. If more space is needed, you may use a blank sheet of paper identified with your firm's name, the solicitation number and the provision number (52.204-9P01) and item numbers:

(1) Do you employ the --

ASC X12 Standard?

USC Standard?

If not, Identify the standard used/to be used: _____

(2) Indicate the type of EDI capability your firm currently possesses or plans to possess within the next 12 months:

Receive Requests for Quotes.

Send Offers.

Receive Orders.

Receive Functional Acknowledgments.

Send Functional Acknowledgments.

Send Ship Notices.

Send Invoices.

Electronic Funds Transfer (EFT)

Other (briefly describe): _____

(3) List any restrictions on Government ordering you would need to impose:

Number of orders per contract: _____

Minimum quantity per order: _____

MWTC Bridgeport

Maximum quantity per order: _____

No. of ordering activities: _____

No. of destinations: _____

Other (briefly describe): _____

(4) Offeror's System Point of Contact for EDI:

Name: _____

Title: _____

Telephone Number: _____

(e) If you have previously furnished this information to DSCP under a separate solicitation, reference the solicitation number and leave the above paragraphs blank. If you are updating a previous submission, reference the solicitation number of the previous submission and complete the applicable paragraphs.

Solicitation Number: _____

The following clause will be used for all facilities that **do not specify** the Defense Finance and Accounting Service (DFAS) as a payment office. Clause 52.232-33 may apply to a non DFAS payment office which has EFT capability at their option.

52.204-9P02 INFORMATION RELATING TO ELECTRONIC DATA INTERCHANGE
EDI (MAR 1994) DSCP

(a) Electronic Data Interchange (EDI) is most commonly defined as the electronic exchange of data contained in normal business transactions, between Trading Partners, using a public standard format.

(b) The Defense Personnel Support Center (DSCP) has implemented a system for EDI, using the Accredited Standards Committee (ASC) X12 and/or Uniform Communication Standard (UCS) Standards, as applicable, that will electronically transmit contracts and/or orders for the item(s) covered by this solicitation in addition to receiving invoices and transmitting payments electronically. Our goal is to utilize EDI to the maximum extent possible.

(c) *EDI CAPABILITY IS NOT A REQUIREMENT FOR AWARD UNDER THIS SOLICITATION.* Those offerors who can begin to use EDI should do so at this time. For those offerors who cannot, the mailing of hard copy documents will continue. This is being permitted since this is a transition period between the current methods and the full implementation of EDI technology and procedures. However, even though the current hard copy procedures will be permitted, it is the intent of the Government that eventually all transaction will be via EDI.

(d) When the offeror intends to use EDI in the transmission and/or receipt of business documents--

(1) The offeror shall enter into an EDI Trading Partner Agreement (TPA) with DSCP (see Paragraph (e) below). The EDI TPA defines the responsibilities of the Trading Partners exchanging electronic transactions.

(2) The offeror shall be responsible for providing its own computer hardware and computer software necessary to transmit and receive data electronically under the framework of the EDI TPA.

(3) All terms and conditions which would otherwise be applicable to a paper document shall apply to the electronic document.

(e) An Electronic Data Interchange (EDI) Trading Partner Agreement (TPA) will be provided to the offeror by the contracting officer upon request.

52.232-34 OPTIONAL INFORMATION FOR ELECTRONIC FUNDS TRANSFER PAYMENT (AUG 1996)

(a) *Method of payment.* (1) Except as provided in paragraph (a)(2) of this clause, after the Contractor provides the information described in paragraph (d) of this clause, in accordance with paragraph (b) of this clause, payments by the Government under this contract, including invoice and contract financing payments, may be made by check or electronic funds transfer (EFT) at the option of the Government. If payment is made by EFT, the Government may, at its option, also forward the associated payment information by electronic transfer. As used in this clause, the term "EFT" refers to the funds transfer and may also include the information transfer.

(2) Notwithstanding the provision of this clause making the furnishing of EFT information optional, the Contractor shall furnish the EFT information described in paragraph (d) for any payment to be made after January 1, 1999.

(b) *Contractor consent.* (1) If the Contractor is willing to be paid by EFT, the Contractor shall provide the EFT information described in paragraph (d) of this clause. The Contractor agrees that, after providing EFT information in accordance with this clause, the Contractor cannot withdraw the Government's right to make payment by EFT for this contract.

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the payment office.

(c) *Contractor's EFT information.* Prior to submission of the first request for payment (whether for invoice or contract financing payment) under this contract, for which the Contractor desires EFT payment, the Contractor shall provide the information required to make contract payment by EFT, as described in paragraph (d) of this clause, directly to the Government payment office named in this contract. If more than one payment office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the changed information to the designated payment office(s).

(d) *Required EFT information.* The Government may make payment by EFT through either an Automated Clearing House (ACH) subject to the domestic banking laws of the United States or the Federal Reserve Wire Transfer System at the Government's option. The Contractor shall provide the following information for both methods in a form acceptable to the designated payment office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause).

- (1) The contract number to which this notice applies.
- (2) The Contractor's name and remittance address, as stated in the contract, and account number at the Contractor's financial agent.
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

- (4) For ACH payment only:
 - (i) Name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
 - (ii) Contractor's account number and the type of account (checking, saving, or lockbox).
- (5) For Federal Reserve Wire Transfer System payments only:

Name, address, telegraphic abbreviation, and the 9-digit Routing

 - (i) Transit Number for the Contractor's financial agent.
 - (ii) If the Contractor's financial agent is not directly on-line to the Federal Reserve Wire Transfer System and, therefore, not the receiver of the wire transfer payment, the Contractor shall also provide the name, address, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment.

(e) *Suspension of payment.* (1) Notwithstanding the provisions of any other clause of this contract, if, after receipt of the Contractor's EFT information in accordance with paragraph (b) of this clause, the EFT information is found to be incorrect, or, for payment after January 1, 1999, if EFT information has not been furnished, then until receipt by the designated payment office of the correct EFT information from the Contractor, (i) the Government is not required to make any further payment under this contract; and (ii) any invoice or contract financing request shall be deemed not to be a valid invoice or contract financing request as defined in the Prompt Payment clause of this contract.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than the 30th day after its receipt to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the changed EFT information is implemented by the payment office. If such suspension would result in a late payment under the Prompt payment clause of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(f) *Contractor EFT arrangements.* The Contractor shall designate a single financial agent capable of receiving and processing the electronic funds transfer using the EFT methods described in paragraph (d) of this clause. The Contractor shall pay all fees and charges for receipt and processing of transfers.

(g) *Liability for uncompleted or erroneous transfers.* (1) If an uncompleted or erroneous transfer occurs because the Government failed to use the Contractor-provided EFT information in the correct manner, the Government remains responsible for (i) making a correct payment, (ii) paying any prompt payment penalty due, and (iii) recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because Contractor-provided EFT information was incorrect at the time of Government release of the EFT payment transaction instruction to the Federal Reserve System, and -

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or
- (ii) If the funds remain under the control of the payment office, the Government retains the right to either make payment by mail or

suspend

the payment in accordance with paragraph (e) of this clause.

(h) *EFT and prompt payment.* (1) A payment shall be deemed to have been made in a timely manner in accordance with the Prompt Payment clause of this contract if, in the EFT payment transaction instruction given to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(2) When payment cannot be made by EFT because of incorrect EFT information provided by the Contractor, no interest penalty is due after the date of the uncompleted or erroneous payment transaction, provided that notice of the defective EFT information is issued to the Contractor within 7 days after the Government is notified of the defective EFT information.

(i) *EFT and assignment of claims.* If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the assignee shall provide the assignee EFT information required by paragraph (d) of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information which shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (e) of this clause.

(j) *Payment office discretion.* If, after submitting the EFT information, the Contractor does not wish to receive payment by EFT methods for one or more payments, the Contractor may submit a request to the designated payment office to refrain from using the EFT payment method. The decision to grant the request is solely that of the Government.

(k) *Change of EFT information by financial agent.* The Contractor agrees that the Contractor's financial agent may notify the Government of a change to the routing transit number, Contractor account number, or account type. The Government shall use the changed data in accordance with paragraph (e)(2) of this clause. The Contractor agrees that the information provided by the agent is deemed to be correct information as if it were provided by the Contractor. The Contractor agrees that the agent's notice of changed EFT data is deemed to be a request by the Contractor in accordance with paragraph (e)(2) that no further payments be made until the changed EFT information is implemented by the payment office.