

SOLICITATION, OFFER AND AWARD			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 98
2. CONTRACT NUMBER	3. SOLICITATION NUMBER SP0600-09-R-0510	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED May 1, 2009	REQUISITION/PURCHASE NUMBER SC0600-09-0978	
7. ISSUED BY Defense Energy Support Center 8725 John J Kingman Road, Suite 2945 Ft. Belvoir, Alexandria, VA 22060-6222 PP: 6.2 Buyer/Symbol: Steve Hull/DESC-BYB Phone: 703-767-9351 Fax: 703-767-9336/steve.hull@dla.mil			CODE SC0600	8. ADDRESS OFFER TO (If other than item 7) ATTN: BID CUSTODIAN, DESC-BYB, RM. 2945 Defense Energy Support Center 8725 John J Kingman Road, Suite 2945 Ft. Belvoir, Alexandria, VA 22060-6222 Fax: 703-767-0766 Verification: 703-767-9351		

NOTE: In sealed bid solicitation "offer" and "offeror" mean "bid" and "bidder".

SOLICITATION

9. Sealed offers in original and 1 (one) copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if handcarried, in the depository located in **DESC-BYB; Room 2945** until **3:00 PM** local time **June 3, 2009**
(Hour) (Date)

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L. Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation. See Clause L2.05-8

10. FOR INFORMATION CALL:	A. NAME Steve Hull	B. TELEPHONE (NO COLLECT CALLS) AREA CODE NUMBER EXT. 703 767-9351			C. E-MAIL ADDRESS Steve.hull@dla.mil
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11. TABLE OF CONTENTS

(x)	SEC.	DESCRIPTION	PAGE(S)	(x)	SEC.	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
X	A	SOLICITATION/CONTRACT FORM		X	I	CONTRACT CLAUSES	39
X	B	SUPPLIES OR SERVICE AND PRICES/COSTS	8			PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACH.	
X	C	DESCRIPTION/SPECS/WORK STATEMENT	12	X	J	LIST OF ATTACHMENTS	74
	D	PACKAGING AND MARKETING				PART IV-REPRESENTATIONS & INSTRUCTIONS	
X	E	INSPECTION AND ACCEPTANCE	13	X	K	REPRESENTATIONS, CERTIFICATIONS,	74
X	F	DELIVERIES OR PERFORMANCE	21			AND OTHER STATEMENTS OF OFFERORS	
X	G	CONTRACT ADMINISTRATION	28	X	L	INSTRS., COND., AND NOTICES TO OFFERORS	90
X	H	SPECIAL CONTRACT REQUIREMENTS	38	X	M	EVALUATION FACTORS FOR AWARD	97

OFFER (Must be fully completed by offeror)

NOTE: ITEM 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 180 * calendar days (60 calendar days unless a different period is inserted by the offer) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. * See Clause L1.02

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)	10 CALENDAR DAYS %	20 CALENDAR DAYS %	30 CALENDAR DAYS %	CALENDAR DAYS %
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14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

15B. TELEPHONE NUMBER AREA CODE NUMBER EXT.	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE	17. SIGNATURE	18. OFFER DATE

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304(c) () <input type="checkbox"/> 41 U.S.C. 253(c) ()	23. SUBMIT INVOICES TO ADDRESS SHOWN IN IN BLOCK 25 (4 copies unless otherwise specified)	ITEM
24. ADMINISTERED BY (If other than Item 7) CODE	25. PAYMENT WILL BE MADE BY CODE	

26. NAME OF CONTRACTING OFFICER (Type of print)	27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE

IMPORTANT - Award will be made on this Form, or on the Standard Form 26, or by other authorized official written notice.

1. An original plus one copy of this Offeror Submission Package must be returned to the Defense Energy Support Center as your offer. All documents to be completed and returned are contained in this package. See Clauses L2.01, L2.05-8, L116.01.100 and L201.02, for submission requirements.
2. Be sure to check your offer prices in Section B for accuracy and legibility prior to submission. Initial any changes. Sign and Date the Standard Form 33 (SF33) in ink.
3. If you are submitting your offer by facsimile, please limit your facsimile transmission to the contents of this Offer Submission Package and send a complete copy of the proposal by regular mail. See Clause L2.11-2 of the solicitation.
4. By submission of this package, you are stating that ALL terms and conditions of the entire solicitation are accepted and apply to your offer unless clearly stated on a separate sheet of paper.
5. Please provide your CAGE Code and DUNS number in Block 15A of the SF33.
6. Your offer must be received no later than 3:00 P.M. EST, on June 3, 2009. Facsimile proposals are authorized (See Clause L2.11-2). Note: All facsimile proposals must be faxed to following number (703) 767-0766. Offerors are cautioned to allow enough time for the complete proposal to be received keeping in mind that other offerors may be faxing also. Signed copies of Submission Package must be received by DESC within ten (10) days after the solicitation closing date. Do not return the entire solicitation package, simply complete and return an original and one copy of the Offeror Submission Package data and Past Performance submissions as described in Clause L201.02 and data requirements of Clause L116.01.100. Your prices must be inserted in Clause B34.01 in the Offeror Submission Package.
7. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentations are neither necessary nor wanted.
8. Unless you specifically state otherwise, your offer is assumed to accept all terms and conditions of this solicitation. Any exceptions to any part of this solicitation must be specifically identified in a cover letter to your proposal.
9. **IMPORTANT NOTICE:** All contractors must be registered in the Central Contractor Registration (CCR) database. Lack of registration in the CCR will make an offeror ineligible for award as described in Clause I1.07. Commercial and Government Entity Code (CAGE Code): (a) the offeror is requested to enter its CAGE on its offer in the block with its name and address. The CAGE code must be for that name and address. (b) If the offeror does not have a CAGE code, it may go on line to the CCR www.ccr.gov (c) Do not delay submission of the offer pending receipt of a CAGE code.
10. Notice: Any contract awarded to a Contractor who, at the time of award was suspended, debarred, and ineligible for receipt of contract with Government Agencies or in receipt of a notice of proposed debarment from any Government Agency, is voidable at the option of the Government.
11. The Government intends to evaluate proposals and award a contract after written or oral discussion with all responsible offerors that submit proposals within the competitive range (see Clause L2.05-8). The source selection decision will be based on a combination of past performance and price of technically acceptable offers.
12. Care should be taken to mail correspondence relating to this solicitation or resulting contract to the appropriate office as indicated in the applicable clauses.
13. Offerors must include the DUNS number in the block with name and address on the cover page of offer (See Clause K1.06).
14. **DESC-BYB IS THE DESIGNATED OFFICE FOR RECEIPT OF OFFERS.** OFFERERS shall clearly mark all envelopes/packages sent in response to this solicitation with the words: "OFFERED UNDER SOLICITATION SP0600-09-R-0510."

The following is the address used for the offers in original and one (1) copy of the Offeror Submission Package and Past Performance for **US Post Office** and **US Post Office Express Mail** offers only:

ATTN: DESC-BYB Bid Custodian Rm. 2945

Defense Energy Support Center
8725 John J. Kingman Road Suite 2945
Fort Belvoir, VA 22060-6222

**Point Of Contact is Ms. Debbie Lloyd at (703)-767-9350 for verification of receipt.
(Do not contact the procurement official issuing the solicitation for verification of receipt.)**

By

June 3, 2009 at 3:00 PM Eastern Standard Time, Fort Belvoir, Virginia, USA

The following is the address used for offers in original and one (1) copy of the Offeror Submission Package and Past Performance for **Hand carried Offers/Curier Delivery Service:**

ATTN: DESC-BYB Bid Custodian Rm. 2945

Ms. Debbie Lloyd/Telephone 703-767-9350

Defense Energy Support Center

8725 John J. Kingman Road Suite 2945

Fort Belvoir, VA 22060-6222

TABLE OF CONTENTS

SECTION B – SUPPLIES OR SERVICES AND PRICE/COSTS 8

B34.01 SERVICES TO BE FURNISHED AND PRICES (DESC FEB 1991) 8

SECTION C – DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK..... 12

C19.01 SECURITY AND FIRE PROTECTION (DESC AUG 1988)..... 12
C19.04 REMOVAL OF WATER BOTTOMS (DESC FEB 1998)..... 12
C19.07 SAMPLING AND TESTING OF PETROLEUM PRODUCTS (STORAGE) (DESC OCT 2001)..... 13

SECTION E – INSPECTION AND ACCEPTANCE 13

E1.01 CONTRACTOR RESPONSIBILITY FOR GOVERNMENT INSPECTION OF SERVICES (DESC AUG 1981) 13
E1.11 QUALITY CONTROL PLAN (DESC MAR 2000) 14
E5.03 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)..... 14
E18 INSPECTION AND CLEANING OF BULK PETROLEUM STORAGE TANKS (DESC NOV 2003)..... 15
E22 LIST OF INSPECTION OFFICES FOR DESC CONTRACTS (DESC APR 2006) 16
E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992) 19
E28 CONTRACTOR INSPECTION RESPONSIBILITIES (STORAGE) (DESC OCT 2002)..... 19
E34 TEST FOR SULFIDES IN WATER (DESC MAY 1987) 21
E36 INSPECTION (STORAGE) (DESC FEB 1970) 21
E50 RESPONSIBILITY FOR SUPPLIES (APR 1984)..... 21

SECTION F – DELIVERIES OR PERFORMANCE..... 22

F1.04 GENERAL RECEIVING AND STORING CONDITIONS (DESC OCT 1997)..... 22
F1.05 GENERAL SHIPPING CONDITIONS (DESC OCT 1997) 24
F1.14 DETERMINATION OF QUANTITY (STORAGE) (DESC NOV 1997)..... 26
F45.03 OPERATION OF FUEL SYSTEM ICING INHIBITOR ADDITIVE SYSTEM (COCO) (DESC OCT 2004) .
..... 27
F76 CONTRACT PERIOD/PERFORMANCE REQUIREMENTS (STORAGE) (DESC DEC 1991) 28
F107 STOP-WORK ORDER (AUG 1989)..... 28

SECTION G – CONTRACT ADMINISTRATION DATA 29

G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998) 29
G3.01 PAYMENT DUE DATE (DESC OCT 1988)..... 29
G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)..... 29
G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE (DESC MAR 2003) 30

G9.07-5	ELECTRONIC TRANSFER OF FUNDS PAYMENTS – FEDERAL RESERVE WIRE TRANSFER SYSTEM (DESC JAN 2007).....	32
G9.09	PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (OCT 2003).....	33
G9.09-1	PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999).....	34
G9.14	SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (MAY 1999) ..	36
G21	DESIGNATION OF PROPERTY ADMINISTRATOR (DESC MAR 1995).....	36
G22	DESIGNATION OF THE DEFENSE FUEL REGION (DESC JUL 1997).....	36
G148.05	SUBMISSION OF INVOICES FOR PAYMENT (SERVICES) (DESC NOV 2008)	37
G150.11	SUBMISSION OF INVOICES BY FACSIMILE (DESC APR 2006).....	38

SECTION H – SPECIAL CONTRACT REQUIREMENTS..... 39

H19.01	REPORTING AND CONTAINING OIL SPILLS (OVERSEAS STORAGE) (DESC JAN 1982).....	39
--------	---	----

SECTION I – CONTRACT CLAUSES 40

I1	DEFINITIONS (JUL 2004)	40
I1.01-4	DEFINITIONS (CONT'D) (STORAGE) (DESC JAN 1996)	40
I1.02	COMPUTER GENERATED FORMS (JAN 1991)	41
I1.03-1	CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (OCT 2008).....	42
I1.04	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JAN 2009).....	45
I1.05	CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 2008).....	49
I1.06	REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998).....	50
I1.07	CENTRAL CONTRACTOR REGISTRATION (ALTERNATE A) (APR 2008/SEP 2007)	51
I1.19	AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984).....	52
I1.20	CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	52
I1.22	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)	52
I1.22-1	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997).....	53
I1.24	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2005).....	54
I2	CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992).....	56
I2.06	CHANGES - FIXED-PRICE (ALT II) (AUG 1997/APR 1984)	56
I3	EXTRAS (APR 1984).....	57
I3.01	PROMPT PAYMENT (OCT 2003).....	57
I4	DISCOUNTS FOR PROMPT PAYMENT (FEB 2002).....	59
I12.01-1	DISPUTES (ALTERNATE I) (JUL 2002/DEC 1991)	60
I12.02	CHOICE OF LAW (OVERSEAS) (JUN 1997).....	61
I27	GRATUITIES (APR 1984).....	61
I28.21	TAXES - FOREIGN FIXED-PRICE CONTRACTS (JUN 2003)	61
I33	INTEREST (JUN 1996).....	62
I36	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004).....	63
I43.01	LIMITATION OF LIABILITY - SERVICES (FEB 1997)	65
I72.06	NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000)	65
I90	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008).....	66
I95	AUDIT AND RECORDS – NEGOTIATION (JUN 1999)	66
I116	RESPONSIBILITY FOR GOVERNMENT-OWNED PETROLEUM PRODUCTS (DESC JUL 2006)	67
I116.01	LIABILITY FOR FUEL SPILLS (DESC OCT 1998).....	67
I119.04	INVENTORY CONTROL RECORDS AND SYSTEMS OF RECORD (DESC NOV 2006)	68
I132.02	ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)	72

I147	DEMURRAGE (DESC NOV 1989)	72
I180.02	ENVIRONMENTAL PROTECTION (STORAGE) (DESC MAY 1987)	72
I198	PRICING OF CONTRACT MODIFICATIONS (DEC 1991)	73
I209.03	EXTENSION PROVISION (STORAGE) (DESC SEP 1991).....	73
I229	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (OCT 1995).....	73
I270	WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984)	73
I285	SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (DEC 2006)	73
I340	COMBATING TRAFFICKING IN PERSONS (AUG 2007)	74
I350	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004).....	75

SECTION J - LIST OF ATTACHMENTS..... 75

ATTACHMENT 1 – PERFORMANCE WORK STATEMENT and APPENDIX 1	75
ATTACHMENT 2 – OFFEROR SUBMISSION PACKAGE.....	75

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS..... 75

K1.01-10	OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (ALTERNATES I/II) (JUN 2008/APR 2002/OCT 2000)	75
K1.06	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008).....	85
K15	RELEASE OF UNIT PRICES (DESC MAR 2004)	85
K15.03	CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)	85
K33.01	AUTHORIZED NEGOTIATORS (DESC APR 2007).....	86
K45	FACSIMILE INVOICING (COCO/GOCO) (DESC SEP 1988)	86
K75	SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005).....	87
K85	DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (OCT 2006).....	87
K86	FOREIGN TAXES (DESC JUN 1987)	88
K93	REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992).....	88
K94	CERTIFICATION REGARDING RESPONSIBILITY MATTERS (MAY 2008).....	89
K96	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2005).....	90

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDERS 91

L1.02	PROPOSAL ACCEPTANCE PERIOD (DESC NOV 1991)	91
L2.01	INSTRUCTIONS TO OFFERORS (RFP) (DESC OCT 1981).....	91
L2.05-8	INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (ALTERNATE I) (JAN 2004/OCT 1997).....	91
L2.11-2	FACSIMILE PROPOSALS (OCT 1997)	94
L2.21	AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)	94
L2.28	SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998).....	94
L5	SERVICE OF PROTEST (SEP 2006)	95
L5.01-1	AGENCY PROTESTS (APR 2006) - DLAD.....	95
L5.05	DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (JUN 2001) – DLAD..	95
L17	AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DATA ITEM DESCRIPTIONS LISTED IN THE ACQUISITION STREAMLINING AND STANDARDIZATION INFORMATION SYSTEM (ASSIST) (JAN 2006).....	95

L74 TYPE OF CONTRACT (APR 1984)..... 96
L87.03 CONDITIONS FOR MULTIYEAR OFFERS (DESC AUG 1998) 96
L116.01.100 DATA REQUIREMENTS (STORAGE) (DESC APR 2009) 96
L201.02 INSTRUCTIONS TO OFFERORS (COCO) (DESC MAY 1997)..... 97

SECTION M – EVALUATION FACTORS FOR AWARD 97

M2.13.100 EVALUATION OF OFFERS (MULTIYEAR COCO STORAGE) (DESC APR 2009) 97
M43.02 ADDITIONAL EVALUATION (DESC FEB 1985)..... 98
M72.100 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 2009)..... 98

SECTION B – SUPPLIES OR SERVICES AND PRICE/COSTS

B34.01 SERVICES TO BE FURNISHED AND PRICES (DESC FEB 1991)

The services to be furnished during the period specified herein and the unit prices are as follows:

**DEFENSE FUEL SUPPORT POINT SERVICES
PORT OF JEBEL ALI, UNITED ARAB EMIRATES (UAE)**

1. Description of Required Services

- 1.1 Area of Consideration**
- 1.2 Storage Tank Requirements**
- 1.3 Grade of Product**
- 1.4 Physical System Requirements**
- 1.5 Estimated Through-put Requirements**
- 1.6 Property Control, Records and System Records**

2. Facilities

- 2.1 Product Receiving Requirements**
- 2.2 Product Shipping Requirements**
- 2.3 Truck Fill Stand**
- 2.4 Berthing and Mooring Facilities**
- 2.5 Storage Tanks**
- 2.6 Filtration**
- 2.7 Additive Injection**
- 2.8 Laboratory Services**

3. Product Quality Surveillance

- 3.1 Responsibilities**
- 3.2 Quality Control Plan**
- 3.3 Calibration**
- 3.4 Quality During Shipments**
- 3.5 Quality During Receipts**
- 3.6 General**

1. Description of Required Services:

1.1 Area of Consideration: Port of Jebel Ali, United Arab Emirates (UAE) area.

1.2 Storage Tank Requirements: 2,000,000 barrels (shell capacity) of storage:

- (1) 1,000,000 barrels of JP5
- (2) 1,000,000 barrels of F76

A minimum of two tanks per product, interconnected and isolated from other facilities and products handled within the tank farm is desired, however, one tank per product will be considered. Dedicated facilities are required.

1.3 Grade of Service: Two grades of product:

- (1) Aviation Turbine Fuel -Grade JP5
- (2) Navy Distillate -Grade F76

1.4 Physical System Requirements: Storage and handling facilities capable of receiving, storing, protecting, and shipping two grades of U.S. Government-owned petroleum product. A dedicated system is preferred, however, a common system will be considered, providing the offeror(s) submit the data required by Clause L116.01, Data Required to be Submitted. In addition to the data required by Clause

L116.01, the potential Contractors will be required to provide the tank cleaning and inspection data required by Clause E18 as part of their proposal.

1.5 Allowed Throughput: The U.S. Government will be entitled to initial fill and final shipment during the 5-year performance period, in addition to 2,000,000 barrels of total product turnover for each product within a 12-month period, hereafter referred to as allowed throughput. Initial fill is defined as all receipts required to fill the storage tanks to 100% of the awarded safe fill capacity. Final shipment is defined as all issues required to withdraw 100% of the awarded safe fill capacity. The 4,000,000 total barrels of allowed throughput is defined as the total receipts of each product, JP5 and F76, in a 12-month performance period plus the total shipments (JP5/F76) in the same 12-month performance period, divided by two.

1.5.1 Excess Throughput: Offeror(s) shall indicate any additional throughput charge for volumes in excess of the allowed throughput under Subline Item 1001AA - Excess Throughput. Excess throughput charge will be calculated by multiplying the total number of barrels received and shipped in a 12-month period above the allowed throughput quantity by the excess throughput charge offered under Subline Item 1001AA.

1.6 Property Control, Records and System Records: The Contractor shall provide Property Control and System Records in compliance with paragraph (a)(1) of Clause 1119.04. The Contractor furnished computer system shall meet the current commercial standards for a computer system capable of accomplishing the data reporting and records keeping required by the Fuels Automated System (FAS); maintaining the data collection and records keeping associated with product quality surveillance (i.e., product analysis and testing reports); and the document collection and records keeping associated with the Contractors preventive maintenance program, etc.

1.6.1 The Contractor shall input inventory and sales data for Government own product directly into the Government's Fuel Automated System (FAS) utilizing a Contractor-furnished computer system via a Contractor-furnished internet access (with static IP address capability) or creation of a dial-in account to the DESC FAS web server. Additional data and requirements can be found in Clause 1119.04.

2. Facilities:

2.1 Product Receiving Requirement: The Contractor's facilities shall be capable of receiving U.S. Government-owned product via ocean going tankers/barges or U.S. Navy Fleet Oilers on a 24-hour per day, seven day per week basis at pumping rates compatible with the mode of transportation tendered (minimum 2,000 barrels per hour for barges and 8,000 barrels per hour for tankers and Fleet Oilers).

2.2 Product Shipping Requirement: The Contractor's facilities shall be capable of shipping U.S. Government-owned product via ocean going tankers/barges or Navy Fleet Oilers on a 24-hour per day, seven day per week basis at pumping rates compatible with the mode of transportation tendered (minimum 2,000 barrels per hour for barges and 8,000 barrels per hour for tankers and Fleet Oilers).

2.3 Tank Truck Fill Stand Facility: The Contractor's truck fill stand facility shall be capable of simultaneously loading and shipping four tank trucks at a combined rate of 1,000 gallons per minute. The tank truck loading and shipping capability is required for JP5. The Contractor is responsible for loading and shipping tank trucks on a 5-day workweek schedule; 8:00 a. m. to 5:00 p. m. weekends and local holidays excepted. Hours worked in excess of these hours will be on an overtime basis (see Clause G148.05). (NOTE: The normal United Arab Emirates work week is Sunday through Thursday).

2.4 Berthing and Mooring Facilities: The Contractor's berthing and mooring facilities shall be capable of handling a minimum 40,000 dead weight ton (DWT) vessels with an overall length of 800 feet with a minimum draft of 39 feet at mean low water from the Contractor's berthing and mooring facility to the open ocean. The offeror shall provide any port restriction requirements and harbor fees with their proposal, along with height restrictions from ship's manifold to the waterline during loading/unloading.

2.5 Storage Tanks: All storage tanks must meet the minimum requirements of the current American Petroleum Institute (API) standards and all local laws, regulations, etc. applicable to the tanks and facilities to be provided. Cone roof tanks with internal floating pans are preferred however, floating roof tanks will be considered if they are equipped with roof drains which prevent water from coming into contact with the product to be stored. The bottom floor of the floating roof that contacts the product should be epoxy coated. Additionally, the floor and at least 3 meters up the side of any tank offered must be epoxy coated. The tanks shall be interconnected to provide the capability of recirculation and filtration of product between tanks. Each storage tank shall be equipped with a fuel/water separation system for collection of all product or water dispensed from its bottom water drain(s). The facility must be equipped with illumination to allow receipt/issue operations during hours of darkness.

2.6 Filtration: Contractor-furnished filtration system that meets the specifications outlined in the current API Publication 1581, Specifications and Qualification Procedures -Aviation Jet Fuel Filter Separator. The capability must exist to filter product during tank-to-tank transfers under max flow conditions, as a minimum.

2.7 Additive Injection: Contractor-furnished injection system(s) to inject additives as follows: The additives (Fuel System Icing Inhibitor (FSII), Corrosion Inhibitor/Lubricity Improver (CI/LI) will be injected by the Contractor based on product specification requirements. Injection requirements apply to JP5 stocks. (See Clause F45.03)

2.8 Laboratory Services: The Contractor shall provide laboratory services to test U.S. Government-owned petroleum products. If the Contractor cannot provide full testing capabilities identified in the PWS Appendix 1 acceptable to the Government, the Contractor shall be responsible for shipping the required samples to a laboratory specified by the Government representative within the Middle East. As a minimum, the Type C testing capability, including FSII, identified in Appendix 1, Types of Tests Required on Aviation Turbine Fuel, shall be available within the Contractor's facility.

3.0 Product Quality Surveillance:

3.1 Responsibilities: The Contractor will be responsible for maintaining the quality of the Government-owned product stored at the Contractor's facility, to include but not limited to monitoring product deterioration and contamination, in accordance with the contractor developed Quality Control Plan.

3.1.1 No petroleum products shall be received or shipped without first determining and confirming conformance with product quality requirements. No conveyance/container shall be loaded until it is inspected by a qualified contractor person and deemed suitable to carry the intended product. Products shall be shipped on a first-in, first-out basis unless otherwise approved or directed by the QAR/COR. Non-conforming product shall be reported to the QAR/COR immediately. Anytime product is received into a tank, the tank's contents shall be suspended from issue pending quality conformance sampling and testing. The Contractor shall ensure that certificates of quality conformance (test reports) are maintained on file for all on-hand fuel stocks.

3.2 Quality Control Plan: The Quality Control Plan (QCP) shall provide comprehensive and detailed step-by-step procedures covering all requirements in clause E1.11, QUALITY CONTROL PLAN. Following contract award, the Contractor shall have 30 days to submit the detailed plan to the QAR/COR and Contracting Officer for review and acceptance. Written procedures must be clear and concise as to: what is done, where it's done, when it's done, how it's done, and who (which contractor employee position) does it. It must describe, in proper sequence, how contract compliance will be achieved and how the contractor intends to perform the required services in order to ensure that all products meet specification requirements during the performance of the contract. The plan shall include procedures for the following operations, as they affect quality control, and an organizational chart that identifies responsible parties for these operations:

- a. Receiving - See Clause F1.04
- b. Blending – See Clause F45.03
- c. Sampling – See Clause C19.07
- d. Testing – See Clause C19.07 and E28
- e. Calibration
- f. Storage and Handling – See Clauses E28 and I116
- g. Loading and Shipping – See Clause F1.05
- h. Quantity Determination – See Clause F1.14
- i. Records and Reports – See Clause I119.04
- j. Corrective Action

The QCP must describe at a minimum those functions pertinent to contract performance and compliance. The QCP must be reviewed/approved upon initial award to assure the technical and procedural requirements are adequately described. The QCP must be dynamic (i.e., modified or extended as changes in technical or procedural requirements occur). Contractor responsibility to inspect product and services shall be in accordance with clause E28, CONTRACTOR INSPECTION RESPONSIBILITIES.

3.2.1 The Contractor shall report immediately to DESC Middle East or the QAR/COR all receipts or on-hand stocks that fail to meet product quality for receipt, storage, or shipment in accordance with the Quality Control Plan. Suspected off-specification product will be isolated and shall not be released for shipment until authorized by the Contracting Officer or the QAR/COR.

3.3 Calibration: Calibration of testing equipment required under the provisions of this contract shall be covered in the Quality Control Plan (QCP). The frequency of testing may be increased by the QAR/COR as required.

3.4 Quality During Shipments General: General loading conditions for tank trucks, tank cars, tankers and barges shall be in accordance with clause F1.05, GENERAL SHIPPING CONDITIONS. Written procedures shall be in place for product movement and related quality/quantity checks from shipping tank(s) to conveyance in order to maintain product integrity. The QCP shall provide a description of procedures to use for transfer system from shipping tank to conveyance in order to maintain product integrity, including but not limited to, procedures for properly isolating loading system from shipping tank to conveyance to prevent contamination.

3.5 Quality During Receipts of Tankers and Barges: General receiving conditions for tankers and barges shall be in accordance with clause F1.04, GENERAL RECEIVING AND STORING CONDITIONS. Before commencing with a receipt of fuel, the contractor shall assure that the shore-side is ready for discharge to ensure the quality of the product in the receipt tank(s) after receiving the product. The terminal shall be aware of the time of the vessel's arrival. State procedures for assuring condition of loading line (i.e., full of tested product, all air bled and pressure packed, etc.) and gauging shore tanks, both before and after discharge. Determine net quantities before discharge.

3.5.1 Additional testing shall be performed if required to assure split cargoes have not been commingled. Establish procedures for the transportation of samples from vessel to the testing facility. Establish procedures for monitoring the discharging from vessel to shore tank, investigating irregularities immediately, and stopping discharging if necessary. Establish procedures for investigating discrepancies in quality (mandated if off-specification or out of testing tolerance) and quantity.

3.5.2 Establish procedures for immediately notifying the QAR/COR when irregularities occur or are suspected and on all occasions when loading is interrupted. Establish procedures for completing and distributing required documentation prior to release of the vessel. Documentation includes DD Form 250-1 and DD Form 250-1 continuation sheet, ullage reports, and results of quality/quantity investigations.

3.6 General: In the absence of any contract provision or referenced method, specification, or other instruction, the Contractor shall perform all services in accordance with the best commercial practices.

LINE ITEM 1001 (MUCC) (multi-year): The prices for the services and facilities to be provided during the performance of the five-year (multi-year) period (**October 1, 2009 – September 30, 2014**) as described in the Performance Work Statement includes the following:

TANK NUMBER TANK TYPE <u>PRODUCT STORED (F76/JP-5)</u>	SHELL CAPACITY (BARRELS)	FILL CAPACITY (BARRELS)	USE CHARGE PER TANK PER MONTH (includes initial fill, final shipment and allowed throughput) <u>PRICE</u>

SUBLINE ITEM 1001AA - EXCESS THROUGHPUT (EXTP): In excess of allowed throughput per year or, prorated for any part year that the use of storage is limited to a period of less than one year, the contractor will be reimbursed \$_____ per barrel. Throughput is defined as receipts plus issues divided by two.

SUBLINE ITEM 1002 - LABORATORY SERVICE (LABS): The Contractor will be reimbursed for Laboratory Support Services. (See Clause C19.07)

SUBLINE ITEM 1003 – PURCHASE OF FILTERS: The Government will reimburse the Contractor for the cost of the replacement of filter elements and disposal of the used filter elements. The Contractor is required to invoice the Government, certified by the QSR, for replacement filters. No fee or administrative charge shall be added. (See PWS Paragraph C-2.5.2)

(DESC 52.207-9F85)

SECTION C – DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C19.01 SECURITY AND FIRE PROTECTION (DESC AUG 1988)

- (a) The entire facility shall be enclosed by a fence suitable to deter unauthorized access. The fence shall be fitted with gates that may be padlocked when not in use.
- (b) A method of visitor and entrance control will be in effect. A visitor register shall be maintained.
- (c) An internal, self-powered communication system linking all critical points of the facility, capable of serving both as an alarm system and for conduct of terminal operation, will be in use.
- (d) A water supply and fire fighting equipment conforming to National Fire Protection Association and American Petroleum Institute standards will be maintained. At locations outside the United States, other standards may be used with prior approval of the Contracting Officer.
- (e) In the event of an emergency at a CONUS COCO terminal, the Contractor shall seek the assistance of the following as appropriate: local ambulance service; local fire department; local, county, and State police; regional office of the Federal Bureau of Investigation; Secret Service; U.S. Marshal's Service; and the Federal Emergency Management Agency.

(DESC 52.211-9FL1)

C19.04 REMOVAL OF WATER BOTTOMS (DESC FEB 1998)

Storage tanks for DESC use shall be equipped with positive water sumps for removal of all water bottoms. All storage tanks shall be drained of water a minimum of once each week and whenever storage tank gauging indicates water is present. (Weekly water drainage is necessary because the datum plate may not necessarily be the low point in the storage tank. Water could possibly accumulate below the datum plate and not show up in the gauging process.) Additionally, all storage tanks shall be drained of water prior to any transfer of fuel and after a minimum of 4 hours or maximum of 24 hours settling time following each product receipt. Storage tanks equipped with floating roofs shall be gauged for water after each rain and drained if water is found present. Product and water levels shall be gauged before and after the draining of water. Water gauges of each storage tank shall be taken and recorded each time it is gauged for product. (Each storage tank shall be equipped with a fuel/water separation system for collection of all product or water dispensed from its bottom water drain(s). This system shall have the capability to return separated product back into the same storage tank.)

(DESC 52.211-9FM1)

C19.07 SAMPLING AND TESTING OF PETROLEUM PRODUCTS (STORAGE) (DESC OCT 2001)

(a) **SAMPLING.** The samples identified in the solicitation attachment entitled MINIMUM REQUIREMENTS FOR STORAGE SAMPLING AND TESTING are a required part of the services to be provided. The Contractor must provide these samples using qualified personnel, facilities, and equipment on-site and shall include all associated costs in the monthly service charge. These on-site resources may be provided by Contractor personnel or by a commercial source acting on behalf of the Contractor. The Quality Representative will not be responsible for taking any samples for the Contractor. All samples must be taken in accordance with ASTM D 4057, Standard Practice for Manual Sampling of Petroleum and Petroleum Products (API Manual of Petroleum Measurement Standards (MPMS), Chapter 8.1).

(b) **TESTING.** The tests identified in this solicitation attachment entitled MINIMUM REQUIREMENTS FOR STORAGE SAMPLING AND TESTING are a required part of the services to be provided. Those tests identified in the attachment which are part of a higher order analysis (defined as follows: Composite Samples, Storage Tanks After Receipt, Interface Mixture, Dormant Stocks, and Individual Tests, including particulate contamination) shall be provided by the Contractor using one of the following options (the Contractor shall check the appropriate box below):

The Contractor will perform the tests using its own qualified personnel, facilities, and equipment. (All costs for this service are to be included in the monthly service charge.)

The Contractor will not perform the tests using its own personnel, but will provide on a seven days per week, 24 hours a day basis, its own facilities and equipment for testing of product by Government personnel. (All costs for this service are to be included in the monthly service charge.)

The Contractor will not provide its own personnel, facilities, or equipment. Instead, the Contractor will, within 24 hours after sampling, transport any sample(s) to a commercial laboratory approved by the Government and arrange for that commercial laboratory to perform all the required tests. The Government, at its own option, may direct that samples be tested at a Government laboratory under contract to the Government. In this case, transport of such samples is still the responsibility of the Contractor. (The Government will reimburse the Contractor for the actual costs of the tests performed by their commercial laboratory. All other associated costs must be included in the monthly service charge.)

All other tests found in the above referenced attachment, which are not part of a higher order analysis, shall be provided in accordance with the CONTRACTOR INSPECTION RESPONSIBILITIES (STORAGE) clause.

(c) All facilities and equipment to be provided, whether that of a Contractor or a commercial laboratory, must conform to the standards for such facilities and equipment established by the Occupational Safety and Health Act and the National Fire Protection Association or local regulations, whichever is more stringent.

(DESC 52.211-9FL5)

SECTION E – INSPECTION AND ACCEPTANCE

E1.01 CONTRACTOR RESPONSIBILITY FOR GOVERNMENT INSPECTION OF SERVICES (DESC AUG 1981)

If any inspection or test is made by the Government on the premises of the Contractor or subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties.

(DESC 52.246-9FE5)

E1.11 QUALITY CONTROL PLAN (DESC MAR 2000)

(a) Upon award, the Contractor shall prepare, in triplicate and in English, a Quality Control Plan (QCP). Prior to the first receipt of Government-owned product into the facility, two copies of the QCP shall be forwarded to the Contracting Officer and one copy to the assigned Quality Assurance Representative for approval.

(b) The QCP shall include the following quality control procedures employed by the Contractor.

- (1) Receiving (both product and additives);
- (2) Blending;
- (3) Sampling;
- (4) Testing;
- (5) Storage and handling;
- (6) Loading and shipping;
- (7) Calibration program for testing and measuring equipment in accordance with ISO 10012-1, "Quality Assurance Requirements for Measuring Equipment, Part I." Equivalent local regulation, as appropriate, may be used as well. Whichever program used must include a section addressing meter proving (used to determine quantity) and must comply with the American Petroleum Institute Manual of Petroleum Measurement Standards, Chapters 4, 5, and 6, or equivalent foreign standard. For any item that requires calibration but is not covered by ASTM, API, or IP publications, the applicable manufacturer's recommended calibration method(s) outlined in the applicable industry publication shall be used if acceptable to the Government;

(8) Quantity measurement;

(9) Records and reports; and

(10) Corrective action procedures (to include, but not be limited to, procedures for notification of Quality Representative, actions to be taken on discovery of off-spec product during receipts/shipments, upgrading procedures for Contractor-caused contamination, leaks, etc.). The QCP shall also include an organizational chart of key personnel and their responsibilities and a schematic diagram of the facility with key inspection/activity points marked for each product handled.

(c) The QCP shall require that each Contractor employee be familiar with its content and shall state that it must be reviewed semiannually and revised as needed. Revision should occur when any change is made to the inspection system, when any corrective action needs to be incorporated due to quality problems, and as otherwise necessary. The Contractor shall sign and date each revision of the QCP.

(DESC 52.246-9F32)

E5.03 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)

(a) **DEFINITION. Services**, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(FAR 52.246-4)

E18 INSPECTION AND CLEANING OF BULK PETROLEUM STORAGE TANKS (DESC NOV 2003)

(a) The Contractor shall maintain and make available upon request the following historical data relative to each storage tank provided:

- (1) Date and type of construction;
- (2) Name of installing contractor;
- (3) Product service (past and present) and dates;
- (4) Date of last cleaning/physical entry inspection and contractor's name;
- (5) Structural condition based on cycle inspection at the time of cleaning or repair;
- (6) Record or tank repairs;
- (7) Tank dimensions and capacity;
- (8) Inspection and tank cleaning frequency (date of next mandatory inspection, when tank out of service, required);
- (9) Tank coating history;
- (10) Tank strapping charts;
- (11) As built drawings (if available); and
- (12) Records of product tests and trends.

(b) At the Contractor's expense, the Contractor shall empty, inspect, and clean each bulk petroleum storage tank and dispose of all tank bottom waste for each tank furnished under this contract at the following intervals. When tank cleaning does take place, the Contractor, at his own expense, shall be responsible for providing alternate tankage and transferring the remaining product to that tankage. Such tankage shall be suitable for storing the transferred product and shall be of equal or greater capacity than the tankage being cleaned. Any proposed reduction in the storage capacity cited in the contract must be approved by the Contracting Officer in advance.

(1) AVIATION FUEL STORAGE TANKS.

- (i) Every 4 years for uncoated storage tanks without an inlet-filter separator;
- (ii) Every 6 years for either a coated tank without an inlet filter separator, or for an uncoated tank with an inlet-filter separator; and
- (iii) Every 8 years for coated tanks with an inlet-filter separator.
- (iv) For storage tanks with direct receipt of fuel from barge or tanker, the frequency for physical entry inspection and cleaning will be 3, 5, and 8 years for (i), (ii), and (iii) above, respectively.
- (v) Tanks will be emptied, cleaned, and inspected more frequently than the periods stated in (i) through (iv) above when sample analysis indicates a build up of sediment in the tanks.

(2) **GROUND AND MARINE FUEL STORAGE TANKS.** Tanks will be emptied, cleaned, and inspected when sample analysis indicates a build up of sediment in the storage tanks.

(c) The time for cleaning will be measured from the date of the last cleaning regardless of whether the tank was under contract with DESC at the time of the last cleaning.

(d) Samples will be taken and tested at Government expense. If tank cleaning is required earlier than the criteria listed in (b)(1) above and the Government is shown to be at fault, then the Government will be responsible for cleaning, sampling, and testing costs. In all other cases, tanks requiring cleaning will be removed from revenue and cleaned at the Contractor's expense.

(e) At the time of offer submission, the offeror shall provide the Contracting Officer with a listing of all tank inspections and cleanings, and other activities that would take a tank out of service, which are anticipated to occur during the contract period (see chart below). This listing shall include the tank number, location, reason for being out of service, dates the tank will be out of service and provisions that have been made to replace the tankage while it is out of service. Updates to the listing shall be sent to the Contracting Officer as soon as a change is known.

<u>Tank Number</u>	<u>Location</u>	<u>Reason</u>	<u>Dates</u>	<u>Replacement Tankage</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(DESC 52.246-9FF1)

E22 LIST OF INSPECTION OFFICES FOR DESC CONTRACTS (DESC APR 2006)

The following lists shall be used to identify the Government inspection office assigned inspection responsibility for DESC contracts in a particular geographic area. These contracts include, but are not limited to, those for bulk petroleum products and additives, into-plane refueling, petroleum storage and laboratory services, coal, aerospace energy (including compressed gases), and posts, camps, and stations. The area of inspection responsibility and corresponding office code are assigned in paragraphs (a) and (b). The address and phone number of each inspection office by office code is provided in paragraph (c). Unless a particular inspection office is identified in another part of the contract, the assignments in this clause shall apply.

(a) AREAS OF RESPONSIBILITY AND OFFICE CODES WITHIN THE CONTINENTAL UNITED STATES

(CONUS):

Alabama	110	Maine	110	Oklahoma	110
Arizona	120	Maryland	110	Oregon	120
Arkansas	110	Massachusetts	110	Pennsylvania	110
California	120	Michigan	110	Rhode Island	110
Colorado	120	Minnesota	110	South Carolina	110
Connecticut	110	Mississippi	110	South Dakota	110
Delaware	110	Missouri	110	Tennessee	110
District of Columbia	110	Montana	120	Texas	110
Florida	110	Nebraska	110	Utah	120
Georgia	110	Nevada	120	Vermont	110
Idaho	120	New Hampshire	110	Virginia	110
Illinois	110	New Jersey	110	Washington	120
Indiana	110	New Mexico	120	West Virginia	110
Iowa	110	New York	110	Wisconsin	110
Kansas	110	North Carolina	110	Wyoming	120
Kentucky	110	North Dakota	110		
Louisiana	110	Ohio	110		

EXCEPTIONS:

- (1) The El Paso, Texas, area is assigned to Code 120 (DESC Americas – West).
- (2) The Newcastle, Wyoming, area is assigned to Code 110 (DESC Americas – East).

(b) AREAS OF RESPONSIBILITY AND OFFICE CODES OUTSIDE THE CONTINENTAL UNITED STATES

(OCONUS) (INCLUDING ALASKA AND HAWAII):

Solicitation SP0600-09-R-0510
Contractor-Owned Contractor Operated Storage
Jebel Ali Area, UAE

Afghanistan	400	Djibouti	400	Laos	350 ¹	Saudi Arabia	400
Africa	200 ²	Egypt	400	Lebanon	400	Seychelles Is.	400
Alaska	320	Eritrea	400	Madagascar	200	Singapore	350 ¹
Antarctica	310	Ethiopia	400	Malaysia	350 ¹	Somalia	400
Armenia	200	Europe (Continental)	200	Maldives	350 ¹	South America	111
Ascension Island	111	Georgia	200	Malta	200	South Korea	330
Australia	350 ¹	Greenland	200	Mauritius	200	Sri Lanka	350 ¹
Azerbaijan	200	Hawaiian Islands	310	Mexico	111	Sudan	400
Azores	200	Hong Kong	330	Midway Island	310	Syria	400
Bahrain	400	Iceland	200	Mongolia	330	Taiwan	350 ¹
Bangladesh	350 ¹	India	350 ¹	Myanmar	350 ¹	Tajikistan	400
Bermuda	111	Indonesia	350 ¹	Nepal	350 ¹	Thailand	350 ¹
Bhutan	350 ¹	Ireland	200	New Zealand	350 ¹	Turkey	200
Brunei	350 ¹	Iran	400	North Korea	330	Turkmenistan	400
Cambodia	350 ¹	Iraq	400	Oman	400	United Arab Emirates	400
Canada	110	Israel	200	Pacific Islands (Central & South)	310	United Kingdom	200
Canary Island	200	Japan	340	Pakistan	400	Uzbekistan	400
Caribbean Islands	111	Johnston Atoll	310	Papua New Guinea	350 ¹	Vietnam	350 ¹
Central America	111	Jordan	400	Philippines	350 ¹	Wake Island	310
Chagos Archipelago	300	Kazakhstan	400	Qatar	400	Yemen	400
China	330	Kenya	400	Ryukus Islands, Japan	340		
Comoros	200	Kuwait	400	Russia	200		
Cyprus	200	Kyrgyzstan	400				

^[1] A copy of all documentation related to the inspection of product shipments by DESC Singapore should also be sent to Code 300, DESC Pacific.

^[2] Except for those countries specifically assigned to DESC Middle East in the above list, all other countries in Africa fall under DESC Europe.

(c) INSPECTION OFFICES AND CODES.

110. DESC Americas East ³
Federal Building, Room 1005
2320 LaBranch Street
Houston, TX 77004-1091
Phone: (713) 718-3883
FAX: (713) 718-3891
111. DESC Americas East (Homestead)
360 Coral Sea Blvd.
Homestead AFB, FL 33039-1299
Phone: (305) 258-7454/55/56
FAX: (305) 258-7761
120. DESC Americas West ³
3171 N Gaffey Street
San Pedro, CA 90731-1099
Phone: (310) 241-2800
FAX: (310) 241-2836
200. DESC Europe ³

ATTN: Quality Manager
CMR 443, Box 5000
APO AE 09096-5000
[Location: Wiesbaden, Germany]
Phone: 49-611-380-7541/7155⁴
FAX: 49-611-380-7030⁴

300. DESC Pacific^{3,5}
ATTN: Quality Manager
1025 Quincy Avenue, Building 479, Suite 2000
Pearl Harbor, HI 96860-4512
Phone: (808) 473-4307
FAX: (808) 473-4232
310. DESC Middle Pacific
1025 Quincy Avenue, Building 479, Suite 2000
Pearl Harbor, HI 96860-4512
Phone: (808) 473-4287
FAX: (808) 473-4232
320. DESC Alaska
10480 22nd Street
Elmendorf AFB, AK 99506-2500
Phone: (907) 552-3949
FAX: (907) 753-0517
330. DESC Korea
Mailing Address:
Defense Energy Support Center Korea
Unit #15015, Building S-348
APO AP 96218-0171

Shipping Address:
Defense Energy Support Center Korea
Unit #15015, Building S-348
Camp Walker, Taegu, South Korea
96218-0171
Phone: 82-505-764-5842⁴
FAX: 82-505-764-5844⁴
340. DESC Japan
Yokota Building 714, Room 211/B-18
Unit 5266
APO AP 96328-5266
[Location: Yokota AB, Japan]
Phone: 82-505-764-5842⁴
FAX: 82-505-764-5844⁴

350. DESC Singapore
Mailing Address:
Defense Energy Support Center Singapore
c/o NRCC Singapore
PSC 470, Box 2100
FPO AP 96534-2100
Phone: 65-6750-2070/2013⁴
FAX: 65-6750-2080/2635⁴

Shipping Address:
Defense Energy Support Center Singapore
NRCC Singapore PSA Sembawang Terminal
Deptford Road Building 7-4
Singapore 759657

400. DESC Middle East³
ATTN: Quality Manager
PSC 451, Box DESC-ME
FPO AP 09834-2800
[Location: Juffair, Bahrain]
Phone: 973-17-85-4658⁴
FAX: 973-17-85-4670⁴

^[3] Designated location of the DESC Regional Quality Manager/Pre-Award Survey Monitor.

^[4] Dial 011 before these numbers when calling from the U.S. When calling these numbers from outside the U.S., use the appropriate international long distance prefix for the country where the call originates.

^[5] The DESC Regional Quality Manager/Pre-Award Survey Monitor for inspection offices 300, 310, 320, 330, 340, and 350.
(DESC 52.246-9F40)

E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992)

The Quality Office assigned inspection responsibility under this contract is DESC-ME

(DESC 52.246-9F35)

E28 CONTRACTOR INSPECTION RESPONSIBILITIES (STORAGE) (DESC OCT 2002)

(a) Inspection and tests by the Government of services, facilities, and equipment specified within this contract does not relieve the Contractor from responsibility to meet all requirements of the contract.

(b) The Contractor shall furnish personnel, facilities, and equipment on-site to accomplish the following routine tests and procedures. These on-site resources may be provided by Contractor personnel or by a commercial source action on behalf of the Contractor. The Quality Representative will not be responsible for performing any of these services for the Contractor.

(1) Sampling of storage tanks, shipments and receipts in accordance with ASTM D 4057, Standard Practice for Manual Sampling of Petroleum and Petroleum Products (API Manual of Petroleum Measurement Standards (MPMS), Chapter 8.1);

(2) Retaining of product composite samples from shipments and receipts as follows:

<u>METHOD OF SHIPMENT</u>	<u>MINIMUM QUANTITY</u>	<u>MINIMUM RETENTION PERIOD</u>
---------------------------	-------------------------	---------------------------------

Pipeline	20 liters	60 days
Tanker/Barge		
Parcel Composite	20 liters	90 days
Each compartment	0.5 liters	90 days
Navy Fleet Oilers/Vessels	10 liters	60 days
Tank Truck/Car	1 liter	15 days

NOTE: After the minimum retention period, samples shall be tested for Appearance, Color (Visual), API Gravity/Density and Flash Point and, if found to be on-specification, shall be returned to like Government stock on-site. Sample containers may be reused if properly cleaned.

- (3) Determining the presence of water in storage tanks, shipments and receipts. Ensure that accurate water cuts are obtained by means of a water indicating paste conforming to MIL-W-83779B. Two suggested sources are Stewart Hall Chemical Testmaster Water Indicating Paste or Sartomer Sar Gel Water Indicating Paste (see Note 2 below);
- (4) Determining Density at 15 degrees Celsius or API gravity of products by ASTM D 1298 or ASTM D 4052 (see Note 2 below);
- (5) Determining the temperature of products by the API MPMS, Chapter 7 (see Note 2 below);
- (6) Determining the Appearance of applicable products using ASTM D 4176, Procedure 1 (see Note 2 below);
- (7) Determining the visual color of products.
- (8) Determining the Flash Point of applicable products using test methods cited in the appropriate product specification (see Note 2 below);
- (9) Conversion of gross to net gallonage (liters);
- (10) Determining the percentage (volume) of fuel system icing inhibitor (FSII) by means of a portable refractometer in accordance with ASTM D 5006. One suggested source is H.B. Industries, Inc., Glenview, IL 60025 (B/2 Anti-Icing Additive test kit) (see Note 2 below); and
- (11) Determining the range of fuel electrical conductivity using ASTM D 2624. One suggested source for a conductivity meter is Emcee Electronics, Inc., Sarasota, FL 33581 (Model 1152) (see Note 2 below).

Note 1: All costs for providing the above tests and procedures shall be included in the monthly service charge. The only exception to the Contractor's obligation to provide these services as part of the monthly service charge is when the tests described above are part of the higher order analysis (defined as the following categories: Composite Samples, Storage Tanks After Receipt, Interface Mixtures, Dormant Stocks and Individual Tests (including particulate contamination) found in the attachment to the solicitations entitled MINIMUM REQUIREMENTS FOR STORAGE SAMPLING AND TESTING. Provisions for providing higher order analyses are covered in the SAMPLING AND TESTING OF PETROLEUM PRODUCTS (STORAGE) clause.

Note 2: Upon request, the Contractor shall permit the Quality Representative unrestricted use of the equipment and ancillary supplies needed to perform this test/procedure on behalf of the Government.

(c) During the contract, the Contractor shall furnish representative samples of the product in each storage tank, shipment or receipt at the request of, and in the manner and to the place designated by, the Quality Representative. Sample size will be 2 gallons for gasoline-type fuels and one gallon or 10 gallons for jet diesel-type fuels. The number of samples to be furnished during any 12-month period shall not exceed eight times the number of tanks specified in the contract. Such samples shall be packed, marked, and shipped by the Contractor, shipping expense prepaid, in containers and shipping boxes furnished by the Contractor. Sample containers shall be epoxy coated on the interior. This requirement is in addition to sampling required elsewhere in this clause and the contract. All reasonable direct shipping costs associated with samples required by this paragraph shall be reimbursed upon request from the Contractor and such costs shall not be included in the monthly service charge. However, all other costs related to this requirement shall be included as part of the monthly service charge.

(DESC 52.246-9FE1)

E34 TEST FOR SULFIDES IN WATER (DESC MAY 1987)

(a) **SCOPE.** This method describes a procedure for determining the presence of hydrogen sulfide, which is sometimes formed as a result of bacterial action on the sulfates contained in water bottoms in fuel storage tanks.

(b) **APPARATUS.** 250 ml conical flask.

(c) **MATERIALS.**

(1) Dilute (10%) chemically pure sulfuric or hydrochloric acid.

(2) Lead acetate paper.

(d) **SAMPLES.** Representative water samples from storage tank bottoms must be taken in a glass bottle. In some cases it will be necessary to take the water sample in a Bacon bomb sampler. Samples so taken will always be transferred to a glass bottle. To preclude oxidation by air, the filled bottle must be capped immediately. The sample should be tested as soon as possible after sampling to minimize possible changes in the composition of materials in the water.

(e) **PROCEDURE.**

(1) The sample must be shaken thoroughly just prior to performing the test to make certain that any sediment present is included in the portion of the sample to be tested.

(2) Transfer 100 ml of the shaken sample into a conical flask. Add 20 ml of dilute (10%) chemically pure sulfuric or hydrochloric acid to the flask. Immediately place a piece of lead acetate paper folded in a "V" shape in the neck of the flask. Bring the water to a boil and continue to gently boil for three or four minutes.

(f) **REPORT.** The presence of sulfides in the sample will be reported if the lead acetate paper shows a black or brown discoloration.
(DESC 52.246-9FN5)

E36 INSPECTION (STORAGE) (DESC FEB 1970)

The facilities to be provided hereunder shall be ready for inspection and acceptance by October 1, 2009.

The Contractor shall notify the Contracting Officer of the date such tanks and facilities are available for inspection and acceptance, and the Contracting Officer, or his designated representative, shall promptly thereafter inspect such tanks and facilities. No payment will be made for services performed or facilities provided prior to October 1, 2009.

(DESC 52.246-9FD5)

E50 RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies 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) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) above shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(d) Under paragraph (b) above, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(FAR 52.246-16)

SECTION F – DELIVERIES OR PERFORMANCE

F1.04 GENERAL RECEIVING AND STORING CONDITIONS (DESC OCT 1997)

(a) Notice will be furnished to the Contractor of upcoming product receipts. The notice will include the method of receipt, the source, grade, or type of product, and any special instructions.

(b) The Contractor shall transfer and store each grade of product in a manner that preserves the quality of the product and will prevent contamination. The responsibility for preventing contamination rests with the Contractor.

(c) When requested, the Contractor will transfer product between tanks to consolidate like types or grades.

(d) Whenever a product is to be removed from a tank to accomplish cleaning or repair of the tank, or to change product, or to effect the release of the tank to the Contractor, the Contractor shall strip such tank to preclude loss of recoverable fuel. The Contractor shall provide the Quality Assurance Representative (QAR) with information pertaining to the amount of fuel deemed unrecoverable, the reason why the fuel cannot be recovered, and an analysis of the unrecovered fuel quality. All unrecoverable tank bottoms/line fill quantities will be reported to the Property Administrator for disposition instructions. Contaminated/off-specification product will be reported to the QAR in order to obtain disposition instructions. Tanks out of service for repair shall be removed from revenue until such time as they are returned to Government Service. Tanks out of service for cleaning shall be governed by the INSPECTION AND CLEANING OF BULK PETROLEUM STORAGE TANKS clause.

(e) Custody of product received by pipeline, and risk of loss thereof, shall pass from the carrier to the Contractor when the product passes the flange connecting the carrier's pipeline and the Contractor's pipeline.

(f) Custody of product received by transport truck, and risk of loss thereof, shall pass from the carrier to the Contractor when the product passes from the transport truck discharge hoses into the Contractor's receiving facilities.

(g) Custody of product received by tank car, and risk of loss thereof, shall pass from the carrier to the Contractor when the tank car comes to rest on the Contractor's siding.

(h) Custody of product received from tanker or barge, and risk of loss thereof, shall pass from the carrier to the Contractor when the fuel passes the vessel's permanent hose connection.

(i) The Contractor shall be held accountable for demurrage charges arising from delay(s) in receipt by tank cars or transport trucks, except when the delay(s) are caused by reason beyond the control and without the fault or negligence of the Contractor and its subcontractors.

(j) The Contractor will prepare and process the following certificate on bond paper when it is necessary to upgrade or downgrade a product:

I certify that _____ gallons of _____ have been upgraded/downgraded
(quantity) (product)
from _____ to _____. This action was required because
(product) (product)

(enter reason for the action)

Signature of Contractor Representative

[] I concur with the Contractor's certification.

[] I do not concur with the Contractor's certification for the following reasons:

Signature of Quality Representative

(A receipt transaction will be reflected on the monthly stock report for the gain in product, with a shipment being reflected for the losing product.)

(k) The following subparagraphs apply only to barges and tankers.

(1) SCHEDULED ARRIVAL DATE AND BASIC ALLOWED LAYTIME.

(i) The Contractor shall be notified in advance of the scheduled arrival date. Each notice will specify the quantity to be delivered, the cargo number, the name of the vessel, and the scheduled arrival date. For tankers, the notice will also include the size of the vessel and the expected time of arrival. For tankers, the notice of delivery will be furnished at least 72 hours in advance of the scheduled arrival date; for barges, at least 48 hours in advance of the scheduled arrival date. The Government will provide the maximum notice practicable when the anticipated vessel transit time from the loading point is less than the 72/48 hours. Changes in the scheduled arrival date that will provide less than the 48 hours notice for barges and the 72 hours notice for tankers will require the verbal approval of the Contractor. This verbal approval is to be confirmed in writing as soon as practicable.

(ii) The Contractor shall provide a reachable berth, free of charge, where the vessel can be safely moored and afloat with necessary access thereto as soon as possible, but no later than, for barges, within 3 hours after issue of notice of readiness to unload, and, for tankers, within 6 hours after issue of notice of readiness, PROVIDED --

(A) If the vessel is tendered for unloading on a date earlier than the last agreed scheduled arrival date, the Government's vessel shall be unloaded as soon as possible in its proper turn with other vessels, and laytime shall not commence until the vessel moors alongside or, for barges, 3:00 A.M. local time; for tankers, 6:00 A.M. local time, on the last agreed scheduled arrival date, whichever occurs first.

(B) If the vessel is tendered for unloading later than 12:00 noon of the day following the last scheduled arrival date, the vessel shall be unloaded in its proper turn with other vessels. Laytime shall commence when the vessel moors alongside, provided a good faith effort is made by the Contractor to moor the vessel in its turn with other vessels as loading berths become available.

(iii) Laytime shall commence either (A) at the expiration of the notice period prescribed in subparagraph (ii) above, berth or no berth, or (B) immediately when the vessel moors alongside, with or without notice of readiness, whichever occurs first.

(iv) Laytime, once started, shall continue 24 hours per day, 7 days per week, without interruption, from its commencement until unloading of the barge or tanker is completed and hoses have been disconnected.

(v) Unless otherwise provided in the Schedule, the Contractor shall be allowed and will complete unloading within laytime determined as follows:

(A) **FOR BARGES:** One hour for each 2,000 barrels of product to be unloaded.

(B) **FOR TANKERS:** Thirty-six hours of discharge of a full vessel cargo. When partial vessel cargoes are to be unloaded, the 36 hours will be prorated based on quantities discharged in each port.

(vi) Hoses and loading arms for unloading a barge or tanker will be furnished, connected, and disconnected by the Contractor.

(2) INCREASES TO BASIC ALLOWED LAYTIME.

(i) If, after laytime commences, the conditions or facilities of the barge or tanker to be unloaded do not permit unloading, basic allowed laytime shall be increased by the duration of the delay.

(ii) If the vessel is delayed in reaching its berth and the delay is caused by the fault of the vessel, basic allowed laytime shall be increased by the duration of the delay.

(iii) If the vessel owner's or operator's regulations prohibit unloading at any time after laytime has commenced, the lost time shall be added to the basic allowed laytime.

(iv) If, for any reason, the Contractor is delayed in unloading the barge or tanker because of actions of a Government representative, acting under the contract, that arise through no fault or negligence on the part of the Contractor or its subcontractors, basic allowed laytime shall be increased by the duration of the delay.

(v) There will be no increase to basic allowed laytime (nor other reductions to any resulting demurrage time) for saved laytime arising out of other loadings/discharges.

(vi) Delays, after commencement of laytime, attributed to causes beyond the control and without the fault or negligence of the Contractor or the U.S. Government will result in increasing the basic allowed laytime by one half of the delay time.

(3) PAYMENT OF DEMURRAGE. For all hours of laytime which elapse in excess of the basic allowed laytime for unloading provided for by subparagraph (k)(1)(v), or as otherwise provided in the Schedule, the Contractor shall pay demurrage to the Government as follows:

- (i) **USS, USNS, OR TIME CHARTERED VESSELS.** At the demurrage rate for the vessel loaded computed to the nearest whole hour as published by the Military Sealift Command and in effect on the date the loading of the vessel is completed.
- (ii) **VOYAGE CHARTERED VESSELS.** At the demurrage rate cited in the charter, except that the demurrage payable by the Contractor shall in no event exceed the demurrage expense incurred by the Government under the Charter.
- (DESC 52.211-9FJ5)

F1.05 GENERAL SHIPPING CONDITIONS (DESC OCT 1997)

(a) The Contractor will prepare the inspection and shipment documents covering deliveries made from the terminal in accordance with instructions contained in the Documentation and Product Property Control Plan. Normally, the document will consist of DD Form 250 for tank car, tank truck, pipeline, and packaged shipments, and DD Form 250-1 and ullage/innage reports in the case of barge and tanker shipments. The Contractor will distribute the DD Forms 250 and the Quality Representative (QR) will distribute the DD Forms 250-1. When the QR is not present for release or shipment of product inspected at these facilities, and the Contractor's quality control program has been approved by the responsible Government Quality Office in accordance with paragraph 246.471 of the DOD FAR Supplement, the Contractor will insert the following certification on the inspector's copy of the shipping documents:

"I certify that the above supplies were (a) in the quantity indicated, (b) taken from Government-owned and approved stocks, and (c) loaded into inspected and approved containers. This shipment was released in accordance with paragraph 246.471-2 of the DoD FAR Supplement under authorization of (NAME and TITLE OF THE AUTHORIZED REPRESENTATIVE OF THE CONTRACT ADMINISTRATION OFFICE) in a letter dated (DATE OF AUTHORIZING LETTER). (SIGNATURE AND TITLE OF CONTRACTOR'S DESIGNATED REPRESENTATIVE)."

(b) Shipment of products hereunder will be made only pursuant to a "release" furnished by the Product Property Administrator or his designated representative. The "release" will indicate the consignees who are authorized to issue "calls" or "orders" for shipment of product. Such "release" will be periodically furnished to the Contractor by the cognizant Product Property Administrator.

(c) Conveyances required for shipments shall be furnished or designated by the Government. The Contractor shall inspect all shipping conveyances prior to loading to insure that product loaded will not be lost or contaminated by the condition of the equipment. Tank truck inspection must be performed by qualified Contractor personnel. Delegation of this responsibility shall not be passed to the tank truck operator/driver. The tank truck operator/driver may be permitted to physically load the tank truck; however, the loading operation must be under the surveillance and direction of Contractor personnel. Equipment found to be unsatisfactory shall be reported as follows: (1) TANKERS AND BARGES. Report immediately by telephone to the QR; if not present, the master of the tanker or barge or to the carrier's agent or general office; (2) TANK CARS. Report to the QR and by wire (Government Rate, Collect) to Commander, Eastern Area, Military Traffic Management Command, ATTN: MTE-INR-O, Brooklyn, NY 11250. Any shortage or overage of tank cars shall be similarly reported; (3) TRANSPORT TRUCKS. Contractor shall expeditiously report to the Traffic Manager of the appropriate Defense Fuel Region, Government QR, and to the carrier's terminal where equipment is domiciled.

(d) Except when loading barges or tankers, or making pipeline deliveries, strainers of 100 mesh or finer shall be utilized in loading aviation fuels and jet lubricating oil and 60 mesh or finer in the case of reciprocating engine oil. Strainers shall be located as near the loading point as practicable. Contractor shall furnish and periodically inspect and clean such strainers and repair same, if necessary, keeping a written record thereof.

(e) Contractor shall affix serially numbered seals to the dome covers of tank cars and all openings in the case of tank trucks in such a manner that entry could only be gained by breaking a seal. Such seals will be furnished by the Contractor. Seal numbers will be indicated on shipping documents.

(f) Placards, as required by 49 CFR 172.506 and 49 CFR 172.508, shall be furnished and affixed to all tank cars and tank trucks by Contractors unless placards are already affixed.

(g) **FOR TANK CARS ONLY.**

(1) If Government-owned or leased tank cars are furnished, the Contractor will maintain records showing each day a car is received or forwarded by car number and will furnish the information to the Defense Fuel Regional Office upon request.

(2) Bottom outlet gaskets and manway cover gaskets, when required due to deterioration or loss, shall be furnished and applied to tank cars by the Contractor.

(3) The Contractor shall (i) inspect empty Government-owned tank cars located on the Contractor's premises and (ii) ship tank cars located on the Contractor's premises to repair facilities as directed by the Government.

(h) Unless otherwise directed, the Contractor shall prepare and distribute Government bills of lading utilized in shipments. Such bills of lading, routing instructions, and transportation assistance will be furnished by the Defense Fuel Region placing orders.

(i) The Contractor shall comply with routing instructions furnished by the Government. Such instruction will include names, routes, route order numbers, and other pertinent information. The Contractor shall be responsible for scheduling of commercial transport trucks, trucks and trailer, and tank wagons to its plant in accordance with such routing instructions and consonant with the applicable order. The Contractor shall provide sufficient advance notice to carriers and schedule the carrier's equipment for loading. The Contractor shall reimburse the Government for any demurrage incurred as a result of improper scheduling.

(j) Custody of product shipped by pipeline, and risk of loss thereof, shall pass from the Contractor to the carrier when the product passes the flange connecting the Contractor's pipeline and the carrier's pipeline.

(k) Custody of product shipped by transport truck, and risk of loss thereof, shall pass from the Contractor to the carrier when the loaded transport truck is released for shipment by the Contractor.

(l) Custody of product shipped by tank car, and risk of loss thereof, shall pass from the Contractor to the carrier when the loaded tank car is picked up by the carrier.

(m) Custody of product delivered to tanker or barge, and risk of loss thereof, shall pass from the Contractor to the carrier when the fuel passes the vessel's permanent hose connection.

(n) The Contractor shall be held accountable for demurrage charges arising from delay(s) in shipment by tank cars and transport trucks except when those delays are caused by reasons beyond the control and without the fault or negligence of the Contractor and its subcontractors.

(o) The following subparagraphs only apply to barges and tankers.

(1) SCHEDULED ARRIVAL DATE AND BASIC ALLOWED LAYTIME.

(i) Notice shall be furnished to the Contractor in advance of the date on which loading is to be made, which date is hereinafter referred to as the "Scheduled Arrival Date." Each notice will specify the quantity to be loaded, the cargo number, and name of the vessel and the scheduled loading date. For tankers, notice will also include the size of the vessel and the expected time of arrival. Notice of delivery will be furnished at least 72 hours in advance of the scheduled arrival date for tankers, and at least 48 hours in advance of the scheduled arrival date for barges. When anticipated vessel transit time to the loading point is less than 72/48 hours, the Government will provide the maximum notice practicable. Any change in the scheduled arrival date of less than 48 hours notice for barges and 72 hours notice for tankers will require verbal approval of the Contractor, confirmed in writing..

(ii) The Contractor shall provide as soon as possible, but within 3 hours after issue of notice of readiness to load from a barge and within 6 hours after the Contractor receives notice of readiness to load from a tanker, a reachable berth, free of cost to the Government, where the vessel can be safely moored and afloat with necessary access thereto PROVIDED, however --

(A) If the vessel is tendered for loading on a date earlier than the last agreed scheduled arrival date, the Government's vessel shall be loaded as soon as possible in its proper turn with other vessels, and laytime shall not commence until the vessel moors alongside or, for barges, 3:00 A.M. local time; for tankers, 6:00 A.M. local time, on the last agreed scheduled arrival date, whichever occurs first.

(B) If the vessel is tendered for loading later than 12:00 noon of the day following the last scheduled arrival date, the vessel shall be loaded in its proper turn with other vessels. Laytime shall commence when the vessel moors alongside, provided a good faith effort is made by the Contractor to moor the vessel in its turn with other vessels as loading berths become available. If the vessel is not moored in its proper turn with other vessels, laytime will commence at 6:00 A.M. on the date the Government vessel's turn occurred.

(iii) Laytime shall commence either (A) at the expiration of the notice period prescribed in subparagraph (ii) above, berth or no berth, or (B) immediately when the vessel moors alongside, with or without notice of readiness, whichever occurs first.

(iv) Laytime, once started, shall continue 24 hours per day, 7 days per week, without interruption, from its commencement until loading of the barge or tanker is completed and hoses have been removed.

(v) Unless otherwise provided in the Schedule, the Contractor shall be allowed and will complete unloading within laytime determined as follows:

(A) **FOR BARGES:** One hour for each 2,000 barrels of product to be loaded.

(B) **FOR TANKERS:** Thirty-six hours for load of full vessel cargo. When partial vessel cargoes are to be loaded, the 36 hours will be prorated based on quantities loaded by each supplier. The 36 hours includes allowances for routine events that occur in the loading process, such as cushioning and topping off of vessel tanks.

(vi) Hoses and loading arms for loading shall be furnished, connected, and disconnected by the Contractor.

(2) INCREASES TO BASIC ALLOWED LAYTIME.

- (i) If, after laytime commences, the conditions or facilities of the barge or tanker to be loaded do not permit loading, basic allowed laytime shall be increased by the duration of the delay.
- (ii) If the vessel is delayed in reaching its berth and the delay is caused by the fault of the vessel, basic allowed laytime shall be increased by the duration of the delay.
- (iii) After laytime commences, when vessels are required to dock at anchorage due to vessel delays such as vessel inspection and inerting, laytime credit will be allowed for transit time from anchors away at anchorage until first line ashore berthing, not to exceed 2 hours.
- (iv) If regulations of the owner or operator of the vessel prohibit loading at any time after laytime has commenced, time so lost shall be added to basic allowed laytime.
- (v) If, for any reason, the Contractor is delayed in loading the barge or tanker because of actions of a Government representative, acting under the contract, that arise through no fault or negligence on the part of the Contractor or its subcontractors, basic allowed laytime shall be increased by the duration of the delay.
- (vi) There will be no increase to basic allowed laytime (nor other reductions to any resulting demurrage time) for saved laytime arising out of other loadings/discharges.
- (vii) Delays, after commencement of laytime, attributed to causes beyond the control and without the fault or negligence of the Contractor or the U.S. Government will result in increasing the basic allowed laytime by one half of the delay time.

(3) PAYMENT OF DEMURRAGE. For all hours of laytime which elapse in excess of the basic allowed laytime for loading provided for by paragraph (1) above, or as otherwise provided in the Schedule, the Contractor shall pay demurrage to the Government as follows:

- (i) **USS, USNS, OR TIME CHARTERED VESSELS.** At the demurrage rate for the vessel loaded computed to the nearest whole hour as published by the Military Sealift Command and in effect on the date the loading of the vessel is completed.
- (ii) **VOYAGE CHARTERED VESSELS.** At the demurrage rate cited in the charter, except that the demurrage payable by the Contractor shall in no event exceed the demurrage expense incurred by the Government under the Charter.

(DESC 52.247-9FP1)

F1.14 DETERMINATION OF QUANTITY (STORAGE) (DESC NOV 1997)

The total gallonage received into or shipped from the Contractor's facilities shall be determined as follows:

- (a) **RECEIPTS OR SHIPMENTS OF CRUDE AND FUELS OTHER THAN RESIDUAL FUELS** (by transport truck of 3500 gallons or less) (truck and trailer combination when delivering same product will be considered as one container or conveyance). On an actual gallonage basis, without temperature correction.
- (b) **RECEIPTS OR SHIPMENTS OF RESIDUAL FUELS** (in excess of 3500 gallons of crude or other fuels by tank car or transport truck). On a gallonage basis corrected to 60°F.
- (c) **RECEIPTS OR SHIPMENTS BY TANKER OR BARGE OR PIPELINE.** On a gallonage basis corrected to 60°F. Quantities shipped or received will be determined on the basis of shore tanks or tender gauges taken by the Contractor and authenticated by the Quality Representative (QR). The ship or carrier's representative may participate in these determinations. During the gauging of shore tanks, the tanker, barge, or carrier's representative may participate in the quantity determinations, and, in the case of tanker/barge shipments or receipts, the Contractor may participate in the operations on board the tanker or barge which are required to determine the quantity of product in the tanker or barge cargo tanks.
- (d) In the case of receipts, the Contractor shall sign the bill of lading and other related documents for the actual quantity received as determined above. When requested by the QR, the Contractor shall investigate losses or gains in connection with receipts or shipments to determine if the cause is at the Contractor's facility.
- (e) **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. In addition, the following specific standards will be the referee method.
 - (1) **API MPMS Chapter 11.1, Volume Correction Factors (API 2540/ASTM D 1250/IP 200/ISO 91-1).** Either the printed version or the computer subroutine version of the standard may be used. In case of disputes, the computer subroutine will be the referee method.
 - (i) For crude oils, JP4 and Jet B, use Volume I, Tables 5A and 6A (or Volume VII Tables 53A and 54A).
 - (ii) For lubricating oils, use Volume XIII, Tables 5D and 6D (or Volume XIV, Tables 53D and 54D).
 - (iii) For all other fuels and fuel oils, use Volume II, Tables 5B and 6B (or Volume VIII, Tables 53B and 54B).

(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 meter at 15 degrees Centigrade to barrels at 60 degrees Fahrenheit. Convert liters at 15 degrees Centigrade to cubic meters at 15 degrees Centigrade 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 stated in the offer.

(vi) If the original measurement is by weight and quantity is required in U.S. gallons, then--

(A) Volume XII, Table 58, shall be used to convert metric tons to U.S. gallons at 60 degrees Fahrenheit. Convert kilograms to metric tons by dividing by 1,000.

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

(2) **API MPMS Chapter 4, Providing Systems.** All meters used in determining product volume shall be calibrated using this standard with the frequency required by local regulations (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.

(3) **API MPMS Chapter 12, Calculation of Petroleum Quantities.** All calculations of net quantities shall be made in accordance with this chapter.

(f) In addition to gauging of storage tanks to determine quantities issued or received, the Contractor will gauge each active storage tank daily and each inactive storage tank weekly and compute physical inventories of the purpose of detecting loss of products.

(DESC 52.211-9FG1)

F45.03 OPERATION OF FUEL SYSTEM ICING INHIBITOR ADDITIVE SYSTEM (COCO) (DESC OCT 2004)

(a) As required by the Government, the Contractor shall store, maintain, and inject High Flash Fuel System Icing Inhibitor (FSII) conforming to Specification MIL-DTL-85470B, dated June 15, 1999. The Government may also require the Contractor to purchase High Flash FSII (in bulk or 55-gallon drums) conforming to MIL-DTL-85470B. In such a case, the Government shall reimburse the Contractor for direct out-of-pocket costs incurred in the acquisition of the additive in accordance with the SUBMISSION OF INVOICES FOR PAYMENT clause. Title to such FSII shall pass from the Contractor to the Government upon delivery of the product and acceptance by the Government representative. Acceptance shall be based upon verification of quantity and specification conformance.

(b) The Contractor shall maintain and operate an additive line injection system equipped with a flow proportioning pump capable of uniformly injecting FSII into aviation turbine fuel at concentration levels ranging from 0.01 to 0.20 volume percent. The injection system shall be capable of automatically adjusting to changes in pipeline flow rates at the point of injection and include a calibrated meter for determining the amount of additive injected. The additive system must be capable of injecting FSII into Government-owned aviation fuel(s) during all issues from the terminal and during all tank-to-tank transfers within the terminal.

(c) Bulk FSII storage systems shall be configured to minimize the introduction of moisture. Any proven industry system design utilized to maintain acceptable moisture limits in accordance with the product specification may be offered. Two acceptable designs being utilized are (1) the use of gaseous nitrogen to blanket the product, or (2) a desiccating/drying device installed in the ventilation system of the tank. The use of carbon dioxide (CO₂) as an inerting agent is prohibited. The tanks' storage capacity must be capable of receiving, at a minimum, 5,300-gallon tank truck deliveries. The minimum tank size required is 8,000 gallons. The Government may require the Contractor to use drums or, for overseas use only, intermodal tank containers (IMCs) in lieu of bulk storage tanks. In such cases, drums and IMCs must be stored in a sheltered area protected from the local climate. When an IMC is used as a bulk storage tank, it shall be subject to the moisture control requirements cited above. All FSII shall be handled and stored in accordance with any applicable environmental and fire regulations. Reference the SERVICES TO BE FURNISHED clause for the description of storage tank requirements.

(d) During receipts/issues from the terminal and transfers within the terminal, the Contractor is responsible for assuring that the FSII concentration for Government-owned jet fuels conforms to the specification. The injection system shall be adjusted to achieve a homogenous concentration level of 0.11 to 0.13 volume percent in all grades of Government-owned aviation turbine fuel, unless otherwise directed by the DESC QAR or Contracting Officer. Without limiting the Government's right to test its product at any time or any place, the Government specifically reserves the right to test each compartment of the shipping conveyances to ensure that the FSII concentrations conform to the specification. Notwithstanding the Government's right to test, the Contractor shall comply with inspection

and testing requirements stated in the contract and is responsible for ensuring that FSII concentrations loaded onto shipping conveyances conform to the specification.

(e) The Government may require the Contractor to fill special orders for aviation fuel without FSII or with elevated levels of FSII.

(f) All procedures related to the operation of the above additive system shall be incorporated into the Quality Control Plan required by the contract.

(DESC 52.211-9F75)

F76 CONTRACT PERIOD/PERFORMANCE REQUIREMENTS (STORAGE) (DESC DEC 1991)

During the contract period, October 1, 2009 through September 30, 2014, the Contractor shall provide petroleum storage facilities and services at the following location:

(Street address)

(City/State/Zip)

(DESC 52.242-9FA1)

F107 STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the DEFAULT, or the TERMINATION FOR CONVENIENCE OF THE GOVERNMENT, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; PROVIDED, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(FAR 52.242-15)

SECTION G – CONTRACT ADMINISTRATION DATA

G3 INVOICE NUMBERING REQUIREMENTS (DESC 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.
(DESC 52.211-9FH5)

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.
(DESC 52.232-9F45)

G9.06 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DESC DEC 1999)

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 - CENTRAL CONTRACTOR REGISTRATION or the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION 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).

(DO NOT EXCEED 153 CHARACTERS)

(DESC 52.232-9F55)

THIS CLAUSE APPLIES ONLY TO DESC-FUNDED ITEMS FOR DOMESTIC AND FOREIGN SUPPLIERS WHO CHOOSE TO BE PAID BY THE CORPORATE TRADE EXCHANGE WHEN THE RECEIVING BANK IS LOCATED IN THE UNITED STATES.

G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE (DESC MAR 2003)

(a) The Contractor shall supply the following information to the Contracting Officer no later than 5 days after contract award and before submission of the first request for payment. The bank designated as the receiving bank must be located in the United States and must be capable of receiving Automated Clearing House (ACH) transactions.

NAME OF RECEIVING BANK: _____

(DO NOT EXCEED 29 CHARACTERS)

CITY AND STATE OF RECEIVING BANK: _____

(DO NOT EXCEED 20 CHARACTERS)

AMERICAN BANKERS ASSOCIATION NINE DIGIT IDENTIFIER OF RECEIVING BANK: _____

ACCOUNT TYPE CODE: (Contractor to designate one)

CHECKING TYPE 22

SAVINGS TYPE 32

RECIPIENT'S ACCOUNT NUMBER ENCLOSED IN PARENTHESES: _____

(DO NOT EXCEED 15 CHARACTERS)

RECIPIENT'S NAME: _____

(DO NOT EXCEED 25 CHARACTERS)

STREET ADDRESS: _____

(DO NOT EXCEED 25 CHARACTERS)

CITY AND STATE: _____

(DO NOT EXCEED 25 CHARACTERS)

NOTE: Additional information may be entered in **EITHER** paragraph (b) **OR** paragraph (c) below. Total space available for information entered in (b) **OR** (c) is 153 characters.

(b) **SPECIAL INSTRUCTIONS/OTHER IDENTIFYING DATA:**

(DO NOT EXCEED 153 CHARACTERS)

OR

(c) **THIRD PARTY INFORMATION:** Where payment is to be forwarded from the receiving bank to another financial institution for deposit into Contractor's account, the following information must be supplied by the Contractor: Second Bank Name, City/State and/or Country, Account Number, and Account Name.

(DO NOT EXCEED 153 CHARACTERS)

(d) **CONTRACTOR'S DESIGNATED OFFICIAL SUBMITTING ELECTRONIC FUNDS TRANSFER INFORMATION.**

NAME: _____
(DO NOT EXCEED 25 CHARACTERS)

TITLE: _____
(DO NOT EXCEED 25 CHARACTERS)

TELEPHONE NUMBER: _____
(DO NOT EXCEED 25 CHARACTERS)

SIGNATURE: _____

(e) Any change by the Contractor in designation of the bank account to receive electronic transfer of funds in accordance with this clause must be received by the Contracting Officer no later than 30 days prior to the date the change is to become effective.

(f) The electronic transfer of funds does not constitute an assignment of such funds in any form or fashion.

(g) In the event corporate trade exchange (CTX) payments cannot be processed, the Government retains the option to make payments under this contract by check.

(h) **NOTICE TO FOREIGN SUPPLIERS.**

(1) Payment may be made through the Federal Reserve Wire Transfer system. The bank designated as the receiving bank must be located in the United States and must be capable of receiving ACH transactions. The appropriate American Bankers Association nine-digit identifier must be supplied in order for payments to be processed through CTX.

(2) If your account is with a foreign bank that has an account with a bank located within the United States, the U.S. bank may be designated as the receiving bank. The recipient's name and account number shall identify the foreign bank, and transfer instructions to supplier's account must be specified in (b) **OR** (c) above.

(3) The Third Party information supplied in (c) above will be located in the first RMT segment of the CTX payment information sent to the receiving bank.

(i) Notwithstanding any other provision of the contract, the requirements of this clause shall control.

(DESC 52.232-9FJ1)

THIS CLAUSE APPLIES ONLY TO DESC-FUNDED ITEMS FOR FOREIGN SUPPLIERS WHO CHOOSE PAYMENT BY THE FEDERAL RESERVE WIRE TRANSFER SYSTEM, WHICH DOES NOT REQUIRE THE RECEIVING BANK TO BE LOCATED IN THE UNITED STATES.

G9.07-5 ELECTRONIC TRANSFER OF FUNDS PAYMENTS – FEDERAL RESERVE WIRE TRANSFER SYSTEM (DESC JAN 2007)

(a) The Contractor shall supply the following information to the Contracting Officer no later than 5 days after contract award and before submission of the first request for payment. The bank designated as the receiving bank must be capable of receiving Federal wire transactions via either a SWIFT Code or an IBAN.

(b) Any change by the Contractor in the designation of the bank account to receive electronic transfer of funds in accordance with this clause must be received by the Contracting Officer no later than 30 days prior to the date the change is to become effective.

(c) The electronic transfer of funds does not constitute an assignment of such funds in any form or fashion.

COMPLETE THE FOLLOWING INFORMATION (TYPE WRITTEN OR CLEAR PRINTING)

RECIPIENT'S NAME: _____
(DO NOT EXCEED 25 CHARACTERS)

ORIGINATOR ABA: 044036205 (DESC fill-in)

CONTRACT NUMBER: _____ (DESC fill-in)

RECIPIENT'S CAGE CODE: _____

CHECKING TYPE 22

SAVINGS TYPE 32

RECIPIENT'S DUNS NUMBER: _____

BENEFICIARY'S BANK NAME: _____
(DO NOT EXCEED 29 CHARACTERS)

BENEFICIARY'S BANK ADDRESS: _____
(DO NOT EXCEED 25 CHARACTERS)

(DO NOT EXCEED 25 CHARACTERS)

BENEFICIARY'S BANK ACCOUNT NUMBER: _____

BENEFICIARY'S BANK SWIFT NUMBER: _____
(EITHER 8 OR 11 CHARACTERS ONLY)

IBAN NUMBER: _____

BENEFICIARY'S BANK SORT CODE: _____ (FOR BANKS IN THE UNITED KINGDOM ONLY)
(6 CHARACTERS ONLY)

(d) CONTRACTOR'S DESIGNATED OFFICIAL SUBMITTING ELECTRONIC FUNDS TRANSFER INFORMATION.

NAME _____
(DO NOT EXCEED 25 CHARACTERS)

TITLE _____
(DO NOT EXCEED 25 CHARACTERS)

TELEPHONE NUMBER _____
(DO NOT EXCEED 25 CHARACTERS)

SIGNATURE _____

(e) Notwithstanding any other provision of the contract, the requirements of this clause shall control.
(DESC 52.232-9FJ2)

G9.09 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(a) METHOD OF PAYMENT.

- (1) All payments by the Government under this contract, shall be made by electronic funds transfer (EFT), except as provided in paragraph (a) (2) of this clause. As used in this clause, the term **EFT** refers to the funds transfer and may also include the payment information transfer.
- (2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either—
 - (i) Accept payment by check or some other mutually agreeable method of payment; or
 - (ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) **CONTRACTOR'S EFT INFORMATION.** The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) **MECHANISMS FOR EFT PAYMENT.** The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

(d) **SUSPENSION OF PAYMENT.** If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.

- (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for—
 - (i) Making a correct payment;
 - (ii) Paying any prompt payment penalty due; and
 - (iii) Recovering any erroneously directed funds.
- (2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and—

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) of this clause shall apply.

(f) **EFT AND PROMPT PAYMENT.** A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) **EFT AND ASSIGNMENT OF CLAIMS.** If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to Subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) **LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) **PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(FAR 52.232-33)

G9.09-1 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)

(a) METHOD OF PAYMENT.

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a) (2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either-

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT (but see paragraph (d) of this clause).

(b) MANDATORY SUBMISSION OF CONTRACTOR'S EFT INFORMATION.

(1) The Contractor is required to provide the Government with the information required to make contract payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information no later than 5 days after award. If not otherwise designated in the contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated payment office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) **MECHANISMS FOR EFT PAYMENT.** The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal Payments through the ACH are contained in 31 CFR Part 210.

(d) SUSPENSION OF PAYMENT.

(1) The Government is not required to make any payment until after receipt, by the designated office, of the correct EFT information from the Contractor. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of any delays in accrual of interest penalties apply.

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

(e) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

- (i) Making a correct payment;
- (ii) Paying any prompt payment penalty due; and
- (iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

- (i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or
- (ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provision of paragraph (d) shall apply.

(f) EFT AND PROMPT PAYMENT. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT AND ASSIGNMENT OF CLAIMS. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT. The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) PAYMENT INFORMATION. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) EFT INFORMATION. The Contractor shall provide the following information to the designated office. The Contractor may supply this data for multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

- (1) The contract number (or other procurement identification number).
- (2) The Contractor's name and remittance address, as stated in the contract(s).
- (3) The signature (manual or electric, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.
contract, and account number at the Contractor's financial agent.
- (5) The Contractor's account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System and, therefore, not the receiver of the wire transfer payment.

(FAR 52.232-34)

G9.14 SUBMISSION OF ELECTRONIC FUNDS TRANSFER INFORMATION WITH OFFER (MAY 1999)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause.

- (1) The solicitation number (or other procurement identification number).
- (2) The offeror's name and remittance address, as stated in the offer.
- (3) The signature (manual or electric, as appropriate), title, and telephone number of the offeror's official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the offeror's financial agent.
- (5) The offeror's account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror's financial agent.
- (7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror's financial agent is not directly on-line to the Fedwire Transfer System and, therefore, not the receiver of the wire transfer payment.

(FAR 52.232-38)

G21 DESIGNATION OF PROPERTY ADMINISTRATOR (DESC MAR 1995)

The Property Administrator for product handled under the terms of the contract will be designated by the Commander, Defense Energy Support Center.

(DESC 52.242-9F65)

G22 DESIGNATION OF THE DEFENSE FUEL REGION (DESC JUL 1997)

- (a) The Defense Fuel Region to which reference is made herein is the--
DESC Europe

- (b) The Defense Fuel Office to which reference is made herein is the—
DESC Europe
CMR 443 Box 5000
APO AE, 09096-5000
Phone DSN: 338-7405
Phone Commercial: 44-(0)208-385-5449

(c) The Commander of the Defense Fuel Region or his designee, appointed above, is the authorized representative of the Commander, Defense Energy Support Center.

(DESC 52.242-9F55)

G148.05 SUBMISSION OF INVOICES FOR PAYMENT (SERVICES) (DESC NOV 2008)

Monthly services invoices shall be faxed directly to the Accounting and Finance Office after self-certification. All other invoices are mailed to the Contract Administration Office (CAO) after Quality Representative (QR) certification. Specific procedures follow.

(a) **MONTHLY INVOICES.**

(1) Contractors shall present invoices for monthly services directly to the following Accounting and Finance Office within one month following the performance of the respective services. The invoices will be submitted by facsimile to DFAS, Services Vendor Pays, via telephone number 1-866-313-2340. The address line on the invoice shall read--

DEFENSE FINANCE AND ACCOUNTING SERVICE – COLUMBUS CENTER
FUEL STOCK FUND ACCOUNTING BRANCH
ATTN: SERVICES VENDOR PAY
P.O. BOX 182317
COLUMBUS, OH 43218-2317

Each invoice will be certified by an official of the company in the following manner:

"I certify that the services were performed, that the amounts reflected hereon are in conformance with the contract, and that the amounts are correct and proper for payment."

Signature _____
PRINTED NAME AND TITLE

(2) Contractors 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.

(3) 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.

(b) **ALL OTHER INVOICES.**

(1) Contractors shall address invoices to the Accounting and Finance Office listed in (a) above.

(2) Contractors shall certify that the invoice is true and correct and shall attach supporting documentation (e.g., subcontractor bills or invoices) for cost reimbursement invoices.

(3) Contractors shall then present the invoice to the cognizant QR for certification that the invoice is true and correct to the best of the QR's knowledge and that the supplies or services included on the invoice have been provided.

(4) Last, Contractors shall submit the invoice to the CAO address below for approval and for processing to the Accounting and Finance Office for payment. Upon mutual agreement between the Contractor and the QR, the QR may submit the invoice directly to the CAO after certification. The Administrative Contracting Officer (ACO) may authorize the Contractor to send certified invoices directly to the Accounting and Finance Office, concurrent with a copy to the CAO address below. Such ACO authorization must be specifically provided in the contract or modification thereto.

DOMESTIC

ATTN DESC-BX, ROOM 2945
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 4950
FORT BELVOIR VA 22060-6222

OVERSEAS

ATTN DESC-BY, ROOM 2945
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 4950
FORT BELVOIR VA 22060-6222

(c) **OVERTIME.** When the Contractor is authorized by the designated Government representative to perform services in excess of normal working hours, the Government will reimburse the Contractor as described in (1) and (2) below. Each invoice for

overtime will specify the number of people working, their employment classification, number of hours worked, and the hourly rate of compensation. The written authorization from the designated Government representative must be attached to the invoice. (The authorization for overtime may be given initially by telephone, but later must be provided in writing by the designated Government representative to the Contractor.) Follow instructions given in (b) above for submission of overtime invoices.

(1) **GOCO (Government-Owned, Contractor-Operated).** The Government will reimburse actual overtime labor rate paid times actual overtime hours, plus social security taxes, insurance, and fringe benefits. No profit or G&A (general and administrative expenses) will be allowed. (Profit and G&A should be included in the monthly services charge based on the dollars estimated for the overtime line item.)

(2) **COCO (Contractor-Owned, Contractor-Operated).** The Government will reimburse at the rate specified in the Schedule clause.

(DESC 52.232-9FF5)

G150.11 SUBMISSION OF INVOICES BY FACSIMILE (DESC APR 2006)

NOTE 1: FOR GROUND FUELS (PC&S) CONTRACTS: This clause applies only to items paid by DFAS – Columbus Center for DoD Activities.

NOTE 2: See paragraph (c) for facsimile invoicing for DETENTION/DEMURRAGE costs.

NOTE 3: INVOICES WILL REFLECT QUANTITIES IN WHOLE NUMBERS AND SHALL BE ROUNDED AS APPLICABLE. Example: 7,529.4 = 7,529 or 7,529.5 = 7,530.

(a) **IMPORTANT NOTICE:** Contractors that select the facsimile (fax) method of invoicing prior to award in accordance with the FACSIMILE INVOICING or the FACSIMILE OR ELECTRONIC INVOICING provision must do so for all invoices. Failure to comply with the requirements of this clause will result in revocation of the Contractor's right to submit invoices by the fax method.

(b) **INSTRUCTIONS FOR SUBMITTING INVOICES VIA FACSIMILE.**

(1) Contractors shall include their own fax number on each document transmitted.

(2) The fax numbers for invoices sent to DFAS-CVDBB/CO via Electronic Document Management are **(866) 313-2340** or **(614) 693-2630**.

(3) If the fax is received before 5 p.m. Eastern Standard Time (EST), the receipt date of record is the date the item was received. If the facsimile is received after 5 p.m. EST, the receipt date is the next business day.

(4) Contractors that elect to transmit invoices by fax are responsible for validating receipt of the faxed invoice. Verification can be made by calling Customer Service (DFAS-CVDBB/CO) 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-CVDBB/CO 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-CVDBB/CO specifically requests it.

(6) **F.O.B. DESTINATION DELIVERIES.**

(i) **CERTIFICATION OF RECEIPT.**

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

(a) The SF 1449, Solicitation/Contract/Order for Commercial Items; or

(b) The DD Form 1155, Order for Supplies or Services; or

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

(d) The DD Form 250-1, Tanker/Barge Material Inspection and Receiving Report (for tanker and barge deliveries only).

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

(ii) **PC&S DELIVERIES.**

(A) Overbillings--

(a) 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.

(b) 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.

(B) Underbillings will be paid as invoiced.

(C) 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.

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

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

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

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

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

(iii) 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.**"

(c) **INVOICING DETENTION/DEMURRAGE COSTS VIA FACSIMILE.** Detention/demurrage costs, allowable only on tank truck deliveries (not applicable to multiple drop tank truck or any tank wagon deliveries) and barge/tanker deliveries, will be the sole responsibility of the activity incurring them. Invoices for detention/demurrage 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. If the receiving activity is an Army activity, a copy of the detention/demurrage cost invoice must also be furnished to the following address:

COMMANDER US ARMY PETROLEUM CENTER
ATTN SATPC-L
NEW CUMBERLAND PA 17070-5008

(DESC 52.232-9FG5)

SECTION H – SPECIAL CONTRACT REQUIREMENTS

H19.01 REPORTING AND CONTAINING OIL SPILLS (OVERSEAS STORAGE) (DESC JAN 1982)

(a) Immediately upon the discovery of a product spill, leak, or seepage involving Defense Energy Support Center owned product, the Contractor shall notify, by telephone, (1) the Quality Representative; (2) the designated Defense Fuel Region; and (3) the Administrative Contracting Officer.

(b) Immediately upon discovery of a product spill, leak, or seepage, the Contractor shall take all practicable measures available to contain and prevent further spreading of such spill, leak, or seepage. Spill prevention and control measures taken by the Contractor will be in compliance with all applicable laws and regulations.

DESC 52.223-9F35

SECTION I – CONTRACT CLAUSES

II DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning;

or

- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(FAR 52.202-1)

II.01-4 DEFINITIONS (CONT'D) (STORAGE) (DESC JAN 1996)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) **Quality Representative (QR)** includes the terms Quality Assurance Representative (QAR) and Quality Surveillance Representative (QSR).

(1) The QAR is a Government Representative authorized to represent the Contracting Officer to assure the contractor complies with the contractual requirements in furnishing petroleum products and services.

(2) The QSR is a Government Representative authorized to represent the Contracting Officer to assure the contractor complies with the contractual requirements in furnishing services.

(b) **Petroleum storage facilities** shall include --

(1) The tanks enumerated in the Schedule and all installations, fixtures, and equipment required for safe and expeditious movement of petroleum products into and out of such tanks;

(2) Fencing, flood lighting, dikes or fire walls, suitable fire fighting plan and watchman services to the extent necessary to comply with local regulations and standard commercial practices; and

(3) Whatever unloading and loading facilities that may be required to receive and ship product by the method(s) specified in the Schedule.

(c) The terms **isolated system** and **segregated system** mean a system that has a positive separation from other systems in a tank farm through the means of blind flanges, locked double-block and bleed-type valves, etc.

(d) **Dedicated system** means a self contained, single product system with no pipeline connections to any other system in the facility.

(e) **Common system** means a system that usually utilizes a manifold or pipeline that handles more than one product exclusively.

(f) **Shell capacity** means the gross volumetric capacity of the storage tank as determined from tank calibration.

(g) **Fill capacity** means the capacity of the storage tank when filled to the maximum fill level, i.e., the highest point to which a petroleum storage tank may be filled with product, allowing for product expansion and other safety considerations.

(h) **Product or products** means the Government-owned petroleum product(s) within one of the following categories which the Schedule indicates the Contractor is to receive, store, handle, and ship under this contract:

(1) Crude oil shall include any unrefined petroleum in its natural state;

(2) Light fuels includes any grade of the following distillate fuel types: aircraft engine fuels, motor gasoline, naphtha and like solvents, kerosene, diesel fuels and numbers 1 and 2 heating fuels;

(3) Heavy fuels includes number 4 heating fuel and all residual type fuels;

(4) Lubricating oil includes all grades of such product utilized in aircraft, automotive, diesel, and marine engines;

(5) Packaged products means all products packaged in containers of 55-gallon capacity or less.

(i) **Unit of quantity** means--

(1) The U.S. gallon of 231 cubic inches;

(2) The barrel of 42 U.S. gallons;

- (3) The long ton of 2240 pounds; and
- (4) The pound of 16 ounces, depending upon the unit shown in the Schedule.

(j) **Description of services to be performed** as stated in the CHANGES - FIXED PRICE clause is defined to include, but is not limited to, the following:

- (1) The grade or type of product by specification;
- (2) The regular working hours set forth in the schedule;
- (3) The method of receiving or shipping.
- (4) The specifications of Contractor-furnished equipment,
- (5) The provisions of the General Delivery Conditions as amended;
- (6) The number of the Contractor-furnished units (equipment);
- (7) The response time;
- (8) The estimated truck movement; and
- (9) The MERT hours.

(k) **Equipment or delivery and servicing equipment** as used herein means those fuel and/or oil servicing units such as tank trucks, tank trailers, mobile hose carts, pantographs (fixed or mobile), small trailers and drums together with the necessary prime movers.

(l) **Fuel and Oil** used herein means aircraft reciprocating engine fuel, aircraft turbine and jet engine fuel, aircraft reciprocating engine oil, and jet engine oil.

(m) **Response time** is defined as that interval of time between the time a call is placed on the Contractor to service an aircraft and the time the Contractor's equipment is in position to service said aircraft.

(n) For purposes of this contract, the term **truck movement** as set forth above is defined to be any of the following:

(1) The movement of a refueler, defueler, or oiler to, and servicing of, an aircraft. In the event that more than one aircraft is serviced as a result of one service call, each individual aircraft servicing shall be considered a "truck movement."

(2) The movement of a combination refueler/oiler which services an aircraft with both products. Such movement shall be considered a 1 1/2 "truck movement."

(3) The movement of a combination refueler/oiler which services an aircraft with oil only. Such movement shall be considered one "truck movement."

(4) Servicing of group support equipment, small tanks, and/or other units as designated by the Commanding Officer, with either jet fuel or AVGAS, shall count as truck movements if dispatched separately. Each such servicing, if performed in multiples or in conjunction with aircraft fuel delivery, shall be counted as a 1/5 "truck movement" with the exception of the first which will count as one "truck movement."

(5) The movement of a refueler, defueler, or oiler as the result of a service call which is not completed, due to no fault of the Contractor.

(6) The movement of a refueler, defueler, or oiler to a tank farm for purposes of refilling or discharging product as applicable. With regard to refueler refilling, only those refills totaling 1,000 gallons or more per vehicle shall be considered a truck movement. The Commanding Officer may, at his discretion, exercise control and supervision over the refilling/discharging operation.

(DESC 52.202-9F35)

11.02 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, PROVIDED there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form Number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form PROVIDED there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(c) If the Contractor submits a computer generated version of a form that is different from the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(FAR 52.253-1)

11.03-1 CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS (OCT 2008)

(a) **INSPECTION/ACCEPTANCE.** The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

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

(c) **CHANGES.** Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

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

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

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

(g) **INVOICE.** 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--

- (1) Name and address of the Contractor;
- (2) Invoice date and number;
- (3) Contract number, contract line item number, and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price, and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government

bill of lading;

- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

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

(10) **Electronic funds transfer (EFT) banking information.**

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

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

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

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 purposes 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 contract line item number 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 Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), 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 as 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 32.211 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 thereof, 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 and conditions 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. 3701 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986, 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

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

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

(t) **CENTRAL CONTRACTOR REGISTRATION (CCR).**

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

(2) (i) If a Contractor has legally changed its business name, “**doing business as**” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to—

- (A) Change the name in the CCR database;
- (B) Comply with the requirements of Subpart 42.12; and
- (C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraphs (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the Suspension of Payment paragraph of the EFT clause of this contract.

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

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

(FAR 52.212-4)

11.04 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JAN 2009)

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

- (1) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).
- (2) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78).

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

[Contracting Officer shall check as appropriate.]

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

[] (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

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

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

[] (5) [RESERVED]

[] (6) (i) 52.219-6, Notice of Total Small Business Set-Aside (Jun 2003) (15 U.S.C. 644).

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

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

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

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

- (iii) Alternate II (Mar 2004) of 52.219-7.
- (8) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
- (9) (i) 52.219-9, Small Business Subcontracting Plan (Apr 2008) (15 U.S.C. 637(d)(4)).
 - (ii) Alternate I (Oct 2001) of 52.219-9.
 - (iii) Alternate II (Oct 2001) of 52.219-9.
- (10) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- (11) 52.219-16, Liquidated Damages – Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (12) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - (ii) Alternate I (Jun 2003) of 52.219-23.
- (13) 52.219-25, Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (Apr 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (14) 52.219-26, Small Disadvantaged Business Participation Program – Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (15) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).
- (16) 52.219-28, Post Award Small Business Program Rerepresentation (June 2007) (15 U.S.C. 632(a)(2)).
- (17) 52.222-3, Convict Labor (Jun 2003) (E.O. 11755).
- (18) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (Feb 2008) (E.O. 13126).
- (19) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (20) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- (21) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).
- (22) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).
- (23) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) (38 U.S.C. 4212).
- (24) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).
- (25) (i) 52.222-50, Combating Trafficking in Persons (Aug 2007) (Applies to all contracts).
 - (ii) Alternate I (Aug 2007) of 52.222-50.
- (26) (i) 52.222-54, Employment Eligibility Verification (Jan 2009) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
 - (ii) Alternate I (Aug 2007) of 52.222-50.
- (27) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)).

[] (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

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

[] (29) 52.223-16, IEEE 1680 Standard for the Government Assessment of Personal Computer Products (Dec 2007)
(E.O. 13423).

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

[] (30) 52.225-1, Buy American Act – Supplies (Jun 2003) (41 U.S.C. 10a-10d).

[] (31) (i) 52.225-3, Buy American Act – Free Trade Agreements – Israeli Trade Act (Jun 2006) (41 U.S.C 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78, 108-286, and 109-53).

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

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

[] (32) 52.225-5, Trade Agreements (Aug 2007) (19 U.S.C 2501, et seq., 19 U.S.C. 3301 note).

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

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

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

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

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

[X] (38) 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

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

[] (40) 52.232-36, Payment by Third Party (May 1999) (31 U.S.C. 3332).

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

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

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

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

[Contracting Officer shall check as appropriate.]

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

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

[] (3) 52.222-43, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (Nov 2006) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

[] (4) 52.222-44, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Feb 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

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

[] (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

[] (7) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS -- NEGOTIATION.

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

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

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

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

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

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

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

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

(vi) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

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

(viii) 52.222-50, Combating Trafficking in Persons (Aug 2007) (22 U.S.C. 7104(g)). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.

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

(x) 52.225-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

(xii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(FAR 52.212-5)

11.05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (SEP 2008)

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

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

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

(1) 252.205-7000, Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

(2) 252.219-7003, Small Business Subcontracting Plan (DoD Contracts) (APR 2007) (15 U.S.C. 637).

(3) 252.219-7004, Small Business Subcontracting Plan (Test Program) (AUG 2008) (15 U.S.C. 637 note).

(4) 252.225-7001, Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O. 10582).

(5) 252.225-7012, Preference for Certain Domestic Commodities (MAR 2008) (10 U.S.C. 2533a).

(6) 252.225-7014, Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).

(7) 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).

(8) 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings (MAR 2006); (Section 8065 of Public Law 107-117 and the same restriction in subsequent DoD appropriations acts).

(9) 252.225-7021, Trade Agreements (MAR 2007) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).

(10) 252.225-7027, Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

(11) 252.225-7028, Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).

(12) (i) 252.225-7036, Buy American Act – Free Trade Agreements – Balance of Payments Program (MAR 2007) 41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).

(ii) Alternate I (OCT 2006) of 252.225-7036.

(13) 252.225-7038, Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).

(14) 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248) and similar sections in subsequent DoD appropriations acts).

(15) 252.227-7015, Technical Data – Commercial Items (NOV 1995) (10 U.S.C. 2320).

(16) 252.227-7037, Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).

(17) 252.232-7003, Electronic Submission of Payment Requests and Receiving Reports (MAR 2008) (10 U.S.C. 2227).

(18) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).

(19) 252.243-7002, Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).

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

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

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

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

(21) 252.247-7024, Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

(1) 252.225-7014, Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).

(2) 252.237-7019, Training for Contractor Personnel Interacting with Detainees (SEP 2006) (Section 1092 of Public Law 108-375).

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

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

(DFARS 252.212-7001)

11.06 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(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) Cost or pricing data if required in accordance with subpart 15.403-4 of the Federal Acquisition Regulation (FAR);

and

(2) Information other than 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 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.

(DFARS 252.243-7002)

11.07 CENTRAL CONTRACTOR REGISTRATION (ALTERNATE A) (APR 2008/SEP 2007)

(a) **DEFINITIONS.** As used in this clause--

Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government.

Commercial and Government Entity (CAGE) code means—

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “**NCAGE code.**”

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

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

Registered in the CCR database means that—

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(2) The Contractor’s CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields to include validation of the Taxpayer Identification Number (TIN) within the Internal Revenue Service, and has marked the records “**Active.**” The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) 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 exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number—

(i) Via the Internet at <http://fedgov.dnb.com/webform> or, if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business name.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company physical street address, city, state and Zip Code.

(iv) Company mailing address, city, state and Zip Code (if separate from physical).

(v) Company telephone number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

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

(g) (1) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to—

(A) Change the name in the CCR database;

(B) Comply with the requirements of Subpart 42.12 of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification and sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR records to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the EFT clause of this contract.

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

(FAR 52.204-7/DFARS 252.204-7004)

11.19 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 DOD FAR Supplement Regulation (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(FAR 52.252-6)

11.20 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 addresses:

FAR/DFARS: <http://farsite.hill.af.mil>
DLAD: <http://www.dla.mil/j-3/j-336>

(FAR 52.252-2)

11.22 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price-type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting

activity or designee determines that there was a violation of subsection 27(a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract.

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime Contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-10)

11.22-1 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(FAR 52.203-8)

11.24 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2005)

(a) DEFINITIONS.

Agency, as used in this clause, means executive agency as defined in 2.101.

Covered Federal action, as used in this clause, means any of the following Federal actions:

- (1) The awarding of any Federal contract.
- (2) The making of any Federal grant.
- (3) The making of any Federal loan.
- (4) The entering into of any cooperative agreement.
- (5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or

cooperative agreement.

Indian tribe and tribal organization, as used in this clause, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) and include Alaskan Natives.

Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before 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 in connection with any covered Federal action.

Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), title 37, United States Code.
- (3) A special Government employee, as defined in section 202, title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, United States Code, appendix 2.

Person, as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Reasonable compensation, as used in this clause, means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment, as used in this clause, means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State, as used in this clause, means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) PROHIBITIONS.

- (1) Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay 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 in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any

Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the modification of any Federal contract, grant, loan, or cooperative agreement.

(2) The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 in connection with a Federal contract, grant, loan, or cooperative agreement.

(3) The prohibitions of the Act do not apply under the following conditions:

(i) **AGENCY AND LEGISLATIVE LIAISON BY OWN EMPLOYEES.**

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(B) For purposes of subdivision (b)(3)(i)(A) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(C) The following agency and legislative liaison activities are permitted at any time where they are not related to a specific solicitation for any covered Federal action:

(a) Discussing with an agency the qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities.

(b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

(E) Only those agency and legislative liaison activities expressly authorized by paragraph (b)(3)(i) of this clause are permitted under this clause.

(ii) **PROFESSIONAL AND TECHNICAL SERVICES.**

(A) The prohibition on the use of appropriated funds, in subparagraph (b)(1) of this clause, does not apply in the case of--

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(b) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(B) For purposes of subdivision (b)(3)(ii)(A) of this clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not

allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(D) Only those professional and technical services expressly authorized by paragraph (b)(3)(ii) of this clause are permitted under this clause.

(4) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iii) **DISCLOSURE.**

(A) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, OMB standard form LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payments using nonappropriated funds (to INCLUDE profits from any covered Federal action), which would be prohibited under subparagraph (b)(1) of this clause, if paid for with appropriated funds.

(B) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subdivision (A) of this clause. An event that materially affects the accuracy of the information reported includes--

(a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;

(b) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(c) A change in the officer(s), employee(s), or Members(s) contacted to influence or attempt to influence a covered Federal action.

(C) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

(D) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the Contracting Officer at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(iv) **AGREEMENT.** The Contractor agrees not to make any payment prohibited by this clause.

(v) **PENALTIES.**

(A) Any person who makes an expenditure prohibited under paragraph (a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(B) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(vi) **COST ALLOWABILITY.** Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(FAR 52.203-12)

12 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the Contractor.

(DFARS 252.204-7003)

12.06 CHANGES - FIXED-PRICE (ALT II) (AUG 1997/APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Description of services to be performed.

- (2) Time of performance (i.e., hours of the day, days of the week, etc.).
 - (3) Place of performance of the services.
 - (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
 - (5) Method of shipment or packing of supplies.
 - (6) Place of delivery.
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.
- (c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.
- (d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.
- (e) Failure to agree to any adjustment shall be a dispute under the DISPUTES clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(FAR 52.243-1/Alt II)

I3 EXTRAS (APR 1984)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

(FAR 52.232-11)

13.01 PROMPT PAYMENT (OCT 2003)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in Sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) **INVOICE PAYMENTS.**

(1) **DUE DATE.**

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) **CERTAIN FOOD PRODUCTS AND OTHER PAYMENTS.**

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities, and dairy products; edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat and meat food products, as defined in Section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Public Law 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but no later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in Section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in Section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in Section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) **CONTRACTOR'S INVOICE.** The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils) with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) **TAXPAYER IDENTIFICATION NUMBER (TIN).** The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) **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 (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer - Central Contractor Registration; or 52.232-34, Payment by Electronic Funds Transfer - Other Than Central Contractor Registration), or applicable agency procedures.

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

(x) Any other information or documentation required by the contract (e.g., evidence of shipment).

(4) **INTEREST PENALTY.** The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) **COMPUTING PENALTY AMOUNT.** The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR Part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If the actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulation at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at 52.233-1, Disputes.

(6) **DISCOUNTS FOR PROMPT PAYMENT.** The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR Part 1315.

(7) **ADDITIONAL INTEREST PENALTY.**

(i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR Part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1.00 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor shall make a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii) (A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) **CONTRACT FINANCING PAYMENT.** If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) **FAST PAYMENT PROCEDURE DUE DATES.** If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

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

(FAR 52.232-25)

14 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

(a) Discounts for prompt payments will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when the Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(FAR 52.232-8)

112.01-1 DISPUTES (ALTERNATE I) (JUL 2002/DEC 1991)

(a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) **Claim**, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

(d) (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer.

(h) The Government shall pay interest on the amount found due and unpaid from--

(1) The date that the Contracting Officer receives the claim (certified, if required); or

(2) The date that payment otherwise would be due, if that date is later, until the date of payment.

With regard to claims having defective certifications, as defined in FAR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

(FAR 52.233-1/I)

I12.02 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.

(DFARS 252.233-7001)

I27 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(FAR 52.203-3)

I28.21 TAXES - FOREIGN FIXED-PRICE CONTRACTS (JUN 2003)

(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) 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.

(d) 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.

(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.

(FAR 52.229-6)

133 INTEREST (JUN 1996)

(a) Except as otherwise provided in this contract under a PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA clause or a COST ACCOUNTING STANDARDS clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481) 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 Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

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

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(FAR 52.232-17)

136 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
- (6) As directed by the Contracting Officer, transfer title and deliver to the Government—
 - (i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and
 - (ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.
- (7) Complete performance of the work not terminated.
- (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.
- (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; PROVIDED, however, that the Contractor—
 - (i) Is not required to extend credit to any purchaser; and
 - (ii) May acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer.

The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for

profit on work done. However, the agreed amount, whether under this paragraph (f) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by—

- (1) The amount of payments previously made; and
- (2) The contract price of work not terminated.

The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

- (1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.
- (2) The total of--
 - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (g)(1) of this clause;
 - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and
 - (iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subdivision (g)(2)(iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (3) The reasonable costs of settlement of the work terminated, including --
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the DISPUTES clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

- (1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;
- (2) Any claim which the Government has against the Contractor under this contract; and
- (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(FAR 52.249-2)

143.01 LIMITATION OF LIABILITY - SERVICES (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except to the extent that the Contractor is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that (1) occurs after Government acceptance of services performed under this contract and (2) results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) above shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of--

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) If the Contractor carries insurance, or has established a reserve for self-insurance, covering liability for loss or damage suffered by the Government through the Contractor's performance of services or furnishing of materials under this contract, the Contractor shall be liable to the Government, to the extent of such insurance or reserve, for loss of or damage to property of the Government occurring after Government acceptance of, and resulting from any defects and deficiencies in, services performed or materials furnished under this contract.

(FAR 52.246-25)

172.06 NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA (MAR 2000)

(a) The Contractor has indicated by the response to the solicitation provision REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the TRANSPORTATION OF SUPPLIES BY SEA clause of this contract, will be transported by sea, the Contractor--

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the TRANSPORTATION OF SUPPLIES BY SEA clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) 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);

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

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

(DFARS 252.247-7024)

190 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC or if OFAC's implementing regulations at 31 CFR Chapter V would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at

<http://www.treas.gov/offices/enforcement/ofac/odn>. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(FAR 52.225-13)

195 AUDIT AND RECORDS – NEGOTIATION (JUN 1999)

(a) As used in this clause, **records** includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) **EXAMINATION OF COSTS.** If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing this contract.

(c) **COST OR PRICING DATA.** If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract, or modification.

(d) **COMPTROLLER GENERAL.**

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

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) **REPORTS.** If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating--

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

(f) **AVAILABILITY.** The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the DISPUTES clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(FAR 52.215-2)

I116 RESPONSIBILITY FOR GOVERNMENT-OWNED PETROLEUM PRODUCTS (DESC JUL 2006)

(a) Government-owned petroleum products received, stored, and transported under this contract are governed by the provisions of this clause.

(b) Title to any Government-owned petroleum products in the possession of or under the custody of the Contractor by reason of this contract, which is hereinafter referred to in this clause as "such property," shall at all times remain in the Government, and such property shall be used only for the purposes set forth in this contract. The Government shall at all times have access to the premises wherein any such property is located. When product is received on an f.o.b. destination basis, the Product Supplier or his representative may witness all quantity and quality functions during the receipt of the product into Government-owned Contractor-operated/Contractor-owned Contractor-operated tanks.

(c) The Contractor shall protect and preserve such property in a manner consistent with sound industrial practice.

(d) At the end of the contract period the Government may abandon any Government-owned petroleum products in place, at which time all obligations of the Government regarding such abandoned petroleum products shall cease. The contract price shall be reduced to reflect the fair market value of any abandoned petroleum products. If an agreement as to compensation for abandoned petroleum products cannot be reached in a timely manner, the Contracting Officer will make a formal determination. The decision will be subject to resolution in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause.

(e) The Contractor shall not be liable for loss of or damage to all such property while in the possession of or under the custody of the Contractor by reason of this contract, or for expenses incidental to such loss or damage, except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto)--

(1) Which results from negligence, or bad faith, or willful misconduct of the Contractor, its employees, or agents; or

(2) Which results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but the Contractor in such case shall be responsible only to the extent of such insurance or reimbursement.

(f) Except for those risks assumed by the Contractor pursuant to subparagraph (e)(1) of this clause, the Contractor represents and warrants that the prices stated in the Schedule do not include the cost of insurance covering risk or loss of or damage to such property while in the possession of or under the custody of the Contractor by reason of this contract, nor any provision for a reserve to cover such risk. In the event the Contractor is reimbursed or compensated for any loss or damage to such property, it shall reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(DESC 52.245-9F25)

I116.01 LIABILITY FOR FUEL SPILLS (DESC OCT 1998)

The Contractor shall take all measures required by law and good business practice to prevent fuel 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 that the Contractor's failure to take such measures results in a fuel spill, the Contractor shall be liable for the costs of spill containment, cleanup, and disposal. In addition, the Contractor shall reimburse the Government for any resulting fines or penalties. For purposes of this clause, the term **fuel** includes all petroleum and additive products.

(DESC 52.223-9F40)

1119.04 INVENTORY CONTROL RECORDS AND SYSTEMS OF RECORD (DESC NOV 2006)

(a) **INTRODUCTION.** The Contractor shall prepare all documentation and systemically process related transactions in accordance with the information and instructions provided herein, DoD 4140.25M, DoD Management of Bulk Petroleum Products, Natural Gas, and Coal, which is available at <http://www.desc.dla.mil/DCM/DCMPage.asp?pagid=699>, Business Systems Modernization – Energy (BSM-E) Interim Guidance, and applicable BSM-E. Documents and procedures are subject to change on a recurring basis and notifications of changes or newly published documents are announced during the Logon process to the Fuels Enterprise Server (FES). Unless the Government has specifically stated it will provide the hardware (usually at Government-owned facilities), the Contractor shall provide requisite hardware (specifications will be provided by the Government) capable of processing all applicable inventory and accounting transactions on a daily basis (weekdays excluding weekend and holidays) through DESC-provided applications or software. The current processing methodologies include both base level support application (BSA) input and upload to the FES via a high speed web/internet-based application or direct input to FES using the FES-02/Fuels Manager Defense (FMD) processing tools. At a minimum, BSM-E applications require the Contractor to provide and have on-site high speed internet access with a static Internet Protocol (IP) address, electronic mail (e-mail) with individual user accounts, the current version of Adobe Acrobat, and Microsoft Office XP with DESC-mandated service packs (currently Service Pack 2). Currently, DESC web-based applications use the DoD Public Key Infrastructure (PKI) compliant web browser which will be provided to the Contractor by DESC. These identified DESC systems require user identifications and passwords in accordance with DoD Automated Data Processing (ADP) Level III systems access. The Contractor shall be responsible for (in conjunction with DESC/DLA) identifying employees that will be processing inventory/accounting transactions for obtaining requisite systems access for those employees. It should be noted that DoD ADP Level III systems access requires a National Agency Check (NAC) investigation. Those contractors which have not had a NAC will be provided forms and fingerprint cards for the investigation, which DLA will initiate. The Contractor shall *immediately* notify DESC when Contractor personnel with access privileges no longer work at the contract facility or no longer require access. Systems Access Request Forms and submission procedures can be found at <http://www.desc.dla.mil/DCM/DCMPage.asp?PageID=479> under DESC-I-24, DESC Automated System Access Request Procedures.

(b) AUTOMATED FUEL INVENTORY REPORTING REQUIREMENTS.

(1) The Contractor shall prepare all necessary documentation (see paragraph (b)(5)) for, and systemically process, each transaction affecting their inventory of Government-owned products in its possession by virtue of this contract. Within one business day of each transaction/business event (excluding weekends and Government holidays), the Contractor shall input transaction data into the automated inventory and accounting system(s) or applications designated/provided by the Government. Initial training for inputting transactional data will be provided by the Government via on-site support or via electronic means, such as user manuals or on-line support/tutorials, after which the Contractor assumes all responsibility for timeliness and accuracy of transaction data input by its employees. The Contractor shall prepare and report each transaction in accordance with guidance provided during the training and, thereafter, by qualified Government representatives. The Government will advise the Contractor of any changes in processing and reporting procedures. The Government reserves the right to telephone the Contractor on a daily basis (weekdays excluding weekends and holidays) to obtain information concerning transactions processed to monitor transactions using identified processing systems. Locations that do not have direct connectivity to BSM-E shall forward all transactions to the applicable DESC Regional Office for processing.

(2) The Contractor shall record the physical inventory quality (corrected to 60 degrees Fahrenheit) in the automated inventory system for each Government-owned product stored at the facility. Daily inventories shall be recorded to reflect on-hand inventories as of 2400 hours local time (system clock/calendar rollover to the next transaction date) and monthly inventory shall be recorded to reflect on-hand inventories as of 2400 hours local time (system clock/calendar rollover to the first transaction date on next month) on the first calendar day of each month. However, systematically, the end-of-month (EOM) and end-of-year (EOY) physical inventories shall be reported against the last calendar day of the preceding month. EOY transactions and inventories must be processed to FES by close of business September 30th. The Contractor shall have the account reconciled in accordance with DoD 4140.25M and/or DESC-P-1, Posting of Daily and End-of-Month Transactions, available at <http://www.desc.dla.mil/DCM/DCMPage.asp?PageID=479>

(3) End of Fiscal Year Closeout Process. The United States Government closes its financial ledgers at midnight on September 30th. In the event the EOY closeout falls on a Saturday or Sunday, the Contractor will be required to document and process all inventory related transactions per EOY closeout instructions that are provided via a pop-up during logon to the FES or that are made available for download from <http://www.desc.dla.mil/DCM/DCMPage.asp?PageID=479>.

(4) The Contractor shall prepare inventory adjustment documents (DD Form 1348-8, DFSP Inventory Accounting Document and End of Month Report) in accordance with the guidance provided in DESC-P-1, Posting of Daily and End-of-Month Transactions, and DESC-1-4, FCC Processing of Fuel Transactions, Inventory Adjustments (Physical Inventory) and End-of-Month Determinable Gain/Loss Transactions. A detailed explanation shall be provided by the Contractor on each inventory adjustment

document explaining each gain and/or loss in excess of DESC provided tolerances. Each document shall be signed and dated by the Contractor's representative and the authorized Government representative and copies provided to DESC-FIE and DESC-FIW. The authorized Government representative shall indicate whether he/she concurs or nonconcurs with the statement and shall provide an explanation for any nonconcurrence. The term **authorized Government representative**, as used in this clause, refers to the quality representative assigned to the Defense Fuel Support Point (DFSP).

Inventory Operating Gain or Loss Tolerances

Post Group	Allowable Operating Tolerance Gain/Loss Percentage
Distillates (Diesel Fuels, Jet A1, JP5, JP8, JPTS, F76, Kerosene, other residuals, etc.)	.0025 or .25%
JP4	.003 or .3%
Aviation and Motor Gasoline (AVGAS (130), MOGAS (MUR, MUP, etc.)	.005 or .5%
Fuel System Icing Inhibitor (FSII)	.0025 or .25%
Lube Oils**	.0025 or .25%

**NOTE: All Lube Oil transactions are to be reported at "gross" or ambient temperatures.

(5) **END OF MONTH/END OF YEAR RECONCILIATION.** EOM and EOY reconciliation procedures are detailed in DESC Interim Guidance DESC-P-1, Posting of Daily and End-of-Moth Transactions. DESC-P-1 and end of year close out instructions are located at <http://www.desc.dla.mil/DCM/DCMPage.asp?PageID=479>.

(6) The following are documentation requirements for transactions (**NOTE: DD Forms are located at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>**):

TRANSACTION

DOCUMENT

Appointment/Delegation Letters

Formal Correspondence

RECEIPTS

Receipts from DESC Procurement Contracts

DD Form 250/250-1

Receipts of Shipments from a DFSP

DD Form 250/250-1
DD Form 1348-7

Receipts from an end-user (with or without credit)

DD Form 1898 or 1149

SHIPMENTS

Shipments from a DFSP to authorized customers

See Sales

Shipments between DFSPs

DD Form 250/250-1
DD Form 1348-7

INVENTORY

Physical Inventory

DD Form 1348-8* and/or
DD Forms 2920, 2921, 2921C

*DD Form 1348-8 is required for end-of-month inventory reporting

or transfer of account actions only.

All Inventory Adjustments	DD Form 1348-8
Normal handling of variances (excessive) Determinable losses such as spills, line breaks, nonrecoverable tank bottoms, major disasters, combat losses, etc.	DESC Form 24 or DD Form 1348-8
Condition/Identity Change Downgrade, regrade, or additive	DD Form 1348-8

ISSUES/SALES OR RETURNS/CREDITS

Issues of product from a DFSP to an end user customer	DD Form 1898 or 1149 Automated data capture printout If required, supporting DESC Form 1898
Return of product from an end user customer with credit	DD Form 250/250-1 DD Form 1898 or 1149 Automated Data Capture printout

REPORT OF SURVEY

As required, when directed by the DESC Accountable Officer/ Contracting Officer or Property Administrator	DD Form 200 and supporting documents
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(c) OTHER REQUIREMENTS.

(1) **STORAGE TANK OUT OF SERVICE.** Prior to removing a storage tank from service, the Contractor shall immediately notify the authorized Government representative by telephone, with follow-up confirmation in writing, providing the date and time the tank is scheduled to be removed from service. In addition, the Contractor shall provide the authorized Government representative a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the authorized Government representative prior to submission to DESC.

(2) **UNRECOVERABLE TANK BOTTOMS.** Prior to the end of the contract period, the Contractor shall provide the authorized Government representative a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the authorized Government representative prior to submission to DESC.

(3) **REPORTING FUEL ADDITIVES AND SLOP FUEL.** Government-owned fuel additives, slop fuel, and transmix stock at the DFSP will be treated as separate and distinct items, and all transactions shall be documented as outlined herein. These products will be recorded in gallons and reported under the approved National Stock Number (NSN).

(i) An auditable identity change document (DD Form 1348-8) shall be used to account for bulk FSII blended with bulk fuel and fuel downgraded to slop. Fractions of a gallon cannot be used (e.g., if 1.5 gallons of FSII were injected, report 1 gallon and record the .5 once a whole gallon is used).

(ii) Packaged additives such as COR, ASA, AS1, AD1, and CO1 shall be accounted for locally using a general log or ledger. As the additive is injected, record the amount in the log to track usage and inventory. No other documentation is required.

(4) **CREATION OF SHIPMENT TRANSACTIONS.** As required and directed by the Government, storage Contractors shall create electronic shipment transactions using the USBank POWERTRACK on-line freight payment system. The Government shall advise Contractors of any changes in processing and reporting procedures. Contractors shall contact the Government when additional guidance is required. CONUS storage Contractors shall maintain a daily written log of motor carrier performance to include: carrier, destination, number of trucks ordered, number of trucks furnished, and deficiencies. On the last business day of each calendar month, the Contractor shall forward a copy of the daily written logs to the DESC Americas office having oversight of the motor carrier contract.

Returns without credit	Six years, three months after the accounting month
Shipments between DFSPs (Shipment documentation, e.g., DD Forms 1348-7, 250-1, etc.)	Current fiscal year (FY) plus two additional FYs
Physical inventory data/documentation	Current FY plus two additional FYs
All inventory adjustment documentation	Current FY plus two additional FYs
Product condition or identify changes, and supporting laboratory analysis	Current FY plus two additional FYs
Contract modifications or change orders	Retained locally, three years after the expiration of the current contract

(DESC 52.245-9F30)

I132.02 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)

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

- (a) The Schedule (excluding the specifications);
- (b) Representations and other instructions;
- (c) Contract clauses;
- (d) Other documents, exhibits, and attachments; and
- (e) The specifications.

(FAR 52.215-8)

I147 DEMURRAGE (DESC NOV 1989)

Subject to paragraph (c) of the DEFAULT clause, the Contractor shall pay to the vessel operator or carrier, or reimburse the Government for, any demurrage incurred by reason of the Contractor's failure to comply with the provisions of this contract.

(DESC 52.247-9FP5)

I180.02 ENVIRONMENTAL PROTECTION (STORAGE) (DESC MAY 1987)

The Contractor agrees to conform to all laws and regulations relating to the protection of the environment in effect on the date the contract is awarded, which are applicable to its operation in the performance of this contract. The Contractor further agrees to conform to any laws or regulations enacted after contract award that are applicable to its operation in the performance of this contract. In the event that conformance with any such new laws or regulations causes an increase or decrease in the operating cost, the Contractor and the Government will negotiate an equitable adjustment in the contract price. Failure to agree on an equitable adjustment in the contract price shall be a dispute concerning a question of fact within the meaning of the DISPUTES clause of this contract; however, nothing in this clause shall excuse the Contractor from implementing any such laws or regulations. The Contractor shall proceed with performance of this contract, unless so advised in writing by the Contracting Officer.

(DESC 52.223-9F25)

I198 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.

(DFARS 252.243-7001)

I209.03 EXTENSION PROVISION (STORAGE) (DESC SEP 1991)

The Government shall have the right to extend this contract upon the same terms and conditions on a month-by-month basis for a total of no more than six months. Notice of extensions may be furnished any time prior to the expiration of this contract or any extensions thereof. The foregoing extensions may be exercised by the Government only if (a) a decision is made by the Government that the additional time is required to deplete the Government-owned stocks stored in the facility, (b) a contract for follow-on services is terminated for default by the Government prior to commencement of services, or (c) where the extension is required to sustain performance because of difficulties encountered in award of the follow-on contract.

(DESC 52.217-9F40)

I229 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (OCT 1995)

(a) Except as provided in (b) below, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract that exceed \$100,000.

(FAR 52.203-6)

I270 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984)

The Contractor shall—

(a) Provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, et seq.) requires; and

(b) Continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

(FAR 52.228-3)

I285 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (DEC 2006)

(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 \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(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 on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor and the compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(DFARS 252.209-7004)

1340 COMBATING TRAFFICKING IN PERSONS (AUG 2007)

(a) **DEFINITIONS.** As used in this clause--

Coercion means--

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Involuntary servitude includes a condition of servitude induced by means of--

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

Severe forms of trafficking in persons means--

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) **POLICY.** The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and Contractor employees shall not--

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract; or
- (3) Use forced labor in the performance of the contract.

(c) **CONTRACTOR REQUIREMENTS.** The Contractor shall--

- (1) Notify its employees of--
 - (i) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and
 - (ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
- (2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) **NOTIFICATION.** The Contractor shall inform the Contracting Officer immediately of--

- (1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and
- (2) Any actions taken against Contractor employees, subcontractor, or subcontractor employees pursuant to this clause.

(e) **REMEDIES.** In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d) or (f) of this clause may render the Contractor subject to--

- (1) Required removal of a Contractor employee or employees from the performance of the contract;
- (2) Required subcontractor termination;
- (3) Suspension of contract payments;
- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor noncompliance;
- (5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
- (6) Suspension or debarment.

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

(FAR 52.222-50)

I350 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(FAR 52.233-4)

SECTION J - LIST OF ATTACHMENTS

ATTACHMENT 1 – PERFORMANCE WORK STATEMENT and APPENDIX 1

ATTACHMENT 2 – OFFEROR SUBMISSION PACKAGE

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

K1.01-10 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (ALTERNATES I/II) (JUN 2008/APR 2002/OCT 2000)

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

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

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

Forced or indentured child labor means all work or service—

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

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

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

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

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

Service-disabled veteran-owned small business concern--

- (1) Means a small business concern—
 - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
 - (ii) The management and daily business operations are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) **Service-disabled veteran** means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

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

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

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

Women-owned business concern means a concern 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 whose management and daily business operations are controlled by one or more women.

Women-owned small business concern means a small business concern--

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

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

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the 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), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____. **[Offeror to identify the applicable paragraphs at (c) through (m) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.]**

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

- (1) **SMALL BUSINESS CONCERN.** The offeror represents as part of its offer that it--

is
 is not

a small business concern.

(2) VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents as part of its offer that it—

is
 is not

a veteran-owned small business concern.

(3) SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.) The offeror represents as part of its offer that it—

is
 is not

a service-disabled veteran-owned small business concern.

(4) SMALL DISADVANTAGED BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents, for general statistical purposes, that it--

is
 is not

a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) WOMEN-OWNED SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it--

is
 is not

a woman-owned small business concern.

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

(6) WOMEN-OWNED BUSINESS CONCERN (OTHER THAN SMALL BUSINESS CONCERN). (Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.) The offeror represents that it -

is

a women owned business concern.

(7) TIE BID PRIORITY FOR LABOR SURPLUS AREA CONCERNS. If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price.

(8) SMALL BUSINESS SIZE FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM AND FOR THE TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM. (Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.)

(i) **(Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the designated industry groups (DIGs)).** The offeror represents as part of its offer that it--

- is
- is not

an emerging small business.

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

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

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

(Check one of the following:)

<u>NUMBER of EMPLOYEES</u>	<u>AVERAGE ANNUAL GROSS REVENUES</u>
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51 - 100	<input type="checkbox"/> \$1,000,001 - \$2 million
<input type="checkbox"/> 101 - 250	<input type="checkbox"/> \$2,000,001 - \$3.5 million
<input type="checkbox"/> 251 - 500	<input type="checkbox"/> \$3,500,001 - \$5 million
<input type="checkbox"/> 501 - 750	<input type="checkbox"/> \$5,000,001 - \$10 million
<input type="checkbox"/> 751 - 1,000	<input type="checkbox"/> \$10,000,001 - \$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

(9) (Complete only if the solicitation contains the clause at FAR 52.219-23, NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS, or FAR 52.219-25, SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM - DISADVANTAGED STATUS AND REPORTING, and the offeror desires a benefit based on its disadvantaged status.)

(i) **GENERAL.** The offeror represents that either--

(A) It--

- is
- is not

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

(B) It--

- has
- has not

submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) **JOINT VENTURE UNDER THE PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS.** The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.

(iii) **ADDRESS.** The offeror represents that its address—

- is
 is not

in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. **Address**, as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, **address** refers to the address of the small disadvantaged business concern that is participating in the joint venture.

(10) **HUBZONE SMALL BUSINESS CONCERN. (Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.)** The offeror represents as part of its offer that--

(i) It--

- is
 is not

a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns Maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It--

- is
 is not

a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. **(The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.)**

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

(11) **(Complete if the offeror represented itself as disadvantaged in paragraph (c)(4) or (c)(9) of this provision.)** The offeror shall check the category in which its ownership falls:

- Black American
 Hispanic American

- Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- Asian-Pacific American (persons with origin from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- Individual/concern, other than one of the preceding.

(d) **REPRESENTATIONS REQUIRED TO IMPLEMENT PROVISIONS OF EXECUTIVE ORDER 11246.**

(1) **PREVIOUS CONTRACTS AND COMPLIANCE.** The offeror represents that--

(i) It--

has

has not

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation;

and

(ii) It--

has

has not

filed all required compliance reports.

(2) **AFFIRMATIVE ACTION COMPLIANCE.** The offeror represents that--

(i) It--

has developed and has on file

has not developed and does not have on file

at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It--

has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) **CERTIFICATION REGARDING PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS (31 U.S.C. 1352).** (Applies only if the contract is expected to exceed \$100,000). By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. 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, OMG 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) TRADE AGREEMENTS CERTIFICATE (JAN 2005) (DFARS 252.225-7020). (Applies only if DFARS clause 252.225-7021, TRADE AGREEMENTS (MAR 2007), is incorporated by reference in this solicitation.) DFARS 252.225-7020 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.

(1) For all line items subject to the TRADE AGREEMENTS clause of this solicitation, the offeror certifies that each end product to be delivered under this contract, except those listed in subparagraph (2) below, is a U.S.-made qualifying country, or designated country end product.

(2) The following supplies are other nondesignated country end products:

(Line item no.)

(Country of origin)

(g) BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM CERTIFICATE (OCT 2006) (DFARS 252.225-7035). (Applies only if DFARS clause 252.225-7036, BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM (MAR 2007) is incorporated by reference in this solicitation.) DFARS 252.225-7035 is hereby incorporated by reference in its entirety; only the certification portion is reproduced below.

(1) For all line items subject to the BUY AMERICAN ACT – FREE TRADE AGREEMENTS – BALANCE OF PAYMENTS PROGRAM clause of this solicitation, the offeror certifies that—

- (i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product; and
- (ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the

United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian and Canadian) end products:

(Line item number)

(Country of origin)

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products other than Bahrainian end products or Moroccan end products:

(Line item number)

(Country of origin)

(iii) The following supplies are other foreign end products including end products manufactured in the United States that do not qualify as domestic end products:

(Line item number)

(Country of origin (if known))

(h) CERTIFICATION REGARDING RESPONSIBILITY MATTERS (EXECUTIVE ORDER 12549).

The offeror certifies, to the best of its knowledge and belief, that--

(1) The offeror and/or any of its principals

[] are

[] are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

- (2) have
 have not,

within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, 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 provision; and

- (4) have
 have not

Within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

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

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

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

- (ii) **Examples.**

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 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. Sec. 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. Sec. 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) List End Product.

(Insert end product)

(Insert country of origin)

(Insert end product)	(Insert country of origin)
(Insert end product)	(Insert country of origin)
(Insert end product)	(Insert country of origin)
(Insert end product)	(Insert country 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 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.

(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 is had made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

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

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

(k) CERTIFICATES REGARDING EXEMPTIONS FROM THE APPLICATION OF THE SERVICE CONTRACT ACT. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The Contracting Officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

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

certify that--

- (i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror 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 those employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this provision applies--

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

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

(1) TAXPAYER IDENTIFICATION NUMBER (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

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

(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 U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

-] Offeror is an agency or instrumentality of a foreign government;
-] Offeror is an agency or instrumentality of a Federal government;

(4) TYPE OF ORGANIZATION.

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

(5) COMMON PARENT.

- Offeror is not owned or controlled by a common parent.
 Name and TIN of common parent:
Name _____
TIN _____

(m) **RESTRICTED BUSINESS OPERATIONS IN SUDAN.** By submission of its offer, the offeror certifies that it does not conduct any restricted business operations in Sudan.

(FAR 52.212-3/I/II)

K1.06 DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (APR 2008)

(a) 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 number or DUNS + 4 that identifies the offeror’s name and address exactly as stated in the offer. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. The DUNS + 4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11) for the same parent concern.

(b) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) Via the Internet at <http://fedgov.dnb.com/webform> or, if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

- (i) Company legal business name.
- (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (iii) Company physical street address, city, state, and Zip Code.
- (iv) Company mailing address, city, state and Zip Code (if separate from physical).
- (v) Company telephone number.
- (vi) Date the company was started.
- (vii) Number of employees at your location.
- (viii) Chief executive officer/key manager.
- (ix) Line of business (industry).
- (x) Company Headquarters name and address (reporting relationship within your entity).

(FAR 52.204-6)

K15 RELEASE OF UNIT PRICES (DESC MAR 2004)

The Defense Energy Support Center (DESC) will continue to release unit prices of successful offerors after the contract award pursuant to 10 U.S.C. 2305(g)(2), FAR 15.506(d)(2) and 32 CFR 286h-3. Unit prices are the bottom-line price per unit of product and may include the total contract price. They 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.

(DESC 52.224-9F25)

K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

_____ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(FAR 52.203-2)

K33.01 AUTHORIZED NEGOTIATORS (DESC 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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(DESC 52.215-9F28)

K45 FACSIMILE INVOICING (COCO/GOCO) (DESC SEP 1988)

(a) Submission of invoices by facsimile (FAX) is authorized when the offeror will utilize this method of invoicing at all times.

(b) Offeror shall indicate whether or not s/he intends to submit invoices via FAX:

[] YES [] NO

(c) See the SUBMISSION OF INVOICES BY FACSIMILE clause for FAX invoicing procedures.

(DESC 52.232-9F05)

K75 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

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

(1) **Foreign person** means any person (including any individual, partnership, corporation, or other form of association) other than a United States person.

(2) **United States** means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) **United States person** is defined in 50 U.S.C. App. 2415(2) and means—

(i) Any United States resident or national (other than an individual resident outside the United States who is employed by other than a United States person);

(ii) Any domestic concern (including any permanent domestic establishment of any foreign concern), and

(iii) Any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern.

(b) **CERTIFICATION.** If the offeror is a foreign person, the offeror certifies by submission of an offer that it--

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

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

(DFARS 252.225-7031)

K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (OCT 2006)

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

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, North Korea, Sudan, and Syria.

(3) **Significant interest**, as used in this provision means--

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each Government.

(DFARS 252.209-7001)

K86 FOREIGN TAXES (DESC JUN 1987)

As stated in the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause, unless the contract provides otherwise, the contract price must include all applicable taxes and duties. In accordance with the TAXES - FOREIGN FIXED-PRICE CONTRACTS clause, the offeror shall list below, in paragraph (a), the specific name and amount of the foreign taxes included in the price. If, when permitted by the contract, foreign taxes 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 taxes in paragraph (b) below.

(a) Foreign taxes included in the contract price are as follows:

<u>NAME OF TAX</u>	<u>AMOUNT</u>
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(b) Foreign taxes invoiced separately are as follows:

<u>NAME OF TAX</u>	<u>AMOUNT</u>
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(DESC 52.229-9F10)

K93 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the TRANSPORTATION OF SUPPLIES BY SEA clause of this solicitation.

(b) **REPRESENTATIONS.**

The offeror represents that it--

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

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

(c) Any contract resulting from this solicitation will include the TRANSPORTATION OF SUPPLIES BY SEA clause. If the offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA.

K94 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (MAY 2008)

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that--
(i) The Offeror and/or any of its Principals--

(A) are,
 are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) 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 public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(C) are,
 are not

presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and

(D) have,
 have not

within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) **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.

(ii) **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.

(2) **Examples.**

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitled 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.

(ii) 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.

(iii) 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.

(iv) 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).

(ii) The Offeror--

[] has,
[] has not

within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) **Principals**, for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)

K96 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2005)

(a) The definitions and prohibitions contained in the clause at FAR 52.203-12, LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989--

(1) 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 awarding of this contract;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) 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 this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(FAR 52.203-11)

SECTION L – INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDERS

L1.02 PROPOSAL ACCEPTANCE PERIOD (DESC NOV 1991)

(a) **Acceptance period**, as used in this provision, means the number of calendar days available to the Government for awarding a contract from the date specified in this solicitation for receipt of proposals.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of _180_ calendar days.

(d) If the offeror specifies an acceptance period which is less than that required by the Government, such offer may be rejected.

(e) The offeror agrees to execute all that it has undertaken to do, in compliance with its offer, if such offer is acceptable to the Government and is accepted within the acceptance period stated in (c) above or within any extension thereof that has been agreed to by the offeror.

(DESC 52.215-9FB1)

L2.01 INSTRUCTIONS TO OFFERORS (RFP) (DESC OCT 1981)

Offerors are expected to examine all sections of the solicitation and the Information to Offerors form. Failure to do so will be at offeror's risk. Each offeror shall furnish the information required by the solicitation. Offers and modifications thereto shall be signed and dated. The name and title of the person authorized to sign the offer is to be printed or typed on the offer. The offer shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. Erasures or other changes must be initialed by the person signing the offer. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(DESC 52.215-9F45)

L2.05-8INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (ALTERNATE I) (JAN 2004/OCT 1997)

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

(1) **Discussions** are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

(2) **In writing, writing, or written** means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

(3) **Proposal modification** is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

(4) **Proposal revision** is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

(5) **Time**, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturday, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) **SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF PROPOSALS.**

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals, and modifications to proposals shall be submitted in paper media in sealed envelopes or packages—

(i) Addressed to the office specified in the solicitation; and

(ii) Showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show—

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the prices set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic address if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals 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.

(3) **Submission, modification, revision, and withdrawal of proposals.**

(i) Offerors are responsible for submitting proposals, and any modifications or revisions, 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 proposal or revision is due.

(ii) (A) Any proposal, modification, or revision 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—

(1) 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 proposals; or

(2) 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

It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(3) It is the only proposal received.

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

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

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals 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.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposal in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, FACSIMILE PROPOSALS. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

- (4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.
- (5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, EVALUATION OF FOREIGN CURRENCY OFFERS, is included in the solicitation.
- (6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.
- (7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.
- (8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) **OFFER EXPIRATION DATE.** Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) **RESTRICTION ON DISCLOSURE AND USE OF DATA.** Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

- (1) Mark the title page with the following legend:

THIS PROPOSAL INCLUDES DATA THAT SHALL NOT BE DISCLOSED OUTSIDE THE GOVERNMENT AND SHALL NOT BE DUPLICATED, USED, OR DISCLOSED – IN WHOLE OR IN PART – FOR ANY PURPOSE OTHER THAN TO EVALUATE THIS PROPOSAL. IF, HOWEVER, A CONTRACT IS AWARDED TO THIS OFFEROR AS A RESULT OF – OR IN CONNECTION WITH – THE SUBMISSION OF THIS DATA, THE GOVERNMENT SHALL HAVE THE RIGHT TO DUPLICATE, USE, OR DISCLOSE THE DATA TO THE EXTENT PROVIDED IN THE RESULTING CONTRACT. THIS RESTRICTION DOES NOT LIMIT THE GOVERNMENT’S RIGHT TO USE INFORMATION CONTAINED IN THIS DATA IF IT IS OBTAINED FROM ANOTHER SOURCE WITHOUT RESTRICTION. THE DATA SUBJECT TO THIS RESTRICTION ARE CONTAINED IN SHEETS (INSERT NUMBERS OR OTHER IDENTIFICATION OF SHEETS); and

- (2) Mark each sheet of data it wishes to restrict with the following legend:

USE OR DISCLOSURE OF DATA CONTAINED ON THIS SHEET IS SUBJECT TO THE RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL.

(f) **CONTRACT AWARD.**

- (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.
- (2) The Government may reject any or all proposals if such action is in the Government’s interest.
- (3) The Government may waive informalities and minor irregularities in proposals received.
- (4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals 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 proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror’s initial proposal should contain the offeror’s best terms from a price and technical standpoint.
- (5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.
- (6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government’s best interest to do so.
- (7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.
- (8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.
- (9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.
- (10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

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

- (i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
- (ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (iv) A summary of the rationale for award.
- (v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (vi) 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.

(FAR 52.215-1/Alternate I)

L2.11-2 FACSIMILE PROPOSALS (OCT 1997)

(a) **DEFINITION. Facsimile proposal**, as used in this provision, means a proposal, revision, or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is (703)767-0766.

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document—

- (1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal;
- (2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and

(3) 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 complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(e) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete original signed proposal.

(FAR 52.215-5)

L2.21 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)

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

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

(FAR 52.252-5)

L2.28 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

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

FAR/DFARS: <http://farsite.hill.af.mil/>
FAR/DFARS: <http://www.arnet.gov/>
DLAD: <http://www.dla.mil/j-3/j-336/>

(FAR 52.252-1)

L5 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 General Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from--

ATTN: DESC-CPA
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN ROAD SUITE 4950
FORT BELVOIR VA 22060-6222

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with GAO.
(FAR 52.233-2)

L5.01-1 AGENCY PROTESTS (APR 2006) - DLAD

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

(DLAD 52.233-9000)

L5.05 DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (JUN 2001) – DLAD

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

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

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

(DLAD 52.233-9001)

L17 AVAILABILITY OF SPECIFICATIONS, STANDARDS, AND DATA ITEM DESCRIPTIONS LISTED IN THE ACQUISITION STREAMLINING AND STANDARDIZATION INFORMATION SYSTEM (ASSIST) (JAN 2006)

(a) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

- (1) ASSIST (<http://assist.daps.dla.mil>).
- (2) Quick Search (<http://assist.daps.dla.mil/quicksearch>).
- (3) ASSISTdocs.com (<http://assistdocs.com>).

by-- (b) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP)

- (1) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);
- (2) Phoning the DoDSSP Customer Service Desk at (215) 697-2179, Monday through Friday, 0730 to 1600 EST; or
- (3) 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
FACSIMILE: (215) 697-1462

(FAR 52.211-2)

L74 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a **firm fixed price** contract resulting from this solicitation.

(FAR 52.216-1)

L87.03 CONDITIONS FOR MULTIYEAR OFFERS (DESC AUG 1998)

- (a) Offerors must submit a price for the total 20-year requirement. If you do not offer on the entire requirement, your bid/proposal will not be considered.
- (b) Offerors are advised that the offered price shall be the same for each year of the multiyear requirement.

(DESC 52.207-9FB5)

L116.01.100 DATA REQUIREMENTS (STORAGE) (DESC APR 2009)

(a) Each proposal shall be accompanied by a map (a city street map is satisfactory) showing the exact location of the facility, a schematic drawing showing the facility layout and its relation to other facilities in the area, a description of equipment to be provided, line systems, pump capacities, and a complete cleaning, maintenance and repair history for each storage tank, to include the last American Petroleum Institute (API) 653 inspection as well as the scheduled date for the next API 653 inspection.

(b) Offeror must verify that certified strapping charts are available for each tank offered and that such charts will be provided upon request.

(c) Offerors are requested to provide, in barrels, the tank bottom for each tank, the pipeline and manifold fill for the facilities offered, and the capacity of the facilities available for receiving ballast water. Offerors are required to provide the maximum safe fill capacity for each tank offered, including a summary of how the maximum safe fill capacity computation was calculated.

(d) If the proposal is based on providing a segregated system in lieu of the preferred dedicated system, offerors must submit a general description of such system including detailed handling procedures that shall be followed to ensure the quality of U.S. Government-owned product. The detailed procedures must include as a minimum (1) the types and grades of all other products moved through any part of the offered segregated system, including a list of the products' specifications, and (2) detailed procedures on how non-Government line fills are to be handled prior to receipt/shipment of Government product, i.e., flush and drain line, etc. The DEFINITIONS (CONT'D) (STORAGE) clause provides definitions of isolated, segregated, dedicated, and common systems.

(e) Offerors are requested to provide the following information in sufficient detail to demonstrate their ability to satisfactorily perform the requirements of the Performance Work Statement:

- (1) Area of Consideration
- (2) Storage Tank Requirements
- (3) Grade of Service

- (4) Physical System Requirements
- (5) Estimated Throughput Requirement
- (6) Product Receiving Requirements
- (7) Product Shipping Requirements
- (8) Berthing and Mooring Requirement
- (9) Additive Injection
- (10) Filtration
- (11) Laboratory Services
- (12) Truck Fill Stand
- (13) Product Quality Surveillance

(DESC 52.215-9F90)

L201.02 INSTRUCTIONS TO OFFERORS (COCO) (DESC MAY 1997)

Offeror shall submit an original and one copy of their proposals, divided into the following sections labeled **Offeror Submission Package** and **Past Performance**:

(a) **Offeror Submission Package.**

(1) Complete all required representations and certifications, and provide proposed prices in the SERVICES TO BE FURNISHED AND PRICES clause.

(2) If any exceptions are to be taken to the terms and conditions of the solicitation, indicate (on a separate sheet) the specific paragraph and submit as part of this Offeror Submission Package. Only exceptions detailed here will be considered exceptions to the requirements of the solicitation.

(b) **Past Performance.**

(1) The offeror shall list all contracts and subcontracts completed in the last three years and those in progress that are related to the proposed contract. These contracts may include efforts undertaken on behalf of private industry, quasi-government organizations, or Federal agencies, including those performed for non-DoD activities. The offeror should include the following information:

- (i) Name and address of contracting activity;
- (ii) Contract number;
- (iii) Contract type and dollar value;
- (iv) Brief description of the work (if the offeror is a large business, include a description of any subcontracting);
- (v) Contracting Officer, Contracting Officer's Representative; Administrative Contracting Officer, and Program Manager (all that are applicable) with telephone numbers; and
- (vi) Significant problem(s) encountered and the corrective action(s) taken.

(DESC 52.215-9F35)

SECTION M – EVALUATION FACTORS FOR AWARD

M2.13.100 EVALUATION OF OFFERS (MULTIYEAR COCO STORAGE) (DESC APR 2009)

(a) All offers will be evaluated on price, past performance and technical capability. Technical capability and past performance are equal in importance. Together the two non-cost factors are more important than price. Award will be made to the offeror who represents the best value combination of technical capability, price and past performance.

(b) **PRICE.** The low multiyear offer will be determined by computing the total cost to the Government for five years (60 months) of service based on the dollar cost/per barrel/per year. This will be accomplished by adding—

- (1) The average monthly service charge offered in Line Item 1001 of the Schedule multiplied by 60
- (2) The price per barrel per year will determined by dividing the total cost obtained above by the fill capacity offered and the result divided by the period of performance years, and
- (3) The estimated five-year (60 month) cost of any additional charges listed under Line Item(s) 1001AA, 1002 and 1003.

(c) **PAST PERFORMANCE.**

(1) The Government will evaluate the offeror's past performance. In doing this, the Government may consider information in the offeror's proposal and information obtained from other sources, including past and present customers and their employees, subcontractors, and any others who may have useful information. Offerors lacking relevant past performance history shall receive a neutral evaluation for past performance.

(2) A record of acceptable past performance will not result in a favorable assessment of an otherwise unacceptable proposal.

(d) **TECHNICAL.**

The Government will evaluate the offeror's demonstrated capability to satisfy the requirements of the Performance Work Statement.

(DESC 52.216-9F50)

M43.02 ADDITIONAL EVALUATION (DESC FEB 1985)

Offers will be evaluated by adding to the total price offered, including options to renew, the cost of moving 2,000,000 barrels of Government-owned petroleum product from the Star Energy Oil Terminaling's, Jebel Ali facility to the offeror's facility.

(DESC 52.217-9F10)

M72.100 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 2009)

(a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.

(b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination that either--

- (1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or
- (2) The exception/deviation is acceptable.

(c) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

(DESC 52.209-9F45)