

INFORMATION TO OFFERORS OR QUOTERS
COVER SHEET

Africa Posts, Camps and Stations (PC&S) Solicitation: SPE605-20-R-0231

THE ENCLOSED SOLICITATION COVERS THE PERIOD: Date of Award to 10 April 2025

PART: U.S. Government Procurements
SUBPART: Supplies, Equipment, and Material
CLASS CODE: 91 – Fuels, Lubricants, Oils and Waxes
ISSUING OFFICE: DLA Energy FEPBA
8725 John J. Kingman Road,
Suite 3938
Fort Belvoir, VA 22060-6222

ITEMS TO BE PURCHASED:
DISTILLATES AND RESIDUALS IN VARIOUS LOCATIONS IN AFRICA.

INITIAL SUBMISSION DATE & TIME:

1. The **initial closing date** for receipt of Basic Agreement packets is **15 May 2020 4:30 PM, EST (Eastern Standard Time)**. Documentation received after **15 May 2020 4:30 PM EST** will only be considered for procurements issued after **15 June 2020**. Note, DLA Energy will accept Basic Agreements on a monthly basis through 15 September 2024. Review of Basic Agreements will occur on the 15th day of every month.
2. This program will be open for a period of five (5) years from date of issuance, and is available on the Contract Opportunities website: <https://beta.sam.gov/>
3. The period of this agreement is from **10 April 2020 to 10 April 2025**.

I. PURPOSE OF BASIC AGREEMENT – AFRICA

Africa Posts, Camps, and Stations Fuel Program provides ongoing fuel support for the Department of Defense (DoD) and Federal Civilian customers in various locations in Africa. Many of the delivery sites solicited are located in remote areas with significant climate and infrastructure issues in addition to ongoing security and safety issues. The current DLA Energy Africa PC&S 1.8F program was awarded on February 1, 2018. This dynamic and ever-changing program requires vendors to provide ground fuel services and products in various locations throughout the African continent. DLA is seeking vendors who have the industry knowledge to handle high tempo and time-constrained requirements. DLA Energy intends to enter into Basic Agreements with eligible contractors to agree, in advance of the award of any requirement, to the terms and conditions for the supply and delivery of fuel products, including diesel, gasoline, jet fuel, and AVGAS, within the DLA Energy Africa PC&S 1.8F program. This fuels product list is not exhaustive; additional requirements may emerge as determined by the Government's needs. The method for soliciting future requirements will be either through issuance of a Request for Proposals (RFP)

for award of a long-term contract (LTC), or through issuance of a Request for Quotations (RFQ) for the award of one-time purchase contracts, commonly known as One-Time Buys (OTBs).

As described in Federal Acquisition Regulation (FAR) Part 16.702, a Basic Agreement is a written instrument of understanding, negotiated between an agency or contracting activity and a contractor, that (1) contains contract clauses applying to future contracts between the parties during its term, and (2) contemplates separate future contracts that will incorporate by reference or attachment the required and applicable clauses agreed upon in the basic agreement. A Basic Agreement is not a contract. Award of a Basic Agreement does not obligate the Government to award any future contracts to the contractor or be used in any manner to restrict competition.

The purpose of a Basic Agreement under this solicitation is to negotiate, in advance, non-price related terms and conditions related to emerging requirements. The intent of each Basic Agreement is to streamline administrative and financial processes for contractors to support the mission of DLA Energy – FEP. Once negotiated, the terms and conditions of the Basic Agreement will be incorporated into future contracts awarded under the Basic Agreement. The terms and conditions that will apply to all Basic Agreements awarded under this solicitation are listed in this solicitation and incorporated by reference or full text. When a future requirement arises, it will be solicited using (1) an RFP and awarded as a long-term contract, or (2) an RFQ and awarded as an OTB. Basic Agreement holders may compete for requirements by submitting proposals in response to RFPs, or by submitting quotations in response to RFQs, as applicable.

IMPORTANT INFORMATION

As requirements emerge, DLA Energy – FEP will issue solicitations identifying the products; quantities; delivery dates, times, and locations; specifications; reference prices (if applicable); and evaluation criteria applicable to the requirement.

Each Basic Agreement awarded to a contractor will be reviewed annually and revised as necessary. DLA Energy – FEP will consider any eligible contractor to become a Basic Agreement holder over the next five-year period by continually accepting proposals in response to this solicitation. This process will be conducted monthly throughout the life of this solicitation, therefore, affording contractors full and open competition and obtaining the best value for the Government.

WEB ADDRESS: <http://www.dla.mil/Energy/>

II. TERMS AND CONDITIONS APPLICABLE TO THE BASIC AGREEMENT

The following terms shall apply to all Basic Agreements awarded under this solicitation:

- a. This Basic Agreement contains the terms and conditions applicable to future contracts for fuel requirements under DLA Energy's Africa PC&S fuel program. The term of this Basic Agreement the date of award through **10 April 2025**.
- b. This Basic Agreement is not a contract and does not obligate the Government to award any future contracts to the contractor or restrict competition in any manner. This Basic Agreement does not obligate any funds.
- c. The point at which each requirement becomes a binding contract, as described above, is as follows: For any requirement issued under an RFP, a contract is formed when the Government accepts the offeror's proposal and awards a long-term contract. For any

requirement issued under an RFQ, a contract is formed upon the earlier of contractor's written acceptance of the Government's purchase order, or the contractor's failure to reject the purchase order within 24 hours of its issuance.

- d. Prices to be paid to the Contractor for the supplies shall be determined in accordance with the terms of any future RFP or RFQ issued, and shall be established at the time a contract or purchase order is issued. Prices may be adjusted in accordance with the terms of an Economic Price Adjustment clause, if applicable.
- e. For any purchase order issued under an RFQ, failure to reach agreement on price for any purchase order issued before its price is established is a dispute under the Disputes clause included in this Basic Agreement, see FAR 52.233-1, Disputes (May 2014) Alternate I (Dec 1991).
- f. DLA Energy is the only government agency authorized to issue contracts under the Basic Agreement.
- g. The North American Industry Classification System (NAICS) code applicable for future requirements under this solicitation is 324110.
- h. **FAR 52.204-18**, Commercial and Government Entity Code Maintenance applies to this Basic Agreement.
 - i. Under FAR 52.204-18 (b), Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with [subpart 42.12](#). The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract. Under FAR 52.204-18 (c), Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at <https://cage.dla.mil>. Change requests to the CAGE master file are accepted from the entity identified by the code. Under FAR 52.204-18 (d), Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>) or NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> to request CAGE changes.
- i. **ANNUAL REVIEW:** Agreements will be reviewed annually and revised as necessary; and may be revised more often due to mandatory statutory requirements. Changes to an agreement will only be made by modifying the agreement itself, and not by modifying a contract incorporating the agreement.
- j. **NOTICE OF VOIDABILITY:** Any FUTURE contract awarded to a contractor who at the time of award was suspended, debarred or ineligible for receipt of contracts with any government agency or in receipt of proposed debarment from any government agency is voidable at the option of the government.
- k. **TERMINATION:** Either party may discontinue the future applicability of this Basic Agreement upon thirty (30) days' written notice. Discontinuing a Basic Agreement shall not affect any prior contract incorporating the Basic Agreement.

III. ELIGIBILITY FOR AWARD OF A BASIC AGREEMENT

All documents submitted as part of your offer in response to this solicitation, must be in the English language. Any documents that are other than the English language will not be considered. To be eligible for Basic Agreement, Offerors must submit the following:

1. A signed SF 1449. All contractors submitting proposals are required to provide a CAGE Code in Block 17A of the Standard Form (SF) 1449. **Offerors without a CAGE Code will not be considered.**
2. Provide company name, name of authorized representative, mailing address, email address, and telephone number. Include a “Remit to” address in your BA registration package if different from mailing address.
3. All contractors are required to complete the **yellow highlighted** fillable clauses to their entirety. The required “fill-in” Clauses will be included in this solicitation along with DLA Energy Provision B-0001 – B1.05 - SUPPLIES TO BE FURNISHED (OVERSEAS PC&S) (ALASKA/HAWAII) (DLA ENERGY JAN 2012).
4. **FAR 52.212-3**, Offeror Representations and Certifications applies to this solicitation. All contractors must have a valid System for Award Management (SAM) registration to be considered for contract awards. SAM registration is required prior to submission of a proposal / quotation. SAM is an official U.S. Government system and all offerors are required to be registered in this system. Contractors register one time and confirm on an annual basis that their SAM registration is complete and accurate. There is NO fee to register for this site. Offerors may obtain information on registration and annual confirmation requirements at: <https://www.acquisition.gov> or by calling 1-866-606-8220. **Proposals by contractors that are not registered in SAM will not be considered for Basic Agreement or contract awards.**
5. **ACKNOWLEDGEMENT OF AMENDMENTS:** All contractors must acknowledge receipt of any amendments to this solicitation. A Contractor’s designated agent can do this by completing Block 8, signing, and returning one (1) copy of the amendment to DLAEnergyFEPBA@dla.mil. Contractor’s designated agent must also ensure Blocks 15A, 15B, and 15C of the SF 1449 are filled.
6. A listing of any exceptions to the terms and conditions of this solicitation. Any such exceptions should be submitted on company letterhead and clearly labeled as exceptions to terms of the solicitation.
7. Completed Foreign Vendor Information Sheet. In addition, attach copies of your company’s licenses, certificates, registrations. In addition, please submit forms of identification (National ID or Passport) for authorized negotiators.
8. Lastly, to expedite your company’s registration process, please provide the following:
 - a. Locations in Africa where your company can support DLA.
 - b. Fuel types your company can supply.
 - c. Contractors may identify any special capability its company possesses, such as the capability to provide mobile retail operation for diesel fuel, gasoline or aviation fuel.
 - d. Submit commitment letters from suppliers FOR EACH location your company intends to support (this is mandatory if you are interested in receiving requirements).
 - e. Submit agreement letters from transportation companies FOR EACH location your company intends to support (this is mandatory if you are interested in receiving requirements).
 - f. For paragraph (d) and (e) above, refer to paragraphs (G) and (H) of section IV – Terms and Conditions for Future RFPs/RFQs.

IV. TERMS AND CONDITIONS APPLICABLE TO FUTURE RFPs/RFQs

Please note instructions and procedures, listed below, apply to awards made on FUTURE requirements.

These instructions and procedures will apply to future procurements of fuel products within the Africa PC&S program.

- A) **FAR 52.212-1**, Instructions to Offerors – Commercial Items (DEVIATION 2018-O0018) (OCT 2018), applies to this solicitation.
- B) **FAR 52.214-34, Submission of Offers in the English Language (Apr 1991)**: All documents submitted as part of your offer in response to this solicitation, must be in the English language. Any documents that are other than the English language will not be considered.
- C) **FAR 52.214-35, Submission of Offers in U.S. Currency (APR 1991)**: All proposed prices for FUTURE requirements issued under this solicitation must be in U.S. Dollars. Proposed prices must reflect pricing based on U.S. Dollars (USD) per U.S. Gallon (USG) = USD/USG. Proposed prices NOT based on USD/USG will NOT be considered for FUTURE award.
- D) **PROPOSAL SUBMISSION**: Offeror(s) are required to submit proposals and offer prices in the Post Camps and Stations (PC&S) Offeror Entry Tool (OET). PC&S OET is an external web application which allows prospective PC&S ground fuel vendors to securely bid on a DLA Energy fuel Solicitation. Offeror must be registered in PC&S OET application in order to submit proposals. In order to have system access to PC&S OET, offerors must request the applicable user roles at: <https://amps.dla.mil>
- i) Once the registration is processed via AMPS, a DLA Energy Helpdesk ticket will be created to establish a unique User Name and Password for access to PC&S OET. You will be notified by email once your authorization request has been processed and then use this information to log on to register in the PC&S OET application.
 - ii) Please utilize the link above and/or the attached documents titled “Request for Role Guide” and “PC&S OET Vendor Guide” for assistance in acquiring access to AMPS and the PC&S OET application. If you experience trouble registering and additional assistance is needed, please send an email to the DLA Enterprise Help Desk at DLAEnterpriseHelpDesk@dla.mil or call toll free (855)-352-0001 and select the option for assistance with AMPS.
 - iii) After the registration process is completed the offeror will be able to log-on to the application and select a solicitation to bid on. The offeror will then select the applicable line items and enter offer prices for each line item. The offeror will then submit its bid package on the PC&S OET website along with its offer prices.
- E) **AWARD WITHOUT DISCUSSIONS**: Offerors are directed to paragraph (g) of Clause FAR 52.212-1, Instructions to Offerors – Commercial Items (OCT 2018). The Government intends to evaluate proposals and quotes, and award contracts without discussions. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. Therefore, all offerors are advised to submit their best prices with their initial offer. If the Contracting Officer determines that negotiations are necessary, the Government will, at that time, evaluate proposals or quotes and award a contract after conducting discussions with Offerors whose proposals or quotes have been determined to be within the competitive range.
- F) **EVALUATION**: FAR 52.212-2, Evaluation – Commercial Items (OCT 2014) applies to this acquisition. Offerors should thoroughly read and understand the terms and conditions contained

in the solicitation. Failure to provide any information requested in the solicitation may render an offeror's proposal unacceptable, and preclude it from any further consideration for a contract award. Offerors should ensure that the information contained in their proposal is factual, accurate and complete.

- G) **CERTIFICATES OF ANALYSIS OR QUALITY:** All contractors considered for a contract award are required to include a technical description in the form of a Certificate of Analysis (COA) and a Certificate of Quality (COQ) for the items offered. Certificates of Analysis and Certificates of Quality will be required as part of the requirements described on paragraph (H). If a COA and a COQ are not provided in response to the RFP, the offer will not be considered, all future RFPs/RFQs will include Quality Assurance Provisions for products being solicited.
- H) **PRE-AWARD SURVEYS:** DLA Energy may conduct pre-award surveys to determine contractor responsibility including the offeror's transportation, technical, production, and financial and quality assurance capabilities. All Pre-Award Surveys will require offerors to submit all items required in section III, 8 (d) and (e) and section IV (G) above. Please allow a minimum of sixty (60) days for completion of Pre-Award Surveys.
- I) **ECONOMIC PRICE ADJUSTMENT AND BASE REFERENCE PRICE (BRP):** Please refer to B19.02-ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DLA ENERGY JAN 2012). The BRP and EPA index will be based dependent on the requirement, country and product solicited. Offerors should use the publication that will be listed in the future RFP as the escalation reference for offer prices.
- i) After award, the contract price for all Contract Line Items (CLINs) will escalate monthly using the previous month in accordance with solicitation provision B19.02-ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DLA ENERGY JAN 2012) based upon the prescribed escalation publication referenced in the RFP.
 - ii) Price changes are not based on product cost or vendor profit margin. After award DLA Energy will provide updated contract prices monthly in Prices to Web <https://p2web.energy.dla.mil/>
- J) **ORDERING PERIOD:** The ordering period for all RFP requirements contracts awarded will be from Date of Award through **TBD**. Offerors are required to provide written acknowledgement at the time of submission of the initial offer that the offer prices provided are accurate; offerors must also confirm their ability to perform all contractual obligations in a satisfactory manner for the duration of the contract period at the offer price(s) submitted in response to the solicitation.
- K) **Point(s) of Contact:** For clarification of any issues resulting from this solicitation, please contact
- Tonya A. Sterling, Contracting Officer 571-767-9561 (telephone), 703-767-8506 (fax), Tonya.Sterling@dla.mil
 - Delecia O. Bell, Contract Specialist 571-767-4409 (telephone), 703-767-8506 (fax), Delecia.Bell@dla.mil
 - Gerardo J. Gomez, Contract Specialist 571-767-1609 (telephone), 703-767-8506 (fax), Gerardo.Gomez@dla.mil
 - Group Email: DLAEnergy-FEPB@dla.mil
- L) **DUNS NUMBER:** Include your company's Data Universal Numbering System (DUNS) Number on all Price Data Sheet(s) as part of your proposal / quotation for future requirements.
- M) **SUPPLIES TO BE FURNISHED:** The description, quantities, location, delivery hours, equipment, etc. required will be listed under B-0001 – B1.05 - SUPPLIES TO BE FURNISHED (OVERSEAS PC&S) (ALASKA/HAWAII) (DLA ENERGY JAN 2012).

- N) **FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT:** Long-term contracts awarded under a future RFP will be Fixed-Price Requirements contracts with Economic Price Adjustment. The applicable performance periods for LTCs will be listed in the RFPs. Base reference dates, prices, and publications will be provided in the RFP or RFQ when the requirement, product, quantity are solicited.
- O) **MULTIPLE AWARDS:** The Government intends to make multiple awards for some, or all solicitations for future requirements.
- P) **SITE VISITS:** Contractors are strongly encouraged to carefully review all requirements and visit any locations prior to submitting a proposal under this solicitation in accordance with DLA Energy Provision L54 SITE VISIT (DLA ENERGY OCT 1992).
- Q) **FAR 52.223-3**, Hazardous Material Identification and Material Safety Data (JAN 1997), applies to this solicitation. A Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, will be required for all hazardous material. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the offeror being considered non-responsible and ineligible for award.
- R) Pursuant to FAR 52.229-6 (Taxes -- Foreign Fixed-Price Contracts) and DLA Energy Provision K86 (Foreign Taxes), all offerors will be required to include any applicable taxes and/or fees into an offer price. Offerors should not include any taxes or fees from which the United States is exempt. Fees, levies etc. included in the offer price, must be specified on the Price Data Sheet (ATTACHMENT A) and in DLA Energy Provision K86. Offerors must provide substantiating official documentation from the local government indicating that the U.S. Government is not exempt from payment of the specified levy, fee etc.
- S) All offers submitted for future requirements must reference the offeror's Basic Agreement and provide the Basic Agreement number.

THE FOLLOWING PROVISIONS/CLAUSES ARE INCLUDED IN THIS SOLICITATION

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SPECIFIC FUEL CLAUSES WILL BE PROVIDED WHEN REQUIREMENTS ARE SOLICITED

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G-0004	G9.07-5 - ELECTRONIC TRANSFER OF FUNDS PAYMENTS – FEDERAL RESERVE WIRE TRANSFER SYSTEM (DLA ENERGY JAN 2012)	38
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SECTION M: EVALUATION FACTORS FOR AWARD

EVALUATION CRITERIA WILL BE SPECIFIED IN ANY FUTURE REQUEST FOR PROPOSALS OR REQUEST FOR QUOTATIONS ISSUED

SECTION B: SUPPLIES OR SERVICES AND PRICE COST

B-0001 **B1.05 - SUPPLIES TO BE FURNISHED (OVERSEAS PC&S) (ALASKAHAWAII) (DLA ENERGY JAN 2012)**

- (a) The supplies to be furnished during the period specified in the REQUIREMENTS clause, the delivery points, methods of delivery, and estimated quantities are shown below. The quantities shown are best estimates of required quantities only. Unless otherwise specified, the total quantity ordered and required to be delivered may be greater than or less than such quantities. The Government agrees to order from the Contractor and the Contractor shall, if ordered, deliver during the contract period all items awarded under this contract. The prices paid shall be the unit prices specified in subsequent price change modifications issued in accordance with the ECONOMIC PRICE ADJUSTMENT contract text.
- (b) In an emergency, oral orders may be issued and must be confirmed in writing by a Standard Form 1449 or DD Form 1155 within 24 hours.
- (c) Offers shall not be submitted for quantities less than the estimated quantities specified below for each line item. Offers submitted for less than the estimated quantities will not be considered for award, except for items specifically designated as **Three (3)**-year requirements.

<u>ITEMS</u>	<u>SUPPLIES, DELIVERY POINTS, AND METHOD OF DELIVERY</u>	<u>ESTIMATED QUANTITY</u>
(001)	Jet Fuel, Aviation (JA1) NSN: 9130-00-753-5026	TBD
(002)	Aviation Gasoline (100LL) NSN: 9130-00-179-1122	TBD
(003)	Gasoline, Premium Unleaded (MUP) NSN: 9130-00-148-7104	TBD

(004)	Gasoline Regular Unleaded (MUR) NSN: 9130-00-148-7103	TBD
(005)	Diesel Fuel #2 (DF2) NSN: 9140-00- 286-5294	TBD
(006)	Diesel Fuel (SFD) NSN: 9140-01- 556-9156	TBD
(007)	Turbine Fuel, Aviation (JP8) NSN: 9130-01-031-5816	TBD

**B-0002 B19.02-ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DLA
ENERGY JAN 2012)**

(a) **WARRANTIES.** The Contractor warrants that—

- (1) The unit prices set forth in the Schedule do not include allowances for any portion of the contingency covered by this contract text; and
- (2) The prices to be invoiced hereunder shall be computed in accordance with the texts of this contract.

(b) **DEFINITIONS.** As used throughout this contract text, the term—

- (1) **Award price** means the unit price offered by the Contractor and set forth opposite the item in the Schedule.
- (2) **Reference price** means the market price, this is either published in an independent publication or supplied by the Contractor, with which the award price is to fluctuate. The reference price should be a market price for the same or similar product(s) as the item being purchased.

(3) **Date of delivery** means—

(i) **FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading;

(B) **F.O.B. DESTINATION.** The date and time vessel commences discharging;

(ii) **FOR PIPELINE DELIVERIES.** The date and time product commences to move past the specified f.o.b. point; and

(iii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received.

(c) **ADJUSTMENTS.** The prices payable under this contract shall be the award price increased or decreased by the amount, determined according to the following formula that the reference price shall have increased or decreased, to and including the date of delivery.

(1) The amount of increase or decrease in the award price shall be based on the same number of cents, or fraction thereof, that the reference price increases or decreases per like unit of measure.

(2) The reference price with which the award price for the listed item is to fluctuate (and which is more fully defined in the Table below) is—

(i) The low price published in _____.
(Name of publication)

(ii) The average of the prices published in: **TBD**

(iii) The established price posted by _____
(Name of company)

and, published in **Official Government Established Publications**

(Name of publication)

(3) **COMMERCIAL.** For price adjustments utilizing **commercial** publications such as Platts Oilgram, etc., the reference price in effect on the date of delivery shall be that item's reference price that is in effect for the dates in the Table below. If an effective date is not cited in a publication, then the date of publication shall apply. An increase or decrease in any reference price published in a trade price service or in a commercial journal shall apply only to deliveries made on or after the effective date of such trade price service or commercial journal. In the event of a holiday for which an effective date is not used, the latest effective price(s) prior to the effective date shall be used. **NOTE: Platts issues corrections to its published prices on a regular basis. Platts posts corrections to its website (www.platts.com) for its subscribers. If a correction to a reference price is found on the Platts website, all of the items that use that reference price will be corrected. DLA Energy will correct any other reference prices, as notice of the correction is received. DLA Energy will work with the pricing services to determine the appropriate price, whenever an offeror or contractor can show that the price referenced should be reviewed.**

(4) **NONCOMMERCIAL (NOTIFICATION).** For price adjustments utilizing a reference price indicator **other than commercial** publications such as Platts Oilgram, the Contractor shall notify the Contracting Officer of any changes in the reference price in writing within 15 calendar days from the date thereof.

(i) **INCREASES.** Any increase in unit price as a result of an increase in reference price shall apply only to deliveries made on or after the date of receipt by the Contracting Officer of a written notification from the Contractor of such increase. However, the prices payable under this contract shall in no event exceed the Contractor's posted or established selling price in effect on the date of delivery for the product supplied in the form of delivery made at the point of delivery. Also, no notification incorporating an increase in a contract unit price shall be executed pursuant to this contract text until the increase has been verified by the Contracting Officer.

(ii) **DECREASES.** If the Contractor fails to notify the Contracting Officer of any decrease in the reference price, within the allotted 15 day period, such decrease shall apply to all deliveries made on or after the effective date of such decrease. However, if any overpayment is made to the Contractor as a result of the Contractor's failure to give timely notice to the Contracting Officer of any decrease in the established price, the Contractor shall be charged interest on such overpayment from the date of the overpayment to the date of reimbursement by the Contractor for the overpayment in accordance with the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(5) Where the reference price is the Contractor's established price (see (c)(2)(iii) above), the Contractor warrants that the product selected is one for which, except for modification required by the specifications of this contract, the Contractor has an established price. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor for its catalog, list, or schedule price. The Contractor further warrants that, as of the current date, any differences between the unit prices of the line items identified in the Schedule and the Contractor's established price for like quantities of the nearest commercial equivalents of such contract items are due to compliance with contract specifications and to compliance with any requirements that this contract may contain for preservation, packaging, and packing beyond standard commercial practice.

(d) **MODIFICATIONS.** Any resultant price changes shall be provided via notification through contract modifications and/or postings to the DLA Energy web page at <http://www.desc.dla.mil> under the heading **Vendor Resources** and then **Product Price Adjustments**.

(e) **FAILURE TO DELIVER.** Notwithstanding any other conditions of this contract text, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Excusable Delays and Termination for Cause paragraphs of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of the this contract in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(f) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any contract unit price pursuant to these economic price adjustment contract texts shall not exceed 575 percent of the award price, except as provided hereafter:

(1) If at any time the Contractor has reason to believe that within the near future a price adjustment under the conditions of this contract text will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(2) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(g) **REVISION OF REFERENCE PRICE INDICATOR.** In the event—

(1) Any applicable reference price is discontinued or its method of derivation is altered substantially;

(2) The reference price is an average of published or posted prices, and any one price ceases to be published or posted;

(3) The reference price is published in a trade price service or commercial journal and such publication ceases to publish said reference price or changes its method of quoting prices; or

(4) The Contracting Officer determines that the reference price consistently and substantially failed to reflect market conditions— the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustment described hereunder. The contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(h) **CONVERSION FACTORS.** If this contract text requires quantity conversion for economic price adjustment purposes, the conversion factors for applicable products, as specified in the CONVERSION FACTORS contract text, apply unless otherwise specified in the Schedule.

(i) **EXAMINATION OF RECORDS.** The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the wording of this contract text.

(j) **FINAL INVOICE.** The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this contract text.

(k) **TABLE.**

I	II	III	IV	V	VI	VII
price under contract any Item No. included (listed award items)	Name of company/ publication (identify by number from (c)(2) above)	If company - name of product; If publication - heading under which reference price is published and name of product	Location where reference price is applicable	Method of delivery applicable to the reference price	Reference price as of _____ (date) (exclude all taxes	Maximum payable this (includes tax in the p rice.

SECTION C: DESCRIPTION/SPECIFICATION

SPECIFIC FUEL CLAUSE WILL BE PROVIDED WHEN REQUIREMENTS ARE SOLICITED

SECTION E: INSPECTION AND ACCEPTANCE

SPECIFIC FUEL CLAUSE WILL BE PROVIDED WHEN REQUIREMENTS ARE SOLICITED

tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarded for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall –

- (1)
 - (i) Pack and mark the shipment to comply with contract specifications; or
 - (ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;
- (2) Prepare and distribute commercial bills of lading;
- (3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;
- (4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;
- (5) Furnish a delivery schedule and designate the mode of delivering carrier; and
- (6) Pay and bear all charges to the specified point of delivery.

(End of Clause)

F-0001 **F1.01-1 - DELIVERY CONDITIONS FOR TRANSPORT TRUCKS, TRUCKS AND TRAILERS, AND TANK WAGONS (DLA ENERGY JAN 2012)**

IMPORTANT NOTE on **EPA TESTING OF UNDERGROUND TANKS**. If the "volumetric" method is used for annual EPA testing of underground tanks, the "topping off" of tanks for this test is outside the scope of DLA Energy requirements contracts.

- (a) **F.O.B. ORIGIN.** On items calling for delivery at Contractor's refinery, terminal, or bulk plant f.o.b. transport truck, truck and trailer, or tank wagon—
 - (1) Supplies ordered hereunder shall be delivered, at Contractor's expense, into equipment specified in the Schedule.
 - (2) Unless otherwise specified in the Schedule, all deliveries shall be made on the day specified in the delivery order unless otherwise authorized by the receiving activity during normal working hours of such activity, provided that the Contractor shall have received the order at least 48 hours prior to the day so specified.
- (b) **F.O.B. DESTINATION.** On items calling for delivery f.o.b. destination by means of transport truck, truck and trailer, or tank wagon—
 - (1) The Contractor shall not be required to deliver by transport truck or truck and trailer a quantity less than a full load nor into more than one storage tank, with the following exceptions:
 - (i) An order placed under an item of this contract calling for delivery by transport truck of motor gasoline, fuel oil, diesel fuel, or kerosene, or, if this procurement is for Central America only, jet fuel, may require delivery of a quantity as low as 5,200 gallons

whenever the activity is restricted either by a tank capacity or by a directive from receiving a larger quantity; and

(ii) Where the Schedule provides for multiple drop deliveries, the Contractor may be required to deliver into more than one storage tank. Where truck and trailer is the method of delivery specified, the Contractor may, at its option, make delivery by transport truck. In the case of deliveries in Alaska, where truck and trailer or transport truck is the method of delivery specified, the Contractor may, at its option, make delivery by tank wagon.

(2) Unless otherwise specified in the Schedule, all deliveries shall be made on the day specified in the delivery order unless otherwise authorized by the receiving activity during normal working hours of such activity, provided that the Contractor shall have received the order at least 48 hours prior to the day so specified.

(3) The Contractor shall not be required to deliver by tank wagon a quantity of less than 575 liters (or 150 gallons) but, at the Government's option, may be required to deliver into more than one storage tank.

(4) When delivery is made by tank wagon, such wagon shall be equipped with pump, meter, and a minimum of 100 feet (30 meters) of hose. Where delivery is made by transport truck or truck and trailer, such delivery equipment shall be equipped with a minimum of 15 feet of hose.

(5) When delivery is made by tank wagon, transport truck, or truck and trailer to a Government facility, the Contractor shall present delivery equipment and product in such condition at destination so as to permit complete off-loading within the prescribed free time.

(6) Unless otherwise provided in the Schedule, free time for unloading trucks, transport trucks, or trucks and trailers shall be unlimited.

(7) When delivery is made by tank wagon, transport truck, or truck and trailer to a Government facility—

(i) The Contractor shall provide properly maintained delivery equipment and properly trained delivery personnel to reasonably assure that delivery can be made without damage to vegetation and asphalt pavement adjacent to storage facilities being filled. The Contractor's delivery personnel who have not exercised reasonable care and delivery equipment that is poorly maintained may be refused entrance to the installation by the installation Commander.

(ii) The Contractor shall present delivery equipment and product in such condition at destination so as to permit complete off-loading within the prescribed free time.

F-0002

F1.09-2 - DETERMINATION OF INVOICE QUANTITY (PC&S)
(DLA ENERGY JAN 2012)

(a) **QUANTITY.** The quantity of supplies furnished under this contract shall be determined as follows:

(1) **F.O.B. DESTINATION.**

(i) **DELIVERIES BY TANKER OR BARGE.**

(A) On items requiring delivery on an f.o.b. destination basis by tanker or barge, the quantity shall be determined on the basis of—

(I) Calibrated meters on the receiving tank system; or

(2) Receiving tank measurements.

(B) All quantities shall be converted to net gallons at 60 degrees Fahrenheit (or liters at 15 degrees Celsius).

(ii) **DELIVERIES BY RAIL TANK CAR.**

(A) On items requiring delivery on an f.o.b. destination basis by rail tank car, the quantity of supplies furnished under this contract shall be determined (at the Government's option) on the basis of—

(1) Calibrated meter on the receiving tank system;

(2) Weigh, using calibrated scales at the receiving location; or

(3) Receiving tank measurements.

(B) All quantities shall be converted to net gallons at 60 degrees Fahrenheit (or liters at 15 degrees Celsius).

(iii) **DELIVERIES BY TANK TRUCK/TRUCK AND TRAILER/TANK WAGON.**

(A) If the narrative requires a tank wagon (which is always equipped with a meter), that meter shall be used to determine quantity at time of delivery. The quantity shall be read directly from the meter. On items requiring delivery on a f.o.b. destination basis by tank truck or truck and trailer, quantity shall be determined in the following order of preference:

(1) Calibrated meter on the receiving tank system

(2) Calibrated meter on the conveyance

(3) Weight using calibrated scales at the receiving location.

(4) **Loading rack meter ticket.** The ticket must be generated at the time of loading and be based on a calibrated loading rack meter. The loading rack ticket shall be mechanically annotated with the gross and net gallons (or gross and net liters), the observed and corrected API gravity (or density), and the temperature at which the product was measured.

(5) Receipt tank measurements (as identified in the Schedule).

(B) All quantities, other than delivery by tank wagon, shall be converted, either mechanically or manually, to net gallons at 60 degrees Fahrenheit (or liters at 15 degrees Celsius).

(C) If a loading rack meter ticket is used to determine quantity for a biodiesel blend, the quantity shall be converted to net (volume corrected) gallons at 60 degrees Fahrenheit (or liters at 15 degrees Celsius). The Contractor shall prepare separate loading rack meter tickets for the diesel portion and for the biodiesel blend stock B100 (the industry designation for pure biodiesel), hereinafter referred to as the B100 portion of the load. The B100 loading rack meter shall be recorded at gross (ambient) temperature when the loading meter is not capable of providing a net (volume corrected) quantity. The total shall be the sum of the net diesel and gross B100. When the B100 loading rack meters are capable of providing a net (volume corrected) quantity, the total receipt quantity shall be the sum of the net diesel and the net B100.

(2) **F.O.B. ORIGIN.** All quantities shall be converted to net gallons at 60 degrees Fahrenheit (or liters at 15 degrees Celsius).

(i) **DELIVERIES INTO TANKER OR BARGE.** On items requiring delivery at the Contractor's refinery, terminal, or bulk plant on an f.o.b. origin basis into a tanker or barge, the quantity shall be determined (at the Contractor's option) on the basis of—

(A) Calibrated meter; or

(B) Shipping/shore tank measurement.

(ii) **DELIVERIES INTO RAIL TANK CAR.** On items requiring delivery at the Contractor's refinery, terminal, or bulk plant on an f.o.b. origin basis, the quantity shall be determined (at the Contractor's option) on the basis of—

- (A) Certified loading rack meter;
- (B) Weight, using calibrated scales; or
- (C) Certified capacity tables for the rail tank car.

(iii) **DELIVERIES BY TANK TRUCK/TRUCK AND TRAILER/TANK WAGON.**

(A) On items requiring delivery at the Contractor's refinery, terminal, or bulk plant on an f.o.b. origin basis, the quantity shall be determined (at the Contractor's option) on the basis of—

- (1) Calibrated loading rack meter;
- (2) Weight, using calibrated scales; or
- (3) Certified capacity tables of the conveyance loaded.

(B) **WATER BOTTOMS.**

- (1) Every delivery must be free of all water bottoms prior to discharge; and
- (2) The Contractor is responsible for their removal and disposal.

(b) **MEASUREMENT RESTRICTIONS.** All methods of measurements described in this contract text are subject to government safety and environmental restrictions, foreign or domestic. Such restrictions may prohibit, or render ineffective, a particular method in some cases.

(c) **MEASUREMENT STANDARDS.** All measurements and calibrations made to determine quantity shall be in accordance with the most recent edition of the API Manual of Petroleum Measurement Standards (MPMS). Outside the United States, other technically equivalent national or international standards may be used. **Certified capacity tables** shall mean capacity tables prepared by an independent inspector or any independent surveyor to the aforementioned measurement and calibration standards. In addition, the following specific standards will be used as applicable:

(1) **API MPMS Chapter 11.1, Temperature and Pressure Volume Correction Factors for Generalized Crude Oils, Refined Products, and Lubricating Oils (this chapter is an adjunct to ASTM D 1250, IP 200 and ISO 91-1).** Either the 2004 or 1980 version of the standard may be used. Either the printed tables (an adjunct to the 1980 version) or the computer subroutine version of the standard may be used. In case of disputes, the computer subroutine and the 2004 version of the standard will be the referee method.

(i) For crude oils, JP4, and Jet B, use Volume I, Tables 5A and 6A; Volume VII, Tables 53A and 54A; or Volume IV, Tables 23A and 24A.

(ii) For lubricating oils, use Volume XIII, Tables 5D and 6D; Volume XIV, Tables 53D and 54D; or Tables 23D and 24D (2004 version).

(iii) For all other fuels and fuel oils, use Volume II, Tables 5B and 6B; Volume VII, Tables 53B and 54B; or Volume V, Tables 23B and 24B.

(iv) For chemicals/additives, use Volume III, Table 6C (or Volume IX, Table 54C) or volume correct in accordance with the product specification.

(v) Volume XII, Table 52, shall be used to convert cubic meters at 15 degrees Celsius to barrels at 60 degrees Fahrenheit. Convert liters at 15 degrees Celsius to cubic meters at 15 degrees Celsius by dividing by 1,000. Convert gallons at 60 degrees Fahrenheit to barrels at 60 degrees Fahrenheit by dividing by 42. Should foreign law restrict conversion by this method, the method required by law shall be used.

(vi) As an option to (c)(1)(v), liters may be converted to gallons using Table F1.09A (see below). If this option is used, it must be agreed upon by both parties and shall remain in

effect for the duration of the contract. Should foreign law restrict conversion by this method, the method required by law shall be stated in the offer.

(vii) If the original measurement is by weight and quantity is required by U.S. gallons, then—

(A) Volume XI, Table 8, shall be used to convert pounds to U.S. gallons at 60 degrees Fahrenheit.

(B) Volume XII of the adjunct to ASTM D 1250, Table 58, shall be used to convert metric tons to U.S. gallons at 60 degrees Fahrenheit.

(2) **API MPMS Chapter 4, Proving Systems.** All meters used in determining product volume shall be calibrated using this standard with the frequency required by local regulation (foreign or domestic). If no local regulation exists, then the frequency of calibration shall be that recommended by the meter manufacturer or every 6 months, whichever is more frequent. A meter calibration log/calibration certificates shall be maintained which, as a minimum, contains--

(i) Number/name of each meter;

(ii) Calibration frequency;

(iii) Date of the last calibration;

(iv) Due date for next calibration;

(v) Name and signature of the person performing the calibration;

(vi) Traceability to master meter/prover used for calibration; and

(vii) Calibration report number.

Each meter shall be marked with the date of the last calibration and due date for the next calibration. All calibration meter recordings and logs/certificates shall be kept on file and made available upon request. All calibration records (including logs or certificates) shall be retained on file for a period of three years.

(3) **API MPMS Chapter 12, Calculation of Petroleum Quantities.** All calculations of net quantities shall be made in accordance with this chapter. Outside the U.S., use of tank shell correction factor is not required unless its use is a customary practice for custody transfer.

**TABLE F1.09-2A
CONVERSION FACTOR TABLE**

Density @ 15°C	Gallons @ 60°F to Liters @ 15°C, Multiply by	Liters @ 15°C to Gallons @ 60°F, Multiply by
0.723 – 0.768	3.78286	0.264350
0.769 – 0.779	3.78309	0.264334
0.780 – 0.798	3.78334	0.264317
0.799 – 0.859	3.78356	0.264301
0.860 – 0.964	3.78381	0.264284
0.965 – 1.074	3.78405	0.264267

(d) **SHIPPING DOCUMENTATION.** The following information shall be mechanically annotated on the contractor’s shipping document (such as a truck’s metered ticket) when the document is used to determine quantity under this contract: gross and net quantity (gallons or liters, as required), observed and

corrected API gravity/density, and the temperature (Fahrenheit or Celsius) at which the product was measured.. The following exceptions apply:

- (1) Where government documents are the sole basis for payment, such as DD Form 250/250-1s, the information is not required.
- (2) Where conveyances with temperature-compensating meters are used, the shipping document shall only be annotated with the corrected API gravity/density, the net quantity, and a statement that a temperature-compensating meter was used to determine net quantity.
- (3) Where volume correction for temperature is not required in accordance with Paragraph (a)(1)(iii)(B) above, the shipping document shall be only be annotated with the API gravity (or density), gross quantity, and a statement that volume correction was not required.

(e) **RIGHT TO REPRESENTATIVE.** For f.o.b. origin deliveries, the Government has the right to have a representative present to witness the measurement of quantity. For f.o.b. destination deliveries, the Contractor has the right to have a representative present to witness the delivery and measurement of quantity.

(f) **DISCREPANCIES . For f.o.b. destination deliveries utilizing volume corrected loading rack meter tickets to determine quantity:**

- (1) The quantities shown on the shipping document (volume corrected loading rack meter tickets) will be accepted as the quantity received, provided that any differences between that quantity and the Government's receipt tank measurement at destination does not exceed one half of one percent (0.5%) of the amount on the shipping document.. If the difference is greater than one half of one percent (0.5%), the quantity determined by the Government using receipt tank measurements at destination will be used for acceptance and payment provided receipt tank measurements are identified in the Schedule as an approved quantity determination method for that line item. Quantity measurements using the methods specified in section (a)(1)(iii)(A) (1-3) above will be used for acceptance and payment regardless of any discrepancy with a loading rack meter ticket.
- (2) If, the Government's receipt tank quantity measurement varies by more than one half of one percent (0.5%) from the Contractor's quantity measurement, the parties may conduct a joint investigation) of the variation in order to identify the cause of the discrepancy. Any quantity discrepancy that cannot be settled by the parties and results in a dispute shall be resolved under the Disputes provisions of the contract.

F-0003

F1.11 - DLA INTERNET BID BOARD SYSTEM (DIBBS) (DLA ENERGY) (APR 2014)

(a) Contractor Registration. Contractors must register in DIBBS to obtain a login account at <https://www.dibbs.bsm.dla.mil>. The login account will allow a contractor to register a primary and alternate email address for notifications. Contractors are strongly encouraged to establish a group email address for the primary email address for the contractor's authorized point of contacts. The registered email addresses will be the only email used by the government to make notifications.

(b) All contractors must have an active System for Award Management (SAM) account, <http://www.sam.gov> in order to register for DIBBS.

(c) The Contractor shall use DIBBS to receive orders. DLA Energy will not be using DIBBS receipt of quotes capability. All quotations, proposals, bids shall be submitted in accordance with the terms and conditions of the solicitation.

(d) Preparation and Transmission of Orders

(1) The Government may issue an order for a specific delivery or a series of deliveries (e.g., several deliveries during a week). The Government may also elect to issue an order covering a longer period (including monthly orders) and make periodic calls against these orders designating specific delivery dates, times, and quantities.

(2) Only a DLA Energy warranted Contracting Officer can issue an order, either orally or in writing, against a contract. An oral order issued by the warranted Contracting Officer shall provide the required advance notice to the Contractor and the following information: **Interim order number**; contract number; item number; ceiling price; quantity; delivery location; and the required delivery and/ or service date.

(i) For all product orders, the Contractor will receive an electronically signed written order via DIBBS, within 24 hours or one business day after the warranted Contracting Officer issues an oral order.

(ii) For all service orders, the Contractor will receive an electronically signed written order via DIBBS, within five business days after issuing the oral order.

(iii) Interim order number is subject to change once the electronically signed written order is received by the contractor. The order number on the written order will take precedence over the interim order number, if different.

(iv) Regardless of the unit price cited on the written order, the office designated to make payments on the written order will pay the applicable unit price in effect under the terms and conditions of the contract.

(v) Once the order has been issued, an email will be sent to the Contractor to provide notice that the order is available on the contract-specific web page. The order will also be submitted to the payment office.

(3) Calls against previously issued orders must be confirmed in writing within 24 hours or one business day via email message. The email confirmation will reference the previously issued order number and item number and designate specific delivery location, dates, and quantity to be delivered against that order.

(4) The Contractor's nonreceipt of a written or electronic confirmation of an oral order or oral call against a written or electronic order does not relieve the Contractor from its obligation to perform in accordance with the oral order or oral call against a written or electronic order. The Contractor should contact the DLA Energy Contracting Officer if problems are experienced with receipt of the electronic or written confirmation.

F-0004

**F3 - TRANSPORT TRUCK AND/OR TRUCK AND TRAILER
FREE TIME AND DETENTION RATES (PC&S) (DLA ENERGY
AUG 2005)**

(a) Upon arrival of Contractor's transport truck or truck and trailer, the receiving activity shall promptly designate the tanks into which the load is to be discharged. Free time will commence when the discharge hose is connected to the receiving line at the delivery point and will end when discharge is completed. The Contractor shall be paid for detention beyond free time for delays caused by the Government. A minimum of one hour free time is required.

(1) Free time for unloading a transport truck or truck and trailer (includes one hour minimum plus any additional time):

(2) Rate for detention beyond free time:

(i) The above will not be considered in the evaluation of offers for award except that a free time of less than one hour may render an offer unacceptable. Notwithstanding the above, the Government is entitled to at least as much free time as is allowed by the common carrier or that the Contractor normally allows its regular commercial customers, whichever is greater. Free time only applies to single-drop deliveries (it is not applicable to multiple-drop tank truck/truck and trailer deliveries or any tank wagon deliveries).

(ii) Notwithstanding the above, the Government will not pay more in detention rates than the actual rate charged by the common carrier or the rate the Contractor normally charges its regular commercial customers, whichever is lower. Detention costs will be the sole responsibility of the activity incurring them and are only allowable on single drop deliveries (they are not allowable on multiple drop tank truck/truck and trailer deliveries or any tank wagon deliveries. Invoices for detention costs will be submitted by the Contractor directly to the activity receiving the product. These provisions are applicable to DLA-owned/capitalized as well as non-DLA-owned/noncapitalized products.

(c) UNLESS THE OFFEROR OTHERWISE INDICATES IN PARAGRAPHS (a)(1) AND (a)(2) ABOVE, FREE TIME WILL BE CONSIDERED UNLIMITED AND DETENTION COSTS WILL NOT BE CHARGEABLE.

F-0005

**F3.03 - NOTIFICATION OF CHANGE IN TRANSPORTATION
COMPANY (PC&S) (DLA ENERGY APR 2005)**

(a) In the performance of this contract, the Contractor agrees not to utilize transportation companies that have been debarred or suspended, are ineligible for receipt of contracts with Government agencies, are in receipt of a notice of proposed debarment or ineligibility from any Government agency, or are otherwise ineligible under Federal programs. Substitution of a new transportation company is subject to review by the Contracting Officer for use under this contract.

(b) If the Contractor changes transporters after award, the Contractor shall provide the Contracting Officer with the following information on alternative or new transportation company(ies) being utilized in the transportation of supplies under this contract.

Name, Address, and Phone Number
of Transportation Company

State(s) in which transporter
is authorized to operate

F-0006 **F4 - DELIVERY AND ORDERING PERIODS (DLA ENERGY JUN 2002)**

(a) The period of this contract during which the Ordering Officer may order and the Contractor shall deliver, if ordered, will be as follows unless the Schedule specifies otherwise:

- (1) Ordering period begins: **TBD.** and ends **TBD.**
- (2) Delivery period begins: **TBD** and ends: **10 April 2025**

(b) Notwithstanding the foregoing, deliveries prior to the delivery period, made at the option of the Contractor and pursuant to an order by the Government, shall be deemed to have been made under this contract at the applicable contract price(s).

F0007 **F30.01 ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) (DLA ENERGY APR 1998)**

(a) Ordering and Paying Officers under the contract are as indicated below:

<u>ITEM NO.</u>	<u>ORDERING OFFICER</u>	<u>PAYING OFFICER</u>
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Ordering officer information will be provided at the time of contract award.

(b) The Commanding Officer or his designated representative of the cognizant requiring activity is authorized to make any necessary changes to this listing, or make additional assignments for

requirements not covered by the foregoing. Such changes or assignments shall be made by written notification to the Contractor, with a copy to the Contracting Officer.

(c) If Ordering and Paying Officers cannot be ascertained under (a) or (b) above, the following activities, as applicable, should be contacted:

F-0008 **F51 - SHIPMENT AND ROUTING (OVERSEAS) (DLA ENERGY NOV 2005)**

F51 SHIPMENT AND ROUTING (OVERSEAS)

(a) The Contractor shall make shipments of the supplies ordered hereunder by the method specified in the Schedule, to the delivery point, in the quantity, and according to the delivery date specified in the order or in the Schedule.

(b) On items calling for delivery at Contractor's refinery, terminal, or bulk plant on an f.o.b. origin basis, transportation equipment will be furnished by the Government; PROVIDED, however, that the Contractor shall, without additional cost to the Government, arrange to obtain any railway boxcars required for shipments to be made hereunder. Whenever any item of the Schedule specifies delivery by more than one method, selection of the method to be used shall be at Government's option. Government-furnished transportation equipment that the Contractor finds unsatisfactory for loading shall be reported as follows:

- (1) **TANKERS AND BARGES.** Report to the Quality Representative (QR).
- (2) **TANK CARS.** Report to the QR.
- (3) **TRANSPORT TRUCKS, TRUCKS AND TRAILERS, AND TANK WAGONS.**

Report to the QR and to carrier's general office, or to home base or station of such equipment.

(c) If the supplies are to be delivered f.o.b. tank car, boxcar, truck, transport truck, truck and trailer, or tank wagon at Contractor's refinery, terminal, or bulk plant—

- (1) The Contractor shall ship the supplies under Government bills of lading, which will be furnished, or arranged for, by the Ordering Officer. If requested by the Government, the Contractor shall prepare Government bills of lading.
- (2) The Contractor shall comply with routing instructions furnished by the Government. Such instructions will include carrier names, routes, route order numbers, and other pertinent information. The Contractor shall be responsible for scheduling of commercial transport trucks, trucks and trailers, and tank wagons to its plant in accordance with such routing instructions and consonant with the applicable order. The Contractor shall reimburse the Government for any demurrage incurred as a result of improper scheduling.

(d) On all tank car and boxcar (carload only) shipments, whether delivery is made on an f.o.b. origin or f.o.b. destination basis, the Contractor shall send to the consignee at the time of shipment a facsimile or electronic mail notice which shall indicate grade of product, date of shipment, car and seal numbers, bill of lading number, and net quantities.

(e) The Contractor shall furnish serially numbered seals and effectively seal all tank cars, boxcars, transport trucks, trucks and trailers, tankers, and barges, whether delivery is made on an f.o.b. origin or f.o.b. destination basis. The marking on the seal shall be indicated on all shipping documents.

SECTION G: CONTRACT ADMINISTRATION DATA

DFARS 252.232-7003 **ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (DEC 2018)**

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

“Contract financing payment” means an authorized Government disbursement of monies to a contractor prior to acceptance of supplies or services by the Government.

(1) Contract financing payments include—

- (i) Advance payments;
- (ii) Performance-based payments;
- (iii) Commercial advance and interim payments;
- (iv) Progress payments based on cost under the clause at Federal Acquisition Regulation (FAR) 52.232-16, Progress Payments;
- (v) Progress payments based on a percentage or stage of completion (see FAR 32.102(e)), except those made under the clause at FAR 52.232-5, Payments Under Fixed-Price Construction Contracts, or the clause at FAR 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts; and
- (vi) Interim payments under a cost reimbursement contract, except for a cost reimbursement contract for services when Alternate I of the clause at FAR 52.232-25, Prompt Payment, is used.

(2) Contract financing payments do not include—

- (i) Invoice payments;
- (ii) Payments for partial deliveries; or
- (iii) Lease and rental payments.

“Electronic form” means any automated system that transmits information electronically from the initiating system to affected systems.

“Invoice payment” means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government.

(1) Invoice payments include—

- (i) Payments for partial deliveries that have been accepted by the Government;
- (ii) Final cost or fee payments where amounts owed have been settled between the Government and the contractor;

(iii) For purposes of subpart 32.9 only, all payments made under the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, and the clause at 52.232-10, Payments Under Fixed-Price Architect-Engineer Contracts; and

(iv) Interim payments under a cost-reimbursement contract for services when Alternate I of the clause at 52.232-25, Prompt Payment, is used.

(2) Invoice payments do not include contract financing payments.

“Payment request” means any request for contract financing payment or invoice payment submitted by the Contractor under this contract or task or delivery order.

“Receiving report” means the data prepared in the manner and to the extent required by Appendix F, Material Inspection and Receiving Report, of the Defense Federal Acquisition Regulation Supplement.

(b) Except as provided in paragraph (d) of this clause, the Contractor shall submit payment requests and receiving reports in electronic form using Wide Area WorkFlow (WAWF). The Contractor shall prepare and furnish to the Government a receiving report at the time of each delivery of supplies or services under this contract or task or delivery order.

(c) Submit payment requests and receiving reports to WAWF in one of the following electronic formats:

(1) Electronic Data Interchange.

(2) Secure File Transfer Protocol.

(3) Direct input through the WAWF website.

(d) The Contractor may submit a payment request and receiving report using methods other than WAWF only when—

(1) The Contractor has requested permission in writing to do so, and the Contracting Officer has provided instructions for a temporary alternative method of submission of payment requests and receiving reports in the contract administration data section of this contract or task or delivery order;

(2) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System);

(3) DoD makes payment on a contract or task or delivery order for rendered health care services using the TRICARE Encounter Data System; or

(4) The Governmentwide commercial purchase card is used as the method of payment, in which case submission of only the receiving report in WAWF is required.

(e) Information regarding WAWF is available at <https://wawf.eb.mil/>.

(f) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payment requests.

(End of clause)

DRAFS 252.232-7006 WIDE AREA WORKFLOW PAYMENT INSTRUCTIONS (DEC 2018)

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

“Department of Defense Activity Address Code (DoDAAC)” is a six position code that uniquely identifies a unit, activity, or organization.

“Document type” means the type of payment request or receiving report available for creation in Wide Area WorkFlow (WAWF).

“Local processing office (LPO)” is the office responsible for payment certification when payment certification is done external to the entitlement system.

“Payment request” and “receiving report” are defined in the clause at 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(b) *Electronic invoicing.* The WAWF system provides the method to electronically process vendor payment requests and receiving reports, as authorized by Defense Federal Acquisition Regulation Supplement (DFARS) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports.

(c) *WAWF access.* To access WAWF, the Contractor shall—

(1) Have a designated electronic business point of contact in the System for Award Management at <https://www.sam.gov>; and

(2) Be registered to use WAWF at <https://wawf.eb.mil/> following the step-by-step procedures for self-registration available at this web site.

(d) *WAWF training.* The Contractor should follow the training instructions of the WAWF Web-Based Training Course and use the Practice Training Site before submitting payment requests through WAWF. Both can be accessed by selecting the “Web Based Training” link on the WAWF home page at <https://wawf.eb.mil/>

(e) *WAWF methods of document submission.* Document submissions may be via web entry, Electronic Data Interchange, or File Transfer Protocol.

(f) *WAWF payment instructions.* The Contractor shall use the following information when submitting payment requests and receiving reports in WAWF for this contract or task or delivery order:

(1) *Document type.* The Contractor shall submit payment requests using the following document type(s):

(i) For cost-type line items, including labor-hour or time-and-materials, submit a cost voucher.

(ii) For fixed price line items—

(A) That require shipment of a deliverable, submit the invoice and receiving report specified by the Contracting Officer.

(Contracting Officer: Insert applicable invoice and receiving report document type(s) for fixed price line items that require shipment of a deliverable.)

(B) For services that do not require shipment of a deliverable, submit either the Invoice 2in1, which meets the requirements for the invoice and receiving report, or the applicable invoice and receiving report, as specified by the Contracting Officer.

(Contracting Officer: Insert either “Invoice 2in1” or the applicable invoice and receiving report document type(s) for fixed price line items for services.)

(iii) For customary progress payments based on costs incurred, submit a progress payment request.

(iv) For performance based payments, submit a performance based payment request.

(v) For commercial item financing, submit a commercial item financing request.

(2)) Fast Pay requests are only permitted when Federal Acquisition Regulation (FAR) 52.213-1 is included in the contract.

(f) [Note: The Contractor may use a WAWF “combo” document type to create some combinations of invoice and receiving report in one step.]

(3) Document routing. The Contractor shall use the information in the Routing Data Table below only to fill in applicable fields in WAWF when creating payment requests and receiving reports in the system.

Routing Data Table*

Field Name in WAWF	Data to be entered in WAWF
Pay Official DoDAAC	
Issue By DoDAAC	
Admin DoDAAC	
Inspect By DoDAAC	
Ship To Code	
Ship From Code	
Mark For Code	
Service Approver (DoDAAC)	
Service Acceptor (DoDAAC)	
Accept at Other DoDAAC	
LPO DoDAAC	
DCAA Auditor DoDAAC	
Other DoDAAC(s)	

(*Contracting Officer: Insert applicable DoDAAC information. If multiple ship to/acceptance locations apply, insert “See Schedule” or “Not applicable.”)

(**Contracting Officer: If the contract provides for progress payments or performance-based payments, insert the DoDAAC for the contract administration office assigned the functions under FAR 42.302(a)(13).)

(4) Payment request. The Contractor shall ensure a payment request includes documentation appropriate to the type of payment request in accordance with the payment clause, contract financing clause, or Federal Acquisition Regulation 52.216-7, Allowable Cost and Payment, as applicable.

(5) Receiving report. The Contractor shall ensure a receiving report meets the requirements of DFARS Appendix F.

(g) WAWF point of contact.

(1) The Contractor may obtain clarification regarding invoicing in WAWF from the following contracting activity’s WAWF point of contact.

(Contracting Officer: Insert applicable information or “Not applicable.”)

(2) Contact the WAWF helpdesk at 866-618-5988, if assistance is needed.

(End of Clause)

G-0001 G3 - INVOICE NUMBERING REQUIREMENTS (DLA ENERGY AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

Remittances shall be mailed only at the Government’s option or where an exception to payment by Electronic Funds Transfer (EFT) applies. (See the PAYMENT BY ELECTRONIC FUNDS TRANSFER – SYSTEM FOR AWARD MANAGEMENT or the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN SYSTEM FOR AWARD MANAGEMENT clause.)

Offeror shall indicate below the complete mailing address (including the nine-digit zip code) to which remittances should be mailed if such address is other than that shown in Block 15a (Standard Form (SF) 33) for noncommercial items or Block 17a (SF 1449) for commercial items. In addition, if offeror did not incorporate its nine-digit zip code in the address shown in Block 15a of the SF 33 or in Block 17a of the SF 1449, the offeror shall enter it below:

(a) Payee Name (Contractor): _____
(DO NOT EXCEED 25 CHARACTERS)

(b) Check Remittance Address: _____

(DO NOT EXCEED 30 CHARACTERS PER LINE)

(c) Narrative Information (special instructions).

(d) **PAYING OFFICE.** Invoices for product paid with Defense Logistics Agency/DLA Energy funds, as cited on the order, will be paid by DLA Energy and should be mailed to--

DEFENSE FINANCE AND ACCOUNTING SERVICES – COLUMBUS CENTER
STOCK FUND DIRECTORATE
FUELS ACCOUNTING AND PAYMENT DIVISION
ATTN: PCS VENDOR PAY
PO BOX 182317
COLUMBUS OH 43218-6252

(e) **CERTIFICATION OF RECEIPT.**

(1) Receiving activity personnel will certify the receipt of fuel by preparing and signing one of the following documents:

- (i) Standard Form 1449, Solicitation/Contract/Order for Commercial Items;
- (ii) DD Form 1155, Order for Supplies or Services; or
- (iii) DD Form 250, Material Inspection and Receiving Report.

(2) Receiving activities shall input receipt information into the Defense Fuel Automated Management Systems (DFAMS) via Fuels Control Center or other electronic systems installed at their activity. A copy of the receipt document shall be submitted to the Contractor. Copies of receipt documents shall be submitted to DLA Energy-N upon request.

(3) Payments to the Contractor will be based on the quantities specified in the receiving report and payments will be made in accordance with the terms of the contract.

(f) **SUBMISSION OF INVOICES.**

(1) Upon delivery of supplies to the point of first receipt by the Government, the Contractor shall prepare an invoice in accordance with the terms of this contract. (**For Germany only**, the Contractor shall invoice all products using liters, except FO6 which will be invoiced in kilograms.) The Government prefers that the Contractor submit an invoice for each item for no more or less than the total daily delivered quantity at a particular activity. However, invoices may be submitted on a daily, weekly, bimonthly, or monthly basis. Weekly, bimonthly, and monthly invoices must contain only one item number and only one corresponding delivery order number and must specify the total quantity delivered for each specific delivery date.

(g) **SHIPMENT NUMBER TO BE IDENTIFIED ON INVOICES.**

(1) For purposes of this contract text and the contract, “**shipment number**” for PC&S deliveries is defined as a seven position alpha-numeric number.

(2) All invoices processed electronically using the PAPERLESS ORDERING RECEIPTS TRANSACTION SCREENS (PORTS) for PC&S deliveries will contain a Julian date shipment number. A Julian date is defined as **Position one (1) is the year and the last three (3) digits are the day of the year (i.e., 1159 represents June 8, 2001).** The electronic system will automatically generate the Julian date shipment number based on the **date shipped** inserted by the Contractor.

- (i) The **date shipped** for all f.o.b. destination contract line items must be the date fuel was actually **received** by the activity. The date should never be the date the Contractor loaded its delivery conveyance unless the **activity receives the product** on the same day.

(ii) *For f.o.b. origin items, the Julian date shipment number will be the date the activity picked up product from the Contractor's f.o.b. origin point/terminal.*

(3) *All invoices processed manually must contain a Julian date shipment number based on the wording stated in subparagraphs (i) and (ii) above*

(i) The first three positions of the Julian date shipment number shall always consist of the alpha characters "PCS". The remaining four positions shall consist of the Julian date based on the wording stated in subparagraphs (i) and (ii) above.

(ii) The Contractor must identify the shipment number on each invoice submitted for payment. The **SAME** shipment number shall be used for multiple deliveries under the same contract line item on the same calendar day. The Contractor shall convey the appropriate shipment number to the receiving activity.

(h) INVOICES PAID BY DFAS COLUMBUS

(1) Invoices submitted for payment shall be submitted in duplicate. The submission shall include an original invoice clearly marked **ORIGINAL** and one copy clearly marked **INVOICE COPY**. A carbon copy may be submitted as an original provided it is clearly marked **ORIGINAL** as stated above.

(2) **FOR GERMANY ONLY.** The original tax exemption documentation (Abwicklungsschein) must accompany the invoice unless the invoice is submitted via facsimile (fax). Submission of the Abwicklungsschein for invoices submitted via fax shall follow the instructions contained in paragraph (5) below.

(3) COURIER DELIVERY OF INVOICES APPLICABLE TO ITEMS PAID BY DFAS-COLUMBUS.

(i) Couriers, acting on behalf of Contractors, must deliver Contractor invoices being submitted for payment to the following street address:

DEFENSE FINANCE AND ACCOUNTING SERVICE – COLUMBUS CENTER
ATTN: PCS VENDOR PAY
3990 EAST BROAD STREET, BLDG 21
COLUMBUS OH 43213-1152

(ii) Invoices submitted by courier to the above address will be handled in a timely manner.

(i) INVOICES FOR ITEMS NOT PAID BY DFAS-COLUMBUS.

(1) The original invoice shall be clearly marked **ORIGINAL**. Unless otherwise specified in the contract, the invoice shall be submitted to the paying office stated in the ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) contract text of this contract.

(2) **FOR GERMANY ONLY:** The original tax exemption documentation (Abwicklungsschein) must accompany the invoice unless the invoice is submitted via facsimile (fax). Submission of the Abwicklungsschein for invoices submitted via fax shall follow the instructions contained in paragraph (e)(5) below.

(j) SUBMISSION OF FACSIMILE INVOICES GENERAL

(1) Contractors that select the facsimile method of invoicing prior to award must do so for all invoices. Failure to comply with the requirements of this contract text will result in revocation of the Contractor's right to submit invoices by the facsimile method.

(k) SUBMISSION OF FACSIMILE INVOICES PAID BY DFAS-COLUMBUS.

(1) The facsimile number for invoices sent to DFAS via Electronic Document Management is **(866) 313-2340** or **(614) 693-2630**.

(2) If the facsimile is received before 5 p.m. Eastern Standard Time/Eastern Daylight Savings Time (EST/EDST), the receipt date of record is the date the item was received. If the facsimile is received after 5 p.m. EST/EDST, the receipt date is the next business day.

(3) Contractors shall include their own facsimile number on each document transmitted.

(4) **Contractors that elect to transmit invoices by facsimile are responsible for validating receipt of the faxed invoice.** Verification can be made by calling DFAS Customer Service at **(800) 756-4571** or **(614) 693-8507 (Options 2 and 2)** between 8 a.m. and 5 p.m. EST/EDT, Monday through Friday, excluding Federal holidays. Foreign vendors may use the **DFAS e-mail account** CCO-FUELS-FOREIGN@DFAS.MIL to verify receipt of invoices. The e-mail to DFAS should include, at a minimum, the following information: company name, contract number, invoice number, date of submission of invoice, and dollar value. DFAS will not be held accountable for transmissions not received.

(5) After transmitting the original invoice, the Contractor shall mark that invoice **“ORIGINAL INVOICE - FAXED”** and retain it. The hard copy is not required for payment and shall not be mailed to the payment office unless DFAS specifically requests it.

(6) **FOR GERMANY ONLY.** The Contractor must mail the original tax exemption documentation (Abwicklungsschein) immediately after submission of the faxed invoice. A copy of the faxed invoice must accompany the Abwicklungsschein.

(7) DOCUMENTATION REQUIREMENTS FOR ITEMS PAID BY DFAS-COLUMBUS

(i) F.O.B. DESTINATION DELIVERIES .

(A) CERTIFICATION OF RECEIPT.

(1) Receiving activity personnel will certify the receipt of fuel by preparing and signing one of the following documents:

- (i) The SF 1449, Solicitation/Contract/Order for Commercial Items; or
- (ii) The DD Form 1155, Order for Supplies or Services; or
- (iii) The DD Form 250, Material Inspection and Receiving Report; or
- (iv) The DD Form 250-1, Tanker/Barge Material Inspection and Receiving Report (for tanker and barge deliveries only).

(2) Payments to the Contractor will be based on the receipt of the "paying copies" of the receiving report to DLA Energy-FII, Fort Belvoir, VA, and payment will be made in accordance with the terms of the contract.

(B) PC&S DELIVERIES.

(1) Overbillings—

(i) That are less than or equal to 0.5 percent of the quantity listed on the receiving document will be paid as originally invoiced by the Contractor when the overbilled quantity is solely a result of a difference in measurement techniques.

(ii) That exceed 0.5 percent of the quantity listed on the receiving document will be paid based on the quantity as determined by the activity and annotated on the activity's receiving document.

(2) Underbillings will be paid as invoiced.

(3) Notwithstanding any permissible variation percentage, payment is authorized for a percentage not to exceed 120 percent of the ordered quantity. Payment shall be made for quantity within this allowable variation listed on the receiving document as received and accepted by the activity and invoiced by the Contractor.

(ii) **F.O.B. ORIGIN DELIVERIES - RECEIVING REPORTS.**

(A) When faxing an **invoice** for f.o.b. origin deliveries, the Contractor shall also fax a copy of the applicable receiving report to DLA Energy-FII, Room 2933, Fort Belvoir, VA, for GROUND FUELS (PC&S) DELIVERIES. DLA Energy-FII's fax number is **(703) 767-9380**. The receiving report shall be transmitted no later than two working days after each delivery.

(B) The following forms, signed by the Quality Representative (QR), are acceptable receiving reports for f.o.b. origin deliveries:

(1) DD Form 250, Material Inspection and Receiving Report; or

(2) DD Form 250-1, Tanker/Barge Material Inspection and Receiving Report.

(C) The signed copy, which certifies acceptance by the QR of the product prior to submission of the invoice, will have the following information stamped, printed, or typed on it: "**ORIGINAL RECEIVING REPORT FOR PAYMENT OF INVOICE.**"

(l) **INVOICING DETENTION COSTS** . Detention costs are allowable only on single drop tank truck deliveries. Multiple drop tank and tank wagon deliveries are not eligible for detention costs. The contractor shall submit detention and barge/tanker demurrage costs to the activity receiving the product. the receiving activity is an Army activity, a copy of the detention cost invoice must also be furnished to the following address:

U.S. ARMY PETROLEUM CENTER
Room 0522, Mail Stop 6241
8725 John J. Kingman Road
Fort Belvoir, VA 22060-6241

SECTION I: CONTRACT CLAUSES

FAR 52.204-21

**BASIC SAFEGUARDING OF COVERED CONTRACTOR
INFORMATION SYSTEMS (JUN 2016)**

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

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public Web sites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).
“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

- (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (iii) Verify and control/limit connections to and use of external information systems.
- (iv) Control information posted or processed on publicly accessible information systems.
- (v) Identify information system users, processes acting on behalf of users, or devices.
- (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
- (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
- (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

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

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

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

(g) *Invoice.*

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

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(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

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

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

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking

information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232-33, Payment by Electronic Funds Transfer— System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

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

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

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

(i) Payment.

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

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

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

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

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

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

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

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

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

(D) Contractor point of contact.

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

(6) Interest.

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

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

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

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

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

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

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

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

(A) The date fixed under this contract.

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

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

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

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

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

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

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

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

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

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

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

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

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

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

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

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

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

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

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

(t) Reserved

(u) Unauthorized Obligations.

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (e.g., “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

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

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

(End of Clause)

FAR 52.212-5 **CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS-COMMERCIAL ITEMS (JAN 2020)**

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

- (1) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
- (2) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (*Jul* 2018) (Section 1634 of Pub. L. 115-91).
- (3) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (*Aug* 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).
- (4) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (*Nov* 2015).
- (5) [52.233-3](#), Protest After Award (*Aug* 1996) ([31 U.S.C. 3553](#)).
- (6) [52.233-4](#), Applicable Law for Breach of Contract Claim (*Oct* 2004) (Public Laws 108-77 and 108-78 ([19 U.S.C. 3805 note](#))).

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

[*Contracting Officer check as appropriate.*]

- (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (*Sept* 2006), with Alternate I (*Oct* 1995) ([41 U.S.C. 4704](#) and [10 U.S.C. 2402](#)).
- (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (*Oct* 2015) ([41 U.S.C. 3509](#))).
- (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (*June* 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)
- (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (*Oct* 2018) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).
- (5)[Reserved].
- (6) [52.204-14](#), Service Contract Reporting Requirements (*Oct* 2016) (Pub. L. 111-117, section 743 of Div. C).
- (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (*Oct* 2016) (Pub. L. 111-117, section 743 of Div. C).
- (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (*Oct* 2015) ([31 U.S.C. 6101 note](#)).
- (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (*Oct* 2018) ([41 U.S.C. 2313](#)).
- (10)[Reserved].
- (11) (i) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (*Nov* 2011) ([15 U.S.C.657a](#)).

- __ (ii) Alternate I (*Nov 2011*) of [52.219-3](#).
- __ (12) (i) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (*Oct 2014*) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).
- __ (ii) Alternate I (*Jan 2011*) of [52.219-4](#).
- __ (13)[Reserved]
- __ (14) (i) [52.219-6](#), Notice of Total Small Business Set-Aside (*Nov 2011*) ([15 U.S.C.644](#)).
- __ (ii) Alternate I (*Nov 2011*).
- __ (iii) Alternate II (*Nov 2011*).
- __ (15) (i) [52.219-7](#), Notice of Partial Small Business Set-Aside (*June 2003*) ([15 U.S.C. 644](#)).
- __ (ii) Alternate I (*Oct 1995*) of [52.219-7](#).
- __ (iii) Alternate II (*Mar 2004*) of [52.219-7](#).
- __ (16) [52.219-8](#), Utilization of Small Business Concerns (*Oct 2018*) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- __ (17) (i) [52.219-9](#), Small Business Subcontracting Plan (*Aug 2018*) ([15 U.S.C. 637\(d\)\(4\)](#))
- __ (ii) Alternate I (*Nov 2016*) of [52.219-9](#).
- __ (iii) Alternate II (*Nov 2016*) of [52.219-9](#).
- __ (iv) Alternate III (*Nov 2016*) of [52.219-9](#).
- __ (v) Alternate IV (*Aug 2018*) of [52.219-9](#)
- __ (18) [52.219-13](#), Notice of Set-Aside of Orders (*Nov 2011*) ([15 U.S.C. 644\(r\)](#)).
- __ (19) [52.219-14](#), Limitations on Subcontracting (*Jan 2017*) ([15 U.S.C.637\(a\)\(14\)](#)).
- __ (20) [52.219-16](#), Liquidated Damages-Subcontracting Plan (*Jan 1999*) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).
- __ (21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (*Oct 2019*) ([15 U.S.C. 657f](#)).
- __ (22) [52.219-28](#), Post Award Small Business Program Rerepresentation (*Jul 2013*) ([15 U.S.C. 632\(a\)\(2\)](#)).
- __ (23) [52.219-29](#), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (*Dec 2015*) ([15 U.S.C. 637\(m\)](#)).
- __ (24) [52.219-30](#), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (*Dec 2015*) ([15 U.S.C. 637\(m\)](#)).
- __ (25) [52.222-3](#), Convict Labor (*June 2003*) (E.O.11755).
- __ (26) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (*Jan 2020*) (E.O.13126).
- __ (27) [52.222-21](#), Prohibition of Segregated Facilities (*Apr 2015*).
- __ (28) (i) [52.222-26](#), Equal Opportunity (*Sept 2016*) (E.O.11246).
- __ (ii) Alternate I (*Feb 1999*) of [52.222-26](#).
- __ (29) (i) [52.222-35](#), Equal Opportunity for Veterans (*Oct 2015*) ([38 U.S.C. 4212](#)).
- __ (ii) Alternate I (*July 2014*) of [52.222-35](#).
- __ (30) (i) [52.222-36](#), Equal Opportunity for Workers with Disabilities (*Jul 2014*) ([29 U.S.C.793](#)).

__ (ii) Alternate I (July 2014) of [52.222-36](#).
__ (31) [52.222-37](#), Employment Reports on Veterans (*Feb 2016*) ([38 U.S.C. 4212](#)).
__ (32) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (*Dec 2010*) (E.O. 13496).

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

__ (ii) Alternate I (*Mar 2015*) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).
__ (34) [52.222-54](#), Employment Eligibility Verification (*Oct 2015*). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)

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

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

__ (36) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (*Jun 2016*) (E.O. 13693).

__ (37) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (*Jun 2016*) (E.O. 13693).

__ (38) (i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (*Jun 2014*) (E.O.s 13423 and 13514).

__ (ii) Alternate I (*Oct 2015*) of [52.223-13](#).

__ (39) (i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (*Jun 2014*) (E.O.s 13423 and 13514).

__ (ii) Alternate I (*Jun 2014*) of [52.223-14](#).

__ (40) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (*Dec 2007*) ([42 U.S.C. 8259b](#)).

__ (41) (i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (*Oct 2015*) (E.O.s 13423 and 13514).

__ (ii) Alternate I (*Jun 2014*) of [52.223-16](#).

X (42) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (*Aug 2011*) (E.O. 13513).

__ (43) [52.223-20](#), Aerosols (*Jun 2016*) (E.O. 13693).

__ (44) [52.223-21](#), Foams (*Jun 2016*) (E.O. 13693).

__ (45) (i) [52.224-3](#) Privacy Training (*Jan 2017*) (5 U.S.C. 552 a).

__ (ii) Alternate I (*Jan 2017*) of [52.224-3](#).

__ (46) [52.225-1](#), Buy American-Supplies (*May 2014*) ([41 U.S.C. chapter 83](#)).

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

___ (ii) Alternate I (*May* 2014) of [52.225-3](#).

___ (iii) Alternate II (*May* 2014) of [52.225-3](#).

___ (iv) Alternate III (*May* 2014) of [52.225-3](#).

___ (48) [52.225-5](#), Trade Agreements (*Oct* 2019) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

X (49) [52.225-13](#), Restrictions on Certain Foreign Purchases (*June* 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

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

___ (51) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (*Nov* 2007) ([42 U.S.C. 5150](#)).

___ (52) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (*Nov* 2007) ([42 U.S.C. 5150](#)).

___ (53) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (*Feb* 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

___ (54) [52.232-30](#), Installment Payments for Commercial Items (*Jan* 2017) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

X (55) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (*Oct* 2018) ([31 U.S.C. 3332](#)).

X (56) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (*Jul* 2013) ([31 U.S.C. 3332](#)).

___ (57) [52.232-36](#), Payment by Third Party (*May* 2014) ([31 U.S.C. 3332](#)).

___ (58) [52.239-1](#), Privacy or Security Safeguards (*Aug* 1996) ([5 U.S.C. 552a](#)).

___ (59) [52.242-5](#), Payments to Small Business Subcontractors (*Jan* 2017) ([15 U.S.C. 637\(d\)\(13\)](#)).

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

___ (ii) Alternate I (*Apr* 2003) of [52.247-64](#).

___ (iii) Alternate II (*Feb* 2006) of [52.247-64](#).

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

[*Contracting Officer check as appropriate.*]

___ (1) [52.222-17](#), Nondisplacement of Qualified Workers (*May* 2014)(E.O. 13495).

___ (2) [52.222-41](#), Service Contract Labor Standards (*Aug* 2018) ([41 U.S.C. chapter 67](#)).

___ (3) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (*May* 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

___ (4) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (*Aug* 2018) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

___ (5) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (*May* 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

- ___ (6) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (*May 2014*) ([41 U.S.C. chapter 67](#)).
- ___ (7) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (*May 2014*) ([41 U.S.C. chapter 67](#)).
- ___ (8) [52.222-55](#), Minimum Wages Under Executive Order 13658 (*Dec 2015*).
- ___ (9) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (*Jan 2017*) (E.O. 13706).
- ___ (10) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (*May 2014*) ([42 U.S.C. 1792](#)).

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

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

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

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

(e)

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

- (i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (*Oct 2015*) ([41 U.S.C. 3509](#)).
- (ii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (*Jan 2017*) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
- (iii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (*Jul 2018*) (Section 1634 of Pub. L. 115-91).
- (iv) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (*Aug 2019*) (Section 889(a)(1)(A) of Pub. L. 115-232).
- (v) [52.219-8](#), Utilization of Small Business Concerns (*Oct 2018*) ([15 U.S.C.637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.
- (vi) [52.222-17](#), Nondisplacement of Qualified Workers (*May 2014*) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause [52.222-17](#).

called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.

(d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.

(e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.

(f) 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 **10 April 2025**

(End of Clause)

FAR 52.229-6 TAXES -- FOREIGN FIXED-PRICE CONTRACTS (FEB 2013)

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

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

“Contract date” means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Country concerned” means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

“Tax” and “taxes” include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

“All applicable taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

“After-imposed tax” means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

“After-relieved tax” means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“Excepted tax” means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. “Excepted tax” does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor’s possession of, interest in, or use of property, title to which is in the U.S. Government.

(c)

(1) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States, and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States except as provided in subparagraph (c)(2) of this clause.

(2) Taxes imposed under 26 U.S.C. 5000C may not be—

(i) Included in the contract price; nor

(ii) Reimbursed.

(d)

(1) Except as provided in subparagraph (d)(2) of this clause, the contract price shall be increased by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(2) The contract price may not be increased to offset taxes imposed under 26 U.S.C. 5000C.

(e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor’s fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(g) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either was included in the contract

price or was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(End of Clause)

FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013)

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(1) Any such clause is unenforceable against the Government.

(2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(3) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

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

(End of Clause)

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

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

<https://www.acquisition.gov/browse/index/far>

(End of Clause)

FAR 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 Federal Acquisition Regulation Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

(End of Clause)

DFARS 252.203-7000 REQUIREMENTS RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (SEP 2011)

(a) *Definition.* “Covered DoD official,” as used in this clause, means an individual that—

(1) Leaves or left DoD service on or after January 28, 2008; and

(2)(i) Participated personally and substantially in an acquisition as defined in 41 U.S.C. 131 with a value in excess of \$10 million, and serves or served—

(A) In an Executive Schedule position under subchapter II of chapter 53 of Title 5, United States Code;

(B) In a position in the Senior Executive Service under subchapter VIII of chapter 53 of Title 5, United States Code; or

(C) In a general or flag officer position compensated at a rate of pay for grade O-7 or above under section 201 of Title 37, United States Code; or

(ii) Serves or served in DoD in one of the following positions: program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of \$10 million.

(b) The Contractor shall not knowingly provide compensation to a covered DoD official within 2 years after the official leaves DoD service, without first determining that the official has sought and received, or has not received after 30 days of seeking, a written opinion from the appropriate DoD ethics counselor regarding the applicability of post-employment restrictions to the activities that the official is expected to undertake on behalf of the Contractor.

(c) Failure by the Contractor to comply with paragraph (b) of this clause may subject the Contractor to rescission of this contract, suspension, or debarment in accordance with 41 U.S.C. 2105(c).

(End of clause)

DFARS 252.203-7002 **REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)**

(a) The Contractor shall inform its employees in writing, in the predominant native language of the workforce, of contractor employee whistleblower rights and protections under 10 U.S.C. 2409, as described in subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts.

(End of Clause)

DFARS 252.203-7003 **AGENCY OFFICE OF THE INSPECTOR GENERAL (DEC 2012)**

The agency office of the Inspector General referenced in paragraphs (c) and (d) of FAR clause 52.203-13, Contractor Code of Business Ethics and Conduct, is the DoD Office of Inspector General at the following address:

Department of Defense Office of Inspector General
Investigative Policy and Oversight
Contractor Disclosure Program
4800 Mark Center Drive, Suite 11H25
Alexandria, VA 22350-1500
Toll Free Telephone: 866-429-8011

(End of Clause)

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

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

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

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

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

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

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

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

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

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

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

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

“Malicious software” means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system.

This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

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

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

“Rapidly report” means within 72 hours of discovery of any cyber incident.

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

(b) *Adequate security.* The Contractor shall provide adequate security on all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

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

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

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, “Protecting Controlled Unclassified Information in Nonfederal Information Systems and Organizations” (available via the internet at <http://dx.doi.org/10.6028/NIST.SP.800-171>) in effect at the time the solicitation is issued or as authorized by the Contracting Officer.

(ii)

(A) The Contractor shall implement NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor's requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/resources/documents/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) *Cyber incident reporting requirement.*

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

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

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

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

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

(d) *Malicious software.* When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center

(DC3) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

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

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

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

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

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

- (1) To entities with missions that may be affected by such information;
- (2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;
- (3) To Government entities that conduct counterintelligence or law enforcement investigations;
- (4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or
- (5) To a support services contractor (“recipient”) that is directly supporting Government activities under a contract that includes the clause at **252.204-7009**, Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) *Use and release of contractor attributional/proprietary information created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purpose or

activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

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

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

(m) *Subcontracts.* The Contractor shall—

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

(2) Require subcontractors to—

(i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and

(ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

(End of Clause)

DFARS 252.204-7015 **NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION**
FOR LITIGATION SUPPORT (MAY 2016)

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

“Computer software” means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.

“Litigation support” means administrative, technical, or professional services provided in support of the Government during or in anticipation of litigation.

"Litigation support contractor" means a contractor (including its experts, technical consultants, subcontractors, and suppliers) providing litigation support under a contract that contains the clause at **252.204-7014**, Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

“Sensitive information” means controlled unclassified information of a commercial, financial, proprietary, or privileged nature. The term includes technical data and computer software, but does not include information that is lawfully, publicly available without restriction.

“Technical data” means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(b) *Notice of authorized disclosures.* Notwithstanding any other provision of this solicitation or contract, the Government may disclose to a litigation support contractor, for the sole purpose of litigation support activities, any information, including sensitive information, received—

- (1) Within or in connection with a quotation or offer; or
- (2) In the performance of or in connection with a contract.

(c) *Flowdown.* Include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial items.

(End of Clause)

DFARS 252.205-7000 **PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)**

(a) *Definition.* “Cooperative agreement holder” means a State or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450(c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(End of Clause)

DFARS 252.209-7004 **SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A COUNTRY THAT IS A STATE SPONSOR OF TERRORISM (MAY 2019)**

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of the threshold specified in Federal Acquisition Regulation 9.405-2(b) on the date of subcontract award with a firm, or a subsidiary of a firm, that is identified in the Exclusions section of the System for Award Management (SAM Exclusions) as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, in SAM Exclusions, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a country that is a state sponsor of terrorism. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in SAM Exclusions.

(End of Clause)

DFARS 252.225-7021 TRADE AGREEMENTS—BASIC (SEP 2019)

(a) *Definitions.* As used in this clause—
“Caribbean Basin country end product”—

(i) Means an article that—

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and
(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type, including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.
“Commercially available off-the-shelf (COTS) item”—

(i) Means any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition of “commercial item” in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into an end product.

“Designated country” means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu” (Chinese Taipei)), Ukraine, or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Panama, Peru, or Singapore);

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

“Designated country end product” means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.

“End product” means those articles, materials, and supplies to be acquired under this contract for public use.

“Free Trade Agreement country end product” means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

“Least developed country end product” means an article that—

- (i) Is wholly the growth, product, or manufacture of a least developed country; or
- (ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

“Nondesignated country end product” means any end product that is not a U.S.-made end product or a designated country end product.

“Qualifying country” means a country with a reciprocal defense procurement memorandum of understanding or international agreement with the United States in which both countries agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, and the memorandum or agreement complies, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and with 10 U.S.C. 2457. Accordingly, the following are qualifying countries:

- Australia
- Austria
- Belgium
- Canada
- Czech Republic
- Denmark
- Egypt
- Estonia
- Finland
- France
- Germany
- Greece
- Israel
- Italy
- Japan
- Latvia
- Luxembourg
- Netherlands
- Norway
- Poland
- Portugal
- Slovenia
- Spain
- Sweden
- Switzerland
- Turkey
- United Kingdom of Great Britain and Northern Ireland.

“Qualifying country end product” means—

- (i) An unmanufactured end product mined or produced in a qualifying country; or
- (ii) An end product manufactured in a qualifying country if—
 - (A) The cost of the following types of components exceeds 50 percent of the cost of all its components:
 - (1) Components mined, produced, or manufactured in a qualifying country.
 - (2) Components mined, produced, or manufactured in the United States.
 - (3) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or
 - (B) The end product is a COTS item.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-made end product” means an article that—

- (i) Is mined, produced, or manufactured in the United States; or
- (ii) Is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“WTO GPA country end product” means an article that—

- (i) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, or designated country end products unless—

(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and

(2)(i) Offers of U.S.-made, qualifying country, or designated country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government’s requirements; or

(ii) A national interest waiver has been granted.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(e) The HTSUS is available on the Internet at <http://www.usitc.gov/tata/hts/bychapter/index.htm>. The following sections of the HTSUS provide information regarding duty-free status of articles specified in the definition of “Caribbean Basic country end product” within paragraph (a) of his clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States— CaribbeanBasin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States—Caribbean Basin Trade Partnership Act

(End of Clause)

DFARS 252.225-7975 **ADDITIONAL ACCESS TO CONTRACTOR AND
SUBCONTRACTOR RECORDS (DEVIATION 2020-O0001) (NOV
2019)**

(a) In addition to any other existing examination-of-records authority, the Government is authorized to examine any records of the Contractor and its subcontractors to the extent necessary to ensure that funds, including supplies and services, available under this contract are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

(b) The substance of this clause, including this paragraph (b), is required to be included in subcontracts, including subcontracts for commercial items, under this contract that have an estimated value over \$50,000 and will be performed outside the United States and its outlying areas.

(End of Clause)

DFARS 252.225-7980 **CONTRACTOR PERSONNEL PERFORMING IN THE UNITED
STATES AFRICA COMMAND AREA OF RESPONSIBILITY
(DEVIATION 2016-O00008) (JUN 2016)**

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

“Combatant Commander” means the Commander of the United States Africa Command (USAFRICOM).

“Contractors authorized to accompany the Force,” or “CAAF,” means contractor personnel, including all tiers of subcontractor personnel, who are authorized to accompany U.S. Armed Forces in applicable operations and have been afforded CAAF status through a letter of authorization. CAAF generally include all U.S. citizen and third-country national employees not normally residing within the operational area whose area of performance is in the direct vicinity of U.S. Armed Forces and who routinely are collocated with the U.S. Armed Forces (especially in non-permissive environments). Personnel collocated with U.S. Armed Forces in applicable operations shall be afforded CAAF status through a letter of authorization. In some cases, Combatant Commander or subordinate joint force commanders may designate mission-essential host nation or local national contractor employees (e.g., interpreters) as CAAF. CAAF includes contractors previously identified as contractors deploying with the U.S. Armed Forces. CAAF status does not apply to contractor personnel in support of applicable operations within the boundaries and territories of the United States.

“Designated reception site” means the designated place for the reception, staging, integration, and onward movement of contractors deploying to the USAFRICOM area of responsibility. The

designated reception site includes assigned joint reception centers and other Service or private reception sites.

“Law of war” means that part of international law that regulates the conduct of armed hostilities. The law of war encompasses the international law related to the conduct of hostilities that is binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

“Non-CAAF” means personnel in applicable operations who are not designated as CAAF, such as local national employees and non-local national employees who are permanent residents in the operational area or third-country nationals not routinely residing with U.S. Armed Forces (and third-country national expatriates who are permanent residents in the operational area) who perform support functions away from the close proximity of, and do not reside with, the U.S. Armed Forces. Government-furnished support to non-CAAF is typically limited to force protection, emergency medical care, and basic human needs (e.g., bottled water, latrine facilities, security, and food when necessary) when performing their jobs in the direct vicinity of U.S. Armed Forces. Non-CAAF status does not apply to contractor personnel in support of applicable operations within the boundaries and territories of the United States.

“Subordinate joint force commander” means a sub-unified commander or joint task force commander.

“U.S. Africa Command (USAFRICOM) area of responsibility,” as used in this clause, means—

- (1) The entire continent of Africa, excluding Egypt;
- (2) The Atlantic Ocean east and south of the line from Antarctica at 024°W, north to 4°N/024°W, west to 30°W, then north to 21°N/030°W, then east to the African continent; and
- (3) The Indian Ocean west and south of the line from Antarctica at 68°E, north to 01°40’S/068°E, and west to the African coast at 01°40’S.

(b) *General.*

- (1) This clause applies to all contractor personnel when performing in the USAFRICOM area of responsibility.
- (2) Certain requirements in paragraphs (c)(3), (e)(1), and (f) must be specified in the statement of work to be applied to non-CAAF personnel.
- (3) Contract performance in the USAFRICOM area of responsibility may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.
- (4) When authorized in accordance with paragraph (j) of this clause to carry arms for personal protection, contractor personnel are only authorized to use force for individual self-defense.
- (5) Unless immune from host nation jurisdiction by virtue of an international agreement or international law, inappropriate use of force by contractor personnel authorized to accompany the U.S. Armed Forces can subject such personnel to United States or host nation prosecution and civil liability (see paragraphs (d) and (j)(3) of this clause).

(6) Service performed by contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106 note.

(c) *Support.*

(1)

(i) The Combatant Commander will develop a security plan for protection of contractor personnel in locations where there is not sufficient or legitimate civil authority, when the Combatant Commander decides it is in the interests of the Government to provide security because—

(A) The Contractor cannot obtain effective security services;

(B) Effective security services are unavailable at a reasonable cost; or

(C) Threat conditions necessitate security through military means.

(ii) In appropriate cases, the Combatant Commander may provide security through military means, commensurate with the level of security provided DoD civilians.

(2)

(i) Generally, CAAF will be afforded emergency medical and dental care if injured while supporting applicable operations. Additionally, all non-CAAF who are injured while in the vicinity of U. S. Armed Forces will normally receive emergency medical and dental care. Emergency medical and dental care includes medical care situations in which life, limb, or eyesight is jeopardized. Examples of emergency medical and dental care include examination and initial treatment of victims of sexual assault; refills of prescriptions for life-dependent drugs; repair of broken bones, lacerations, infections; and traumatic injuries to the dentition. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

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

(iii) Medical or dental care beyond this standard is not authorized.

(3)

(i) A Synchronized Predeployment and Operational Tracker (SPOT)-generated letter of authorization signed by the Contracting Officer is required for certain contractor personnel to process through a deployment center or to travel to, from, or within the USAFRICOM area of responsibility. The requirement applies to CAAF and, as specified in the statement of work, non-CAAF personnel.

(ii) The letter of authorization will identify any additional authorizations, privileges, or Government support that contractor personnel are entitled to under this contract.

USAFRICOM has limited capability to provide Government-furnished life-support services to contractors in the USAFRICOM area of responsibility. In instances where Government-furnished life support services are neither available nor authorized in the contract, the SPOT-generated letter of authorization, signed by the Contracting Officer, shall be annotated with “None” checked for Government-furnished life-support services.

(iii) Contractor personnel who are issued a letter of authorization shall carry it with them at all times while deployed.

(4) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the USAFRICOM area of responsibility under this contract.

(d) *Compliance with laws and regulations.*

(1) The Contractor shall comply with, and shall ensure that its personnel performing in the USAFRICOM area of responsibility are familiar with and comply with, all applicable—

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

(ii) Provisions of the law of war, as well as any other applicable treaties and international agreements;

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

(iv) Orders, directives, and instructions issued by the Combatant Commander, including those relating to force protection, security, health, safety, or relations and interaction with local nationals.

(2) The Contractor shall institute and implement an effective program to prevent violations of the law of war by its employees and subcontractors, including law of war training in accordance with paragraph (e)(1)(vii) of this clause.

(3) The Contractor shall ensure that all contractor personnel are aware—

(i) Of the DoD definition of “sexual assault” in DoDD 6495.01, Sexual Assault Prevention and Response Program;

(ii) That the offenses addressed by the definition are covered under the Uniform Code of Military Justice (see paragraph (e)(2)(iv) of this clause). Other sexual misconduct may constitute offenses under the Uniform Code of Military Justice, Federal law, such as the Military Extraterritorial Jurisdiction Act, or host nation laws; and

(iii) That the offenses not covered by the Uniform Code of Military Justice may nevertheless have consequences for the contractor employees (see paragraph (h)(1) of this clause).

(4) The Contractor shall report to the appropriate investigative authorities, identified in paragraph (d)(6) of this clause, any alleged offenses under—

(i) The Uniform Code of Military Justice (chapter 47 of title 10, United States Code) (applicable to contractors serving with or accompanying an armed force in the field

during a declared war or contingency operations); or

(ii) The Military Extraterritorial Jurisdiction Act (chapter 212 of title 18, United States Code).

(5) The Contractor shall provide to all contractor personnel who will perform work on a contract in the deployed area, before beginning such work, information on the following:

(i) How and where to report an alleged crime described in paragraph (d)(4) of this clause.

(ii) Where to seek victim and witness protection and assistance available to contractor personnel in connection with an alleged offense described in paragraph (d)(4) of this clause.

(iii) This section does not create any rights or privileges that are not authorized by law or DoD policy.

(6) The appropriate investigative authorities to which suspected crimes shall be reported include the following—

(i) US Army Criminal Investigation Command at **<http://www.cid.army.mil/reportacrime.html>**;

(ii) Air Force Office of Special Investigations at **<http://www.osi.af.mil>**;

(iii) Navy Criminal Investigative Service at **<http://www.ncis.navy.mil/Pages/publicdefault.aspx>**;

(iv) Defense Criminal Investigative Service at **<http://www.dodig.mil/HOTLINE/index.html>**; and

(v) To any command of any supported military element or the command of any base.

(7) Personnel seeking whistleblower protection from reprisals for reporting criminal acts shall seek guidance through the DoD Inspector General hotline at 800-424-9098 or **www.dodig.mil/HOTLINE/index.html**. Personnel seeking other forms of victim or witness protections should contact the nearest military law enforcement office.

(8) The Contractor shall ensure that Contractor employees supporting the U.S. Armed Forces deployed outside the United States are aware of their rights to—

(i) Hold their own identity or immigration documents, such as passport or driver's license;

(ii) Receive agreed upon wages on time;

(iii) Take lunch and work-breaks;

(iv) Elect to terminate employment at any time;

- (v) Identify grievances without fear of reprisal;
- (vi) Have a copy of their employment contract in a language they understand;
- (vii) Receive wages that are not below the legal in-country minimum wage;
- (viii) Be notified of their rights, wages, and prohibited activities prior to signing their employment contract; and
- (ix) If housing is provided, live in housing that meets host-country housing and safety standards.

(e) *Preliminary personnel requirements.*

(1) The Contractor shall ensure that the following requirements are met prior to deploying CAAF and, as specified in the statement of work, non-CAAF (specific requirements for each category will be specified in the statement of work or elsewhere in the contract):

- (i) All required security and background checks are complete and acceptable.
- (ii) All such personnel deploying in support of an applicable operation—
 - (A) Are medically, dentally, and psychologically fit for deployment and performance of their contracted duties;
 - (B) Meet the minimum medical screening requirements, including theater-specific medical qualifications as established by the Geographic Combatant Commander (as posted to the Geographic Combatant Commander's website or other venue); and
 - (C) Have received all required immunizations as specified in the contract.
 - (1) During predeployment processing, the Government will provide, at no cost to the Contractor, any military-specific immunizations and/or medications not available to the general public.
 - (2) All other immunizations shall be obtained prior to arrival at the deployment center.
 - (3) All such personnel, as specified in the statement of work, shall bring to the USAFRICOM area of responsibility a copy of the U.S. Centers for Disease Control and Prevention (CDC) Form 731, International Certificate of Vaccination or Prophylaxis as approved by the World Health Organization, (also known as "shot record" or "Yellow Card") that shows vaccinations are current.
- (iii) Deploying personnel have all necessary passports, visas, and other documents required to enter and exit the USAFRICOM area of responsibility and have a Geneva Conventions identification card, or other appropriate DoD identity credential, from the deployment center.

(iv) Special area, country, and theater clearance is obtained for all personnel deploying. Clearance requirements are in DoD Directive 4500.54E, DoD Foreign Clearance Program. For this purpose, CAAF are considered non-DoD personnel traveling under DoD sponsorship.

(v) All deploying personnel have received personal security training. At a minimum, the training shall—

(A) Cover safety and security issues facing employees overseas;

(B) Identify safety and security contingency planning activities; and

(C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel have received isolated personnel training, if specified in the contract, in accordance with DoD Instruction 1300.23, Isolated Personnel Training for DoD Civilian and Contractors.

(vii) Personnel have received law of war training as follows:

(A) Basic training is required for all such personnel. The basic training will be provided through—

(1) A military-run training center; or

(2) A web-based source, if specified in the contract or approved by the Contracting Officer.

(B) Advanced training, commensurate with their duties and responsibilities, may be required for some Contractor personnel as specified in the contract.

(2) The Contractor shall notify all personnel who are not a host country national, or who are not ordinarily resident in the host country, that—

(i) Such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States in accordance with the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3621, et seq.);

(ii) Pursuant to the War Crimes Act (18 U.S.C. 2441), Federal criminal jurisdiction also extends to conduct that is determined to constitute a war crime when committed by a civilian national of the United States;

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of U.S. diplomatic, consular, military or other U.S. Government missions outside the United States (18 U.S.C. 7(9));

(iv) In time of declared war or a contingency operation, CAAF and selected non-CAAF

are subject to the jurisdiction of the Uniform Code of Military Justice under 10 U.S.C. 802(a)(10);

(v) Such employees are required to report offenses alleged to have been committed by or against contractor personnel to appropriate investigative authorities; and,

(vi) Such employees will be provided victim and witness protection and assistance.

(f) *Processing and departure points.* CAAF and, as specified in the statement of work, non-CAAF personnel shall—

(1) Process through the deployment center designated in the contract, or as otherwise directed by the Contracting Officer, prior to deploying. The deployment center will conduct deployment processing to ensure visibility and accountability of contractor personnel and to ensure that all deployment requirements are met, including the requirements specified in paragraph (e)(1) of this clause;

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

(3) Process through a designated reception site upon arrival at the deployed location. The designated reception site will validate personnel accountability, ensure that specific USAFRICOM area of responsibility entrance requirements are met, and brief contractor personnel on theater-specific policies and procedures.

(g) *Personnel data.* The Contractor shall—

(1) Use the SPOT web-based system, or its successor, to account for—

(i) Data for all CAAF supporting the U.S. Armed Forces deployed outside the United States.

(ii) All contractor personnel who are United States citizens and third-country nationals, when the personnel will be performing in the USAFRICOM area of responsibility regardless of the length of performance or contract value; and

(iii) All private security contractor personnel and their equipment, and all other contractor personnel authorized to carry weapons, when the personnel are performing in the USAFRICOM area of responsibility regardless of the length of performance or contract value.

(2) Enter the required information about their Contractor personnel and their equipment prior to deployment and shall continue to use the SPOT web-based system at <https://spot.dmdc.mil> to maintain accurate, up-to-date information throughout the deployment for all Contractor personnel. Changes to status of individual Contractor personnel relating to their in-theater arrival date and their duty location, including closing out the deployment with their proper status (e.g., mission complete, killed, wounded) shall be annotated within the SPOT database in accordance with the timelines established in the SPOT Business Rules at http://www.acq.osd.mil/log/PS/ctr_mgt_accountability.html.

(3) The Contractor shall submit to the Contracting Officer for SPOT reporting, not later than the 10th day of each month, an aggregate count of all local national employees performing in the

USAFRICOM area of responsibility, by country of performance, for 30 days or longer under a contract valued at or above \$150,000 annually. Contractors using local national day laborers shall count each individual hired during the 30-day period only once.

(4) For classified contracts, users shall access SPOT at <https://spot.dmdc.osd.smil.mil>. To obtain access, contact the SPOT Customer Support Team via email: [dodhra.beu-alex.dmdc.mbx.spot-helpdesk@mail.mil](mailto:dodhra.beau-alex.dmdc.mbx.spot-helpdesk@mail.mil).

(h) *Contractor personnel.*

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

(2) The Contractor shall identify all personnel who occupy a position designated as mission essential and ensure the continuity of essential Contractor services during designated operations, unless, after consultation with the Contracting Officer, Contracting Officer's Representative, or local commander, the Contracting Officer directs withdrawal due to security conditions.

(3) The Contractor shall ensure that contractor personnel follow the guidance at paragraph (e)(2)(v) of this clause and any specific Combatant Commander guidance on reporting offenses alleged to have been committed by or against contractor personnel to appropriate investigative authorities.

(4) Contractor personnel shall return all U.S. Government-issued identification, including the Common Access Card, to appropriate U.S. Government authorities at the end of their deployment (or, for non-CAAF, at the end of their employment under this contract).

(i) *Military clothing and protective equipment.*

(1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized in writing by the Combatant Commander or subordinate joint force commanders. If authorized to wear military clothing, contractor personnel must—

(i) Wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures; and

(ii) Carry the written authorization with them at all times.

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

(3) The deployment center, or the Combatant Commander, shall issue organizational clothing and individual equipment and shall provide training, if necessary, to ensure the safety and security of contractor personnel.

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

(j) *Weapons.*

(1) If the Contractor requests that its personnel performing in the USAFRICOM area of responsibility be authorized to carry weapons for individual self-defense, the request shall be made through the Contracting Officer to the Combatant Commander, in accordance with DoD Instruction 3020.41. The Combatant Commander will determine whether to authorize in-theater contractor personnel to carry weapons and what weapons and ammunition will be allowed.

(2) If contractor personnel are authorized to carry weapons in accordance with paragraph (j)(1) of this clause, the Contracting Officer will notify the Contractor what weapons and ammunition are authorized.

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

(i) Are adequately trained to carry and use them—

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander; and

(C) In compliance with applicable agency policies, agreements, rules, regulations, and other applicable law;

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

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

(iv) Comply with applicable Combatant Commander, subordinate joint force commander, and local commander force-protection policies; and

(v) Understand that the inappropriate use of force could subject them to U.S. or host-nation prosecution and civil liability.

(4) Whether or not weapons are Government-furnished, all liability for the use of any weapon by contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

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

(k) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the USAFRICOM area of responsibility.

(l) *Purchase of scarce goods and services.* If the Combatant Commander has established an organization for the USAFRICOM area of responsibility whose function is to determine that certain items are scarce goods or services, the Contractor shall coordinate with that organization local purchases of goods and services designated as scarce, in accordance with instructions provided by the Contracting Officer.

(m) *Evacuation.*

(1) If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to contractor personnel who are U.S. citizens and third country nationals.

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

(n) *Next of kin notification and personnel recovery.*

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

(2) The Government will assist in personnel recovery actions in accordance with DoD Directive 3002.01E, Personnel Recovery in the Department of Defense.

(o) *Mortuary affairs.* Contractor personnel who die while in support of the U.S. Armed Forces shall be covered by the DoD mortuary affairs program as described in DoD Directive 1300.22, Mortuary Affairs Policy, and DoD Instruction 3020.41, Operational Contract Support.

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

(q) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to perform in the USAFRICOM area of responsibility.

(End of Clause)

DFARS 252.225-7993 **PROHIBITION ON PROVIDING FUNDS TO THE ENEMY**
(DEVIATION 2020-O0001) (NOV 2019)

(a) The Contractor shall—

(1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this contract are provided directly or indirectly (including through subcontracts) to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities;

(2) Check the list of prohibited/restricted sources in the System for Award Management (SAM) at www.sam.gov—

(i) Prior to subcontract award; and

(ii) At least on a monthly basis; and

(3) Terminate or void in whole or in part any subcontract with a person or entity listed in SAM as a prohibited or restricted source pursuant to section 841 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113-291), as amended, unless the Contracting Officer provides to the Contractor written approval of the head of the contracting activity to continue the subcontract.

(b) The Head of the Contracting Activity has the authority to—

(1) Terminate this contract for default, in whole or in part, if the Head of the Contracting Activity determines in writing that the contractor failed to exercise due diligence, as required by paragraph (a) of this clause; or

(2)(i) Void this contract, in whole or in part, if the Head of the Contracting Activity determines in writing that any funds received under this contract have been provided directly or indirectly to a person or entity who is actively opposing United States or Coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

(ii) When voided in whole or in part, a contract is unenforceable as contrary to public policy, either in its entirety or with regard to a segregable task or effort under the contract, respectively.

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts, including subcontracts for commercial items, under this contract that have an estimated value over \$50,000 and will be performed outside the United States and its outlying areas.

(End of Clause)

DFARS 252.229-7000 INVOICES EXCLUSIVE OF TAXES OR DUTIES (JUN 1997)

Invoices submitted in accordance with the terms and conditions of this contract shall be exclusive of all taxes or duties for which relief is available.

(End of Clause)

DFARS 252.229-7001 TAX RELIEF—BASIC (SEP 2014)

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

NAME OF TAX: <i>(Offeror insert)</i>	RATE (PERCENTAGE): <i>(Offeror insert)</i>
--------------------------------------	--

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

(c) When items manufactured to United States Government specifications are being acquired, the Contractor shall identify the materials or components intended to be imported in order to ensure that

relief from import duties is obtained. If the Contractor intends to use imported products from inventories on hand, the price of which includes a factor for import duties, the Contractor shall ensure the United States Government's exemption from these taxes. The Contractor may obtain a refund of the import duties from its government or request the duty-free import of an amount of supplies or components corresponding to that used from inventory for this contract.

(End of Clause)

DFARS 252.232-7008 ASSIGNMENT OF CLAIMS (OVERSEAS) (JUN 1997)

(a) No claims for monies due, or to become due, shall be assigned by the Contractor unless^{3/4}

- (1) Approved in writing by the Contracting Officer;
- (2) Made in accordance with the laws and regulations of the United States of America; and
- (3) Permitted by the laws and regulations of the Contractor's country.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential" be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive such documents. However, a copy of any part or all of this contract so marked may be furnished, or any information contained herein may be disclosed, to such assignee upon the Contracting Officer's prior written authorization.

(c) Any assignment under this contract shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing. On each invoice or voucher submitted for payment under this contract to which any assignment applies, and for which direct payment thereof is to be made to an assignee, the Contractor shall^{3/4}

- (1) Identify the assignee by name and complete address; and
- (2) Acknowledge the validity of the assignment and the right of the named assignee to receive payment in the amount invoiced or vouchered.

(End of Clause)

DFARS 252.232-7010 LEVIES ON CONTRACT PAYMENTS (DEC 2006)

(a) 26 U.S.C. 6331(h) authorizes the Internal Revenue Service (IRS) to continuously levy up to 100 percent of contract payments, up to the amount of tax debt.

(b) When a levy is imposed on a payment under this contract and the Contractor believes that the levy may result in an inability to perform the contract, the Contractor shall promptly notify the Procuring Contracting Officer in writing, with a copy to the Administrative Contracting Officer, and shall provide—

- (1) The total dollar amount of the levy;
- (2) A statement that the Contractor believes that the levy may result in an inability to perform the contract, including rationale and adequate supporting documentation; and

(3) Advice as to whether the inability to perform may adversely affect national security, including rationale and adequate supporting documentation.

(c) DoD shall promptly review the Contractor's assessment, and the Procuring Contracting Officer shall provide a written notification to the Contractor including—

(1) A statement as to whether DoD agrees that the levy may result in an inability to perform the contract; and

(2)

(i) If the levy may result in an inability to perform the contract and the lack of performance will adversely affect national security, the total amount of the monies collected that should be returned to the Contractor; or

(ii) If the levy may result in an inability to perform the contract but will not impact national security, a recommendation that the Contractor promptly notify the IRS to attempt to resolve the tax situation.

(d) Any DoD determination under this clause is not subject to appeal under the Contract Disputes Act.

(End of Clause)

DFARS 252.233-7001 CHOICE OF LAW (OVERSEAS) (JUN 1997)

This contract shall be construed and interpreted in accordance with the substantive laws of the United States of America. By the execution of this contract, the Contractor expressly agrees to waive any rights to invoke the jurisdiction of local national courts where this contract is performed and agrees to accept the exclusive jurisdiction of the United States Armed Services Board of Contract Appeals and the United States Court of Federal Claims for the hearing and determination of any and all disputes that may arise under the Disputes clause of this contract.

(Revised June 26, 2015)

(End of Clause)

DFARS 252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR Part 31 and DFARS Part 231, in effect on the date of this contract, apply.

(End of Clause)

DFARS 252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (DEC 2012)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including

(1) Certified cost or pricing data, if required, in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Data other than certified cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if certified cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustments under an incentive provision of the contract.

(End of Clause)

DFARS 252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (JUN 2013)

(a) The Contractor is not required to flow down the terms of any Defense Federal Acquisition Regulation Supplement (DFARS) clause in subcontracts for commercial items at any tier under this contract, unless so specified in the particular clause.

(b) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligation.

(c) The Contractor shall include the terms of this clause, including this paragraph (c), in subcontracts awarded under this contract, including subcontracts for the acquisition of commercial items.

(End of Clause)

DFARS 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA—BASIC (FEB 2019)

(a) Definitions. As used in this clause—

“Components” means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

“Department of Defense” (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

“Foreign-flag vessel” means any vessel that is not a U.S.-flag vessel.

“Ocean transportation” means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

“Subcontractor” means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

“Supplies” means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) “Supplies” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

“U.S.-flag vessel” means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if—

(i) This contract is a construction contract; or

(ii) The supplies being transported are—

(A) Noncommercial items; or

(B) Commercial items that—

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S.military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

(1) U.S.-flag vessels are not available for timely shipment;

- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.
- (d) The Contractor must submit any request for use of foreign-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

- (1) Type, weight, and cube of cargo;
- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of steamship company.

(f) If this contract exceeds the simplified acquisition threshold, the Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

- (1) No ocean transportation was used in the performance of this contract;

- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all foreign-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on foreign-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

(End of Clause)

DLAD 52.233-9001 DISPUTES – AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (ADR) (DEC 2016)

(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 legal counsel. 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.

(End of Provision)

I-0001 11.20-2 CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE (PC&S) (DLA ENERGY JAN 2012)

(a) This purchase order incorporates one or more clauses/ 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. Also, the full text of a clause may be accessed electronically at the following addresses:

FAR/DFARS: <https://www.acquisition.gov/browse/index/far>
DLAD: <https://www.acquisition.gov/dlad>

(b) All provisions included in the PC&S Open Market Provisions package are available in full text for review on the DLA Energy Ground Fuels homepage and are hereby incorporated by reference into the purchase order issued by DLA Energy. In the event any of the terms and conditions change, a copy of the change(s) will be made available for you to download at the above DLA Energy web site.

I-0002

I11.01-2 - ADMINISTRATIVE COST OF TERMINATION FOR CAUSE – COMMERCIAL ITEMS (DLA ENERGY FEB 1996)

- (a) In the event this contract is terminated for cause, in whole or in part, the Government will incur administrative costs.
- (b) The Contractor agrees to pay all administrative costs associated with a contract termination action. The minimum amount the Contractor shall pay for each termination action is \$500. This payment for administrative costs is in addition to any excess re-procurement costs and any other remedies or damages resulting from the termination.
- (c) The term **termination action**, as used herein, means the termination for cause, including any associated re-procurement effort, involving—
- (1) Any single order or any group of orders terminated together;
 - (2) Any item or group of items terminated together; or
 - (3) The entire contract.

I-0004

I86.06 - DELIVERY-ORDER LIMITATIONS (OVERSEAS PC&S) (DLA ENERGY AUG 1990)

- (a) **MINIMUM ORDER.** The Contractor shall not be obligated to furnish supplies and/or services under this contract in an amount less than the minimum established in the Schedule of a single item for delivery to a single delivery point. In the event the prices established under this contract vary based upon the liter quantity of an individual delivery, the Government reserves the right to withhold ordering, without prejudice, until the individual delivery quantity required reaches a level, as determined by the Ordering Officer, that minimizes the per liter cost to the Government.
- (b) **MAXIMUM ORDER.** Unless otherwise stated in the Schedule, the Contractor shall not be obligated to honor—
- (1) Any order for a single item for a single delivery point in excess of **100,000 USG**;
 - (2) Any order for a combination of items for a single delivery point in excess of **100,000 USG**; or
 - (3) A series of orders from the same ordering office in the course of seven days that together call for quantities of items that total in excess of the limitation provided in (1) or (2) above.
- (c) The Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum order limitations in (b) above.
- (d) Notwithstanding the foregoing, the Contractor shall honor any order exceeding the maximum order limitations set forth above unless the Contractor verbally notifies the Ordering Officer within two workdays after verbal notification of an order or two workdays after receipt of a written order, followed by the return of the written orders to the ordering office, that he does not intend to make shipment of the items called for and the reasons therefor. When the Government has received this verbal notice, the Government may acquire the supplies from another source.

I-0005

I186 - PROTECTION OF GOVERNMENT PROPERTY AND SPILL PREVENTION (DLA ENERGY FEB 2009)

(a) The Contractor shall use reasonable care to avoid damaging or contaminating existing buildings, equipment, asphalt pavement, soil, or vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to use reasonable care or fail to comply with the requirements of this contract and damages or contaminates any such buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities, he shall replace the damaged items or repair the damage at no expense to the Government and to the satisfaction of the Government. Should the Contractor fail or refuse to make such repairs or replacements, the Government may have the said repairs or replacement accomplished, and the Contractor shall be liable for the cost thereof which may be deducted from the amounts which become due under this contract. Informal agreement with the Contractor upon replacement, repairs, or costs to be deducted shall first be attempted by the Installation Commander or Ordering Officer. If disagreement persists, the matter shall be referred to the Contracting Officer. Unless approved by the Contracting Officer, no costs shall be deducted from amounts due or owing without the Contractor's consent.

(b) The Contractor shall take all measures as required by law to prevent oil spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping into or onto any land or water). In the event the Contractor spills any oil (including, but not limited to, gasoline, diesel fuel, fuel oil, or jet fuel), the Contractor shall be responsible for the containment, cleanup, and disposal of the oil spilled. Should the Contractor fail or refuse to take the appropriate containment, cleanup, and disposal actions, the Government may do so itself. The Contractor shall reimburse the Government for all expenses incurred including fines levied by Federal, State, or local governments.

I-0006 **I209.09 - EXTENSION PROVISIONS (DLA ENERGY JAN 2012)**

(a) The Government shall have the right to extend this contract on the same terms and conditions one or more times for a total of no more than six months. Notice of contract extension will be furnished to the Contractor not later than **30** days prior to expiration of the contract ordering period or any extension thereof. Nothing in this contract provision precludes the Contractor from agreeing to an extension of the contract if the DLA Energy Contracting Officer fails to issue the notice prior to **30** days before the end of the ordering period.

(b) Extension of this contract shall be considered to have been accomplished at the time the DLA Energy Contracting Officer provides written notification to the Contractor.

I-0007 **I209.18 - OPTION TO EXTEND THE TERM OF THE CONTRACT (DLA ENERGY JAN 2012)**

(a) The Government may extend the term of this contract under the terms of the Schedule by giving written notice to the Contractor at least **30** days before the contract expires.

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

(c) The total duration of this contract, including the exercise of any options under this provision, shall not exceed **5 years**.

SECTION J: LIST OF ATTACHMENTS

ATTACHMENT 1 **SF1449 SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITMES**

ATTACHMENT 2 **E22 LIST OF INSPECTION OFFICES FOR DLA ENERGY CONTRACTS (DLA ENERGY APR 2016)**

ATTACHMENT 3 **E35 NONCONFORMING SUPPLIES AND SERVICES (DLA ENERGY DEC 2011)**

SECTION K: RERESENTATIONS AND CERTIFICATIONS

FAR 52.204-20 **PREDECESSOR OF OFFEROR (JULY 2016)**

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

“Commercial and Government Entity (CAGE) code” means--

- (1) An identifier assigned to entities located in the United States and its outlying areas by the Defense Logistics Agency (DLA) Contractor and Government Entity (CAGE) Branch to identify a commercial or government entity, or
- (2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

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

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

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

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

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

Predecessor legal name: _____.
(Do not use a “doing business as” name).

(End of provision)

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

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

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

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

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

(c) Representation. The Offeror represents that--

It [] will, [] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation.

(d) Disclosures. If the Offeror has responded affirmatively to the representation in paragraph (c) of this provision, the Offeror shall provide the following information as part of the offer--

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

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

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

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

(End of Clause)

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

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

“Covered telecommunications equipment or services” has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

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

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

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

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

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

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

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

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

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;

- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) PSC 9610, Ores;
- (9) PSC 9620, Minerals, Natural and Synthetic; and
- (10) PSC 9630, Additive Metal Materials.

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

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended. “Sensitive technology”—

“Sensitive technology”—

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

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

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

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

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

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

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

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

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

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

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

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

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation

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

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

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

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

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

Women-owned small business concern means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) (1) *Annual Representations and Certifications*. Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

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

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

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

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

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

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

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

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

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

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

(2) *Affirmative Action Compliance.* The offeror represents that-

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

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

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 <http://uscode.house.gov/> U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

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

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

(2) Foreign End Products:

Line Item No.	Country of Origin

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

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

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

product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American-Free Trade Agreements–Israeli Trade Act.”

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

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

Line Item No.	Country of Origin

[List as necessary]

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

Other Foreign End Products:

Line Item No.	Country of Origin

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

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

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

Canadian End Products:

Line Item No.	Country of Origin

[List as necessary]

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

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

Canadian or Israeli End Products:

Line Item No.	Country of Origin

[List as necessary]

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

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American-Free Trade Agreements-Israeli Trade Act”:

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

Line Item No.	Country of Origin

[List as necessary]

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

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

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

Other End Products:

Line Item No.	Country of Origin

[List as necessary]

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

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

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

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

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

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

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

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

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

(ii) *Examples.*

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

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

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

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

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

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin

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

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

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

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

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

(2) Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to the SAM to be eligible for award.)

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

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

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

TIN: _____.

TIN has been applied for.

TIN is not required because:

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

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR1.6049-4;
- Other _____.

(5) *Common parent.*

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name _____.

TIN _____.

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

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at [9.108-2\(b\)](#) applies or the requirement is waived in accordance with the procedures at [9.108-4](#).

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

(i) It is, is not an inverted domestic corporation; and

(ii) It is, is not a subsidiary of an inverted domestic corporation.

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(2) *Representation and Certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror-

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

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

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

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

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

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

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

Immediate owner CAGE code: _____.

Immediate owner legal name: _____.

(Do not use a "doing business as" name)

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

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

Highest-level owner CAGE code: _____.

Highest-level owner legal name: _____.

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

(q) Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

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

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

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

(2) The Offeror represents that—

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

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

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

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

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

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

Predecessor legal name: .

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

(s)[Reserved].

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

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

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)].

(i) The Offeror (itself or through its immediate owner or highest-level owner) does, does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

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

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

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

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

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

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

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

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

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

(End of Provision)

FAR 52.225-6 TRADE AGREEMENTS CERTIFICATE (MAY 2014)

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

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

Other End Products:

Line Item No.	Country of Origin

[List as necessary]

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

(End of provision)

DFARS 252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (NOV 2011)

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

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

(End of Provision)

DFARS 252.204-7016 **COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (DEC 2019)**

(a) *Definitions.* As used in this provision, “covered defense telecommunications equipment or services” has the meaning provided in the clause 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

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

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

(End of provision)

DFARS 252.204-7017 **PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (DEC 2019)**

The Offeror is not required to complete the representation in this provision if the Offeror has represented in the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, that it “does not provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.”

(a) *Definitions.* “Covered defense telecommunications equipment or services,” “covered mission,” “critical technology,” and “substantial or essential component,” as used in this provision, have the meanings given in the 252.204-7018 clause, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, of this solicitation.

(b) *Prohibition.* Section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits agencies from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) at <https://www.sam.gov> for entities that are excluded when providing any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless a waiver is granted.

(d) *Representation.* If in its annual representations and certifications in SAM the Offeror has represented in paragraph (c) of the provision at 252.204-7016, Covered Defense Telecommunications Equipment or Services—Representation, that it “does” provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument, then the Offeror shall complete the following additional representation:

The Offeror represents that it will will not provide covered defense telecommunications equipment or services as a part of its offered products or services to DoD in the performance of any award resulting from this solicitation.

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

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

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

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

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

(End of provision)

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

(1) “Effectively owned or controlled” means that a foreign government or any entity controlled by a foreign government has the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the Offeror’s officers or a majority of the Offeror’s board of directors by any means, e.g., ownership, contract, or operation of law (or equivalent power for unincorporated organizations).

(2) “Entity controlled by a foreign government”—

(i) Means—

(A) Any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; or

(B) Any individual acting on behalf of a foreign government.

(ii) Does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(3) “Foreign government” includes the state and the government of any country (other than the United States and its outlying areas) as well as any political subdivision, agency, or instrumentality thereof.

(4) “Proscribed information” means—

(i) Top Secret information;

(ii) Communications security (COMSEC) material, excluding controlled cryptographic items when unkeyed or utilized with unclassified keys;

(iii) Restricted Data as defined in the U.S. Atomic Energy Act of 1954, as amended;

(iv) Special Access Program (SAP) information; or

(v) Sensitive Compartmented Information (SCI).

(b) *Prohibition on award.* No contract under a national security program may be awarded to an entity controlled by a foreign government if that entity requires access to proscribed information to perform the contract, unless the Secretary of Defense or a designee has waived application of 10 U.S.C. 2536(a).

(c) *Disclosure.* The Offeror shall disclose any interest a foreign government has in the Offeror when that interest constitutes control by a foreign government as defined in this provision. If the Offeror is a subsidiary, it shall also disclose any reportable interest a foreign government has in any entity that

owns or controls the subsidiary, including reportable interest concerning the Offeror’s immediate parent, intermediate parents, and the ultimate parent. Use separate paper as needed, and provide the information in the following format.

Offeror’s Point of Contact for Questions about Disclosure (Name and Phone Number with Country Code, City Code and Area Code, as applicable)	
Name and Address of Offeror	
Name and Address of Entity Controlled by a Foreign Government	Description of Interest, Ownership Percentage, and Identification of Foreign Government

(End of Provision)

DFARS 252.225-7020 TRADE AGREEMENTS CERTIFICATE—BASIC (NOV 2014)

(a) *Definitions.* “Designated country end product,” “nondesignated country end product,” “qualifying country end product,” and “U.S.-made end product” as used in this provision have the meanings given in the Trade Agreements—Basic 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 consider only offers of end products that are U.S.-made, qualifying country, or designated country end products unless—

- (i) There are no offers of such end products;
- (ii) The offers of such end products are insufficient to fulfill the Government’s requirements; or
- (iii) A national interest waiver has been granted.

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

(1) For all line items subject to the Trade Agreements—Basic clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, or designated country end product.

(2) The following supplies are other nondesignated country end products:

(Line Item Number)	(Country of Origin)

(End of provision)

DFARS 252.225-7974 **REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (DEVIATION 2020-O0005) (FEB 2020)**

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

“*Agency or instrumentality of the government of Venezuela*” means an agency or instrumentality of a foreign state as defined in section 28 U.S.C. 1603(b), with each reference in such section to “a foreign state” deemed to be a reference to “Venezuela.”

“*Business operations*” means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“*Government of Venezuela*” means the government of any political subdivision of Venezuela, and any agency or instrumentality of the government of Venezuela.

“*Person*” means—

(1) A natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and

(3) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in paragraphs (1) or (2) of this definition.

(b) *Prohibition.* In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), contracting officers are prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the United States Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(c) *Representation.* By submission of its offer, the Offeror represents that the Offeror—

(1) Does not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the United States Government; or

(2) Has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(End of provision)

K-0001 _____ K15 RELEASE OF PRICES (DLA ENERGY MAR 2009)

The Defense Logistics Agency Energy (DLA Energy) will release prices of successful offerors after contract award pursuant to 10 U.S.C. 2305(g)(2), FAR 15.506(d)(2) and 32 CFR 286h-3. Prices are the bottom-line price and do not include any breakout of costs, such as transportation or overhead, and do not disclose the offeror's anticipated profit or any pricing factors.

K-0002 _____ K33.01 AUTHORIZED NEGOTIATORS (DLA ENERGY APR 2007)

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

<u>NAME</u>	<u>TITLE</u>	<u>PHONE NUMBER</u>	<u>E-MAIL ADDRESS</u>
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K-0003 _____ K86 - FOREIGN TAXES (DLA ENERGY NOV 2014)

As stated in the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause 52.229-6, unless the contract provides otherwise, the contract price must include all applicable foreign taxes, duties, fees, or foreign government-levied charges ("taxes and duties"). In accordance with the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause 52.229-6, the offeror shall list below, in paragraph (a), the specific name and amount of the foreign taxes and duties included in the price. If, when permitted by the contract, foreign taxes and duties are not included in the offered price, but are expected to be invoiced separately, the offeror shall list the specific name and amount of these foreign taxes and duties in paragraph (b) below.

(a) Foreign taxes and duties included in the contract price are as follows:

<u>NAME OF TAX, DUTY, FEE, OR FOREIGN GOVERNMENT-LEVIED CHARGE</u>	<u>AMOUNT</u>
--	---------------

(b) Foreign taxes and duties invoiced separately are as follows:

NAME OF TAX, DUTY, FEE, OR FOREIGN GOVERNMENT-LEVIED CHARGE AMOUNT

K-0004 **K150 WIDE AREA WORKFLOW (WAWF) SUPPLEMENTAL INVOICE SUBMISSION (DLA ENERGY MAY 2014)**

(a) When a vendor becomes aware that an invoice was submitted for a price or quantity that is lower than the correct amount, the following needs to be done:

1. The vendor will go to WAWF and try to recall the invoice and do changes in price or quantity. If the vendor is unable to recall the invoice:
2. The vendor will submit via fax (Fuels EDM FAX Line: 614-701-2638 or DSN 791-2638/ Toll Free 855-234-5592) a manual invoice to the payment office, SL4701, which identifies the invoice as an adjustment with an invoice number that is a derivation of the original invoice number that was submitted and paid. (For example, if the original invoice number was 12345, then adjustment invoice number shall be 12345ADJ).
3. The adjustment invoice should have the original price or quantity cited as well as the corrected price or quantity and the net adjustment,
4. All other proper invoice criteria, in accordance with the Prompt Payment Act, remain required for adjustment invoices.
5. The vendor can print the WAWF invoice and use it to make the adjustments as described above.

If a vendor has payment status questions, they may contact either DFAS-Customer Service at DFAS-CO_LC@DFAS.MIL or dial 1-800-756-4571 option 2, or contact their DLA Energy Contracting Officer, to obtain contract information from their contract.

Note: The aforementioned email address contains an **underscore** “_” between the “CO” and “LC”.

SECTION L: INSTRUCTONS, CONDITIONS, AND NOTICES TO OFFERORS

FAR 52.212-1 **INSTRUCTIONS TO OFFERORS -- COMMERCIAL ITEMS. (DEVIATION 2018-O0018) (OCT 2018)**

(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 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

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

(d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender’s request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with subpart 4.10 of the Federal Acquisition Regulation), or alternative commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(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.

(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 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) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites--

(i) ASSIST (<https://assist.dla.mil/online/start/>).

(ii) Quick Search (<http://quicksearch.dla.mil/>)

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by—

(i) Using the ASSIST Shopping Wizard (<https://assist.dla.mil/wizard/index.cfm>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4 Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697/2197, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) Unique entity identifier. (Applies to all offers exceeding the micro-purchase threshold and offers at any dollar value if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) database. The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT)

indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see subpart 32.11) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at www.sam.gov for establishing the unique entity identifier.

(k) Reserved.

(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 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 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.

(End of Provision)

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

The Government contemplates award of a **Requirements type with Economic Price Adjustment (EPA)** contract resulting from this solicitation.

(End of Provision)

FAR 52.233-2 **SERVICE OF PROTEST (SEP 2006)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from **Tonya Sterling. Email: tonya.sterling@dla.mil**.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Clause)

DFARS 252.204-7008 **COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (OCT 2016)**

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

“Controlled technical information,” “covered contractor information system,” “covered defense information,” “cyber incident,” “information system,” and “technical information” are defined in clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting.

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

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

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

(2)(i) If the Offeror proposes to vary from any of the security requirements specified by NIST SP 800-171 that are in effect at the time the solicitation is issued or as authorized by the Contracting Officer, the Offeror shall submit to the Contracting Officer, for consideration by the DoD Chief Information Officer (CIO), a written explanation of—

(A) Why a particular security requirement is not applicable; or

(B) How an alternative but equally effective, security measure is used to compensate for the inability to satisfy a particular requirement and achieve equivalent protection.

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

(End of Provision)

L-0001 **DLAD L06** **AGENCY PROTESTS (DEC 2016)**

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

(a) **NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE AND SMALL BUSINESS SIZE STANDARD.** The NAICS code for this acquisition is 324110. The small business size standard is 1,500 employees or less, 125,000 barrels/calendar day capacity or less and 90% refined by a small business. However, the small business size standard for a concern that submits an offer in its own name, but that proposes to furnish an item that it did not itself manufacture, is 500 employees, including all affiliates.

(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;
- (3) The name, address, and telephone, and facsimile number of the offeror (and electronic address if available);
- (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 from mailing address;
- (8) A completed copy of the representations and certifications in the certification package.

See FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically;

- (9) Acknowledgment of solicitation amendments;
- (10) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror’s behalf with the Government in connection with this solicitation;

- (11) Name, title, and signature of person authorized to sign the offer. Offers signed by an agent shall be accompanied by evidence of that agent’s authority, unless that evidence has been previously furnished to the issuing office;

(12) 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

(13) 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 that reject the terms and conditions of the solicitation may be excluded from consideration.

(c) **FACSIMILE OFFERS** Yes (FAR 52.215-5). Incorporated by reference. **No**

(d) **PERIOD FOR ACCEPTANCE OF OFFERS.** The offeror agrees to hold the prices in its offer firm for 120 calendar days from the date specified for receipt of offers.

(e) **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.

(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 offers, it was the only offer 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 at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(g) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(h) Offers submitted in response to this solicitation shall be in English and in U.S. dollars unless otherwise permitted by the solicitation.

(i) Offerors may submit revised offers only if requested or allowed by the Contracting Officer.

(j) CONTRACT AWARD.

(1) While the Government intends to evaluate offers and award a contract without discussions, it reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary.

(2) If the Contracting Officer determines that negotiations are necessary, the Government will then evaluate offers and award a contract after conducting discussions with offerors whose offers have been determined to be within the competitive range. If the Contracting Officer determines that the number of offers that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of offers in the competitive range to the greatest number that will permit an efficient competition among the most highly rated offers. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint.

(3) Exchanges with offerors after receipt of an offer do not constitute a rejection or counteroffer by the Government.

(4) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the Government, cost or price and other factors (including subfactors) specified elsewhere in this solicitation, considered.

(5) The Government may reject any or all offers if such action is in the Government's interest.

(6) The Government may waive informalities and minor irregularities in offers received.

(7) 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.

(8) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time specified in the offer shall result in a binding contract without further action by either party.

(k) 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
470 EAST L'ENFANT PLAZA, SW, SUITE 8100
WASHINGTON, DC 20407

TELEPHONE: (202) 619-8925
FAX: (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 address in (i) above. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

- (i) ASSIST (<http://assist.daps.dla.mil>).
- (ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).
- (iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by—

- (i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);
- (ii) Phoning the DoDSSP Customer Service Desk at (215) 697-2179, Monday through Friday, 0730 to 1600 EST; or
- (iii) Ordering from--

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DoDSSP)
BUILDING 4, SECTION D
700 ROBBINS AVENUE
PHILADELPHIA PA 19111-5094
TELEPHONE: (215) 697-2667/2179
FAX: (215) 697-1462

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(l) DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER. (Applies to offers exceeding \$3,000 and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the System for Award Management (SAM) 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 SAM records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same 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://fedgov.dnb.com/webform>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(m) **System for Award Management.** 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 SAM 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 SAM 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 SAM database accessed through <https://www.acquisition.gov>.

(n) **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.

L-0003

L2.11-4 E-MAIL PROPOSALS (DLA ENERGY OCT 2010)

(a) Offerors may submit proposals via e-mail. E-mail proposals are subject to the same rules as paper proposals.

(b) E-mail receiving data and compatibility characteristics are as follows:

(1) E-mail address: **Gerardo.Gomez@dla.mil**, **Delecia.Bell@dla.mil**, or **Tonya.Sterling@dla.mil**.

(2) The DLA Energy accepts attachments in—

- (i) Adobe Acrobat;
- (ii) Microsoft Excel;
- (iii) Microsoft Word; and
- (iv) Microsoft PowerPoint.

(c) Initial proposals, modifications and proposal revisions submitted via e-mail must contain offeror's signature included in the attachment to the e-mail communication.

(d) Attachments that are not in .pdf file format must be sent password protected for "read only" to ensure the integrity of the data submitted.

(e) Proposals submitted electronically through a single e-mail must be no more than 10 MB. DLA Energy's mail server will reject messages larger than 10 MB.

(f) The DLA Energy e-mail filter will scan the incoming e-mail and attachments for viruses and key words. Abbreviations for terms such as "Analysts" or using "3Xs" as placeholders in a document are found in the filter's adult content library and may result in the e-mail delivery being delayed. Offerors are encouraged to verify receipt of e-mail offers by contacting the Contracting Officer prior to the solicitation closing time.

(g) If any portion of an e-mail proposal received by the Contracting Officer is unreadable, the Contracting Officer will immediately notify the offeror and permit the offeror to resubmit the proposal. The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror and the resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complied with the e-mail submissions instructions provided in this paragraph and with the time and format requirements for resubmission prescribed by the Contracting Officer.

(h) The Government reserves the right to make award solely on the e-mail proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete signed original proposal.

L-0004 **L54 - SITE VISIT (DLA ENERGY OCT 1992)**

(a) It is the responsibility of the offerors/bidders to inspect the site where supplies are to be delivered and to obtain all available information about the site necessary to satisfy themselves about general and local conditions that may affect delivery and the cost of contract performance, to the extent that the information is reasonably obtainable. Offerors/bidders are responsible for any costs incurred for any site inspection and for obtaining information.

(b) In no event shall failure to inspect the site constitute grounds for a claim after contract award.

SECTION M: EVALUATION FACTORS FOR AWARD

SPECIFIC EVALUATION CRITERIA WILL BE IDENTIFIED IN ANY FUTURE REQUEST FOR PROPOSAL OR REQUEST FOR QUOTATIONS ISSUED TO FULFILL AN ACTUAL REQUIREMENT.