

SOLICITATION, OFFER AND AWARD			1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 180	
2. CONTRACT NO. W912WJ-14-D-0001		3. SOLICITATION NO. W912WJ-13-R-0003		4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)		5. DATE ISSUED 14 Aug 2013	
7. ISSUED BY U.S. ARMY ENGR DISTRICT, NEW ENGLAND 696 VIRGINIA RD CONCORD MA 01742-2751		CODE W912WJ		8. ADDRESS OFFER TO (If other than Item 7) See Item 7		CODE	
TEL: FAX 978-318-8207				TEL: FAX			

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

SOLICITATION

9. Sealed offers in original and 2 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 Building 1, Contracts Branch until 03:00 PM local time 16 Sep 2013
(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.

10. FOR INFORMATION CALL:	A. NAME KIMBERLY B PUMYEA	B. TELEPHONE (Include area code) (NO COLLECT CALLS) 978/318-8720	C. E-MAIL ADDRESS Kimberly.B.Pumyea@usace.army.mil
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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 60 calendar days (60 calendar days unless a different period is inserted by the offeror) 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.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52.232-8)			
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):		AMENDMENT NO.	DATE
15A. NAME AND ADDRESS OF OFFEROR ESSENCE BOTTLING COMPANY OF TEXAS, INC. DBA ESSENCE BOTTLING 2802 MUNICIPAL DR LUBBOCK TX 79403-2900		CODE 31CS5	FACILITY 31CS5
15B. TELEPHONE NO (Include area code) (806)789-5657		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE. <input type="checkbox"/>	
16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print) Brian Reed, National Sales Manager		17. SIGNATURE <i>Brian Reed</i>	
		18. OFFER DATE 12-19-2013	

AWARD (To be completed by Government)

19. ACCEPTED AS TO ITEMS NUMBERED 001-5016AA		20. AMOUNT Requirements		21. ACCOUNTING AND APPROPRIATION See Schedule	
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 (4 copies unless otherwise specified)		ITEM Section G	
24. ADMINISTERED BY (If other than Item 7) See Item 7		CODE		25. PAYMENT WILL BE MADE BY FINANCE AND ACCOUNTING OFFICER US ARMY CORPS OF ENGRS FINANCE CENTER 5722 INTEGRITY DRIVE MILLINGTON TN 38054-5005 CODE 964145	
26. NAME OF CONTRACTING OFFICER (Type or print) Sheila Winston-Vincuille, Chief, Contracts Division		27. UNITED STATES OF AMERICA <i>Sheila Winston-Vincuille</i> (Signature of Contracting Officer)		28. AWARD DATE 12/20/13	

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

Water ACI - National Contract			
Item No.	Description of Bid Item	Unit Price	Unit
BASE YEAR			
0001	CONUS		
0001AA	Bottled Water	\$ 0.40	LI
0001AB	Unloading	\$ 0.015	LI
0001AC	Mileage	\$ 2.52	MI
0001AD	Standby Time	\$ 75.00	HR
0001AE	Ground Transportation of GFW	\$ 2.52	MI
0001AF	Loading or Unloading of GFW	\$ 0.015	LI
0001AG	Leased Trailer	\$ 200.00	DA
0001AH	Drayage	\$ 1,450.00	DA
0002	ALASKA - FAIRBANKS &		
0002AA	Bottled Water-Ground	\$ 0.52	LI
0002AB	Bottled Water-Air	\$ 2.96	LI
0002AC	Bottled Water-Ocean	\$ 0.67	LI
0002AD	Unloading	\$ 0.02	LI
0002AE	Mileage	\$ 2.55	MI
0002AF	Standby Time	\$ 75.00	HR
0002AG	Ground Transportation of GFW	\$ 2.55	MI
0002AH	Loading or Unloading of GFW	\$ 0.02	LI
0002AJ	Leased Trailer	\$ 200.00	DA
0002AK	Drayage	\$ 1,450.00	DA
0003	ALASKA - JUNEAU		
0003AA	Bottled Water-Ground	\$ 0.52	LI
0003AB	Bottled Water-Air	\$ 2.96	LI
0003AC	Bottled Water-Ocean	\$ 0.67	LI
0003AD	Unloading	\$ 0.02	LI
0003AE	Mileage	\$ 2.55	MI
0003AF	Standby Time	\$ 75.00	HR
0003AG	Ground Transportation of GFW	\$ 2.55	MI
0003AH	Loading or Unloading of GFW	\$ 0.02	LI
0003AJ	Leased Trailer	\$ 200.00	DA
0003AK	Drayage	\$ 1,450.00	DA
0004	HAWAII - OAHU & MAUI		
0004AA	Bottled Water-Ground	\$ 0.59	LI
0004AB	Bottled Water-Air	\$ 3.50	LI
0004AC	Bottled Water-Ocean	\$ 0.60	LI
0004AD	Unloading	\$ 0.02	LI
0004AE	Mileage	\$ 2.85	MI
0004AF	Standby Time	\$ 75.00	HR
0004AG	Ground Transportation of GFW	\$ 2.85	MI
0004AH	Loading or Unloading of GFW	\$ 0.02	LI
0004AJ	Leased Trailer	\$ 200.00	DA
0004AK	Drayage	\$ 1,450.00	DA
0005	HAWAII - KAUAI		
0005AA	Bottled Water-Ground	\$ 0.59	LI
0005AB	Bottled Water-Air	\$ 3.50	LI
0005AC	Bottled Water-Ocean	\$ 0.60	LI
0005AD	Unloading	\$ 0.02	LI
0005AE	Mileage	\$ 2.85	MI
0005AF	Standby Time	\$ 75.00	HR

0005AG	Ground Transportation of GFW	\$ 2.85	MI
0005AH	Loading or Unloading of GFW	\$ 0.02	LI
0005AJ	Leased Trailer	\$ 200.00	DA
0005AK	Drayage	\$ 1,450.00	DA
0006	GUAM		
0006AA	Bottled Water-Ground	\$ 0.70	LI
0006AB	Bottled Water-Air	\$ 7.30	LI
0006AC	Bottled Water-Ocean	\$ 0.60	LI
0006AD	Unloading	\$ 0.02	LI
0006AE	Mileage	\$ 5.85	MI
0006AF	Standby Time	\$ 75.00	HR
0006AG	Ground Transportation of GFW	\$ 5.85	MI
0006AH	Loading or Unloading of GFW	\$ 0.02	LI
0006AJ	Leased Trailer	\$ 200.00	DA
0006AK	Drayage	\$ 1,450.00	DA
0007	PUERTO RICO		
0007AA	Bottled Water-Ground	\$ 0.60	LI
0007AB	Bottled Water-Air	\$ 3.30	LI
0007AC	Bottled Water-Ocean	\$ 0.75	LI
0007AD	Unloading	\$ 0.02	LI
0007AE	Mileage	\$ 5.85	MI
0007AF	Standby Time	\$ 75.00	HR
0007AG	Ground Transportation of GFW	\$ 5.85	MI
0007AH	Loading or Unloading of GFW	\$ 0.02	LI
0007AJ	Leased Trailer	\$ 200.00	DA
0007AK	Drayage	\$ 1,450.00	DA
0008	US VIRGIN ISLANDS		
0008AA	Bottled Water-Ground	\$ 0.82	LI
0008AB	Bottled Water-Air	\$ 3.50	LI
0008AC	Bottled Water-Ocean	\$ 0.77	LI
0008AD	Unloading	\$ 0.02	LI
0008AE	Mileage	\$ 5.85	MI
0008AF	Standby Time	\$ 75.00	HR
0008AG	Ground Transportation of GFW	\$ 5.85	MI
0008AH	Loading or Unloading of GFW	\$ 0.02	LI
0008AJ	Leased Trailer	\$ 200.00	DA
0008AK	Drayage	\$ 1,450.00	DA
0009	NORTHERN MARIANA ISLANDS -		
0009AA	Bottled Water-Ground	\$ 0.75	LI
0009AB	Bottled Water-Air	\$ 7.85	LI
0009AC	Bottled Water-Ocean	\$ 0.75	LI
0009AD	Unloading	\$ 0.02	LI
0009AE	Mileage	\$ 5.85	MI
0009AF	Standby Time	\$ 75.00	HR
0009AG	Ground Transportation of GFW	\$ 5.85	MI
0009AH	Loading or Unloading of GFW	\$ 0.02	LI
0009AJ	Leased Trailer	\$ 200.00	DA
0009AK	Drayage	\$ 1,450.00	DA
0010	AMERICAN SAMOA - PAGO PAGO &		
0010AA	Bottled Water-Ground	\$ 0.90	LI
0010AB	Bottled Water-Air	\$ 7.25	LI
0010AC	Bottled Water-Ocean	\$ 0.90	LI
0010AD	Unloading	\$ 0.02	LI
0010AE	Mileage	\$ 5.80	MI

0010AF	Standby Time	\$ 75.00	HR
0010AG	Ground Transportation of GFW	\$ 5.85	MI
0010AH	Loading or Unloading of GFW	\$ 0.02	LI
0010AJ	Leased Trailer	\$ 200.00	DA
0010AK	Drayage	\$ 1,450.00	DA
0011	FEDERATED STATES OF		
0011AA	Bottled Water-Ground	\$ 1.10	LI
0011AB	Bottled Water-Air	\$ 8.60	LI
0011AC	Bottled Water-Ocean	\$ 1.10	LI
0011AD	Unloading	\$ 0.02	LI
0011AE	Mileage	\$ 5.85	MI
0011AF	Standby Time	\$ 75.00	HR
0011AG	Ground Transportation of GFW	\$ 5.85	MI
0011AH	Loading or Unloading of GFW	\$ 0.02	LI
0011AJ	Leased Trailer	\$ 200.00	DA
0011AK	Drayage	\$ 1,450.00	DA
0012	REPUBLIC OF THE MARSHALL		
0012AA	Bottled Water-Ground	\$ 1.10	LI
0012AB	Bottled Water-Air	\$ 8.60	LI
0012AC	Bottled Water-Ocean	\$ 1.10	LI
0012AD	Unloading	\$ 0.02	LI
0012AE	Mileage	\$ 5.85	MI
0012AF	Standby Time	\$ 75.00	HR
0012AG	Ground Transportation of GFW	\$ 5.85	MI
0012AH	Loading or Unloading of GFW	\$ 0.02	LI
0012AJ	Leased Trailer	\$ 200.00	DA
0012AK	Drayage	\$ 1,450.00	DA
0013	Restocking of FEMA TLC		
0013AA	- CONUS	\$ 0.40	LI
0013AB	- HAWAII	\$ 0.40	LI
0013AC	- GUAM	\$ 0.45	LI
0013AD	- PUERTO RICO	\$ 0.40	LI
0014	Contractor Managed Storage -		
0014AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
0014AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
0014AC	Contractor Managed Storage - Region	\$ 0.41	LI
0015	Contractor Managed Storage -		
0015AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
0015AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
0015AC	Contractor Managed Storage - Region	\$ 0.41	LI
0016	Restocking of Contractor Managed		
0016AA	Restocking of Contractor Managed	\$ 0.41	LI
	OPTION YEAR 1		
2001	CONUS		
2001AA	Bottled Water	\$ 0.40	LI
2001AB	Unloading	\$ 0.015	LI
2001AC	Mileage	\$ 2.52	MI
2001AD	Standby Time	\$ 75.00	HR
2001AE	Ground Transportation of GFW	\$ 2.52	MI
2001AF	Loading or Unloading of GFW	\$ 0.015	LI
2001AG	Leased Trailer	\$ 200.00	DA

2001AH	Drayage	\$ 1,450.00	DA
2002	ALASKA - FAIRBANKS &		
2002AA	Bottled Water-Ground	\$ 0.52	LI
2002AB	Bottled Water-Air	\$ 2.96	LI
2002AC	Bottled Water-Ocean	\$ 0.67	LI
2002AD	Unloading	\$ 0.02	LI
2002AE	Mileage	\$ 2.55	MI
2002AF	Standby Time	\$ 75.00	HR
2002AG	Ground Transportation of GFW	\$ 2.55	MI
2002AH	Loading or Unloading of GFW	\$ 0.02	LI
2002AJ	Leased Trailer	\$ 200.00	DA
2002AK	Drayage	\$ 1,450.00	DA
2003	ALASKA - JUNEAU		
2003AA	Bottled Water-Ground	\$ 0.52	LI
2003AB	Bottled Water-Air	\$ 2.96	LI
2003AC	Bottled Water-Ocean	\$ 0.67	LI
2003AD	Unloading	\$ 0.02	LI
2003AE	Mileage	\$ 2.55	MI
2003AF	Standby Time	\$ 75.00	HR
2003AG	Ground Transportation of GFW	\$ 2.55	MI
2003AH	Loading or Unloading of GFW	\$ 0.02	LI
2003AJ	Leased Trailer	\$ 200.00	DA
2003AK	Drayage	\$ 1,450.00	DA
2004	HAWAII - OAHU & MAUI		
2004AA	Bottled Water-Ground	\$ 0.59	LI
2004AB	Bottled Water-Air	\$ 3.50	LI
2004AC	Bottled Water-Ocean	\$ 0.60	LI
2004AD	Unloading	\$ 0.02	LI
2004AE	Mileage	\$ 2.85	MI
2004AF	Standby Time	\$ 75.00	HR
2004AG	Ground Transportation of GFW	\$ 2.85	MI
2004AH	Loading or Unloading of GFW	\$ 0.02	LI
2004AJ	Leased Trailer	\$ 200.00	DA
2004AK	Drayage	\$ 1,450.00	DA
2005	HAWAII - KAUAI		
2005AA	Bottled Water-Ground	\$ 0.59	LI
2005AB	Bottled Water-Air	\$ 3.50	LI
2005AC	Bottled Water-Ocean	\$ 0.60	LI
2005AD	Unloading	\$ 0.02	LI
2005AE	Mileage	\$ 2.85	MI
2005AF	Standby Time	\$ 75.00	HR
2005AG	Ground Transportation of GFW	\$ 2.85	MI
2005AH	Loading or Unloading of GFW	\$ 0.02	LI
2005AJ	Leased Trailer	\$ 200.00	DA
2005AK	Drayage	\$ 1,450.00	DA
2006	GUAM		
2006AA	Bottled Water-Ground	\$ 0.70	LI
2006AB	Bottled Water-Air	\$ 7.30	LI
2006AC	Bottled Water-Ocean	\$ 0.60	LI
2006AD	Unloading	\$ 0.02	LI
2006AE	Mileage	\$ 5.85	MI
2006AF	Standby Time	\$ 75.00	HR
2006AG	Ground Transportation of GFW	\$ 5.85	MI
2006AH	Loading or Unloading of GFW	\$ 0.02	LI

2006AJ	Leased Trailer	\$ 200.00	DA
2006AK	Drayage	\$ 1,450.00	DA
2007	PUERTO RICO		
2007AA	Bottled Water-Ground	\$ 0.60	LI
2007AB	Bottled Water-Air	\$ 3.30	LI
2007AC	Bottled Water-Ocean	\$ 0.75	LI
2007AD	Unloading	\$ 0.02	LI
2007AE	Mileage	\$ 5.85	MI
2007AF	Standby Time	\$ 75.00	HR
2007AG	Ground Transportation of GFW	\$ 5.85	MI
2007AH	Loading or Unloading of GFW	\$ 0.02	LI
2007AJ	Leased Trailer	\$ 200.00	DA
2007AK	Drayage	\$ 1,450.00	DA
2008	US VIRGIN ISLANDS		
2008AA	Bottled Water-Ground	\$ 0.82	LI
2008AB	Bottled Water-Air	\$ 3.50	LI
2008AC	Bottled Water-Ocean	\$ 0.77	LI
2008AD	Unloading	\$ 0.02	LI
2008AE	Mileage	\$ 5.85	MI
2008AF	Standby Time	\$ 75.00	HR
2008AG	Ground Transportation of GFW	\$ 5.85	MI
2008AH	Loading or Unloading of GFW	\$ 0.02	LI
2008AJ	Leased Trailer	\$ 200.00	DA
2008AK	Drayage	\$ 1,450.00	DA
2009	NORTHERN MARIANA ISLANDS -		
2009AA	Bottled Water-Ground	\$ 0.75	LI
2009AB	Bottled Water-Air	\$ 7.85	LI
2009AC	Bottled Water-Ocean	\$ 0.75	LI
2009AD	Unloading	\$ 0.02	LI
2009AE	Mileage	\$ 5.85	MI
2009AF	Standby Time	\$ 75.00	HR
2009AG	Ground Transportation of GFW	\$ 5.85	MI
2009AH	Loading or Unloading of GFW	\$ 0.02	LI
2009AJ	Leased Trailer	\$ 200.00	DA
2009AK	Drayage	\$ 1,450.00	DA
2010	AMERICAN SAMOA - PAGO PAGO &		
2010AA	Bottled Water-Ground	\$ 0.90	LI
2010AB	Bottled Water-Air	\$ 7.25	LI
2010AC	Bottled Water-Ocean	\$ 0.90	LI
2010AD	Unloading	\$ 0.02	LI
2010AE	Mileage	\$ 5.80	MI
2010AF	Standby Time	\$ 75.00	HR
2010AG	Ground Transportation of GFW	\$ 5.85	MI
2010AH	Loading or Unloading of GFW	\$ 0.02	LI
2010AJ	Leased Trailer	\$ 200.00	DA
2010AK	Drayage	\$ 1,450.00	DA
2011	FEDERATED STATES OF		
2011AA	Bottled Water-Ground	\$ 1.10	LI
2011AB	Bottled Water-Air	\$ 8.60	LI
2011AC	Bottled Water-Ocean	\$ 1.10	LI
2011AD	Unloading	\$ 0.02	LI
2011AE	Mileage	\$ 5.85	MI
2011AF	Standby Time	\$ 75.00	HR
2011AG	Ground Transportation of GFW	\$ 5.85	MI

2011AH	Loading or Unloading of GFW	\$ 0.02	LI
2011AJ	Leased Trailer	\$ 200.00	DA
2011AK	Drayage	\$ 1,450.00	DA
2012	REPUBLIC OF THE MARSHALL		
2012AA	Bottled Water-Ground	\$ 1.10	LI
2012AB	Bottled Water-Air	\$ 8.60	LI
2012AC	Bottled Water-Ocean	\$ 1.10	LI
2012AD	Unloading	\$ 0.02	LI
2012AE	Mileage	\$ 5.85	MI
2012AF	Standby Time	\$ 75.00	HR
2012AG	Ground Transportation of GFW	\$ 5.85	MI
2012AH	Loading or Unloading of GFW	\$ 0.02	LI
2012AJ	Leased Trailer	\$ 200.00	DA
2012AK	Drayage	\$ 1,450.00	DA
2013	Restocking of FEMA TLC		
2013AA	- CONUS	\$ 0.40	LI
2013AB	- HAWAII	\$ 0.40	LI
2013AC	- GUAM	\$ 0.45	LI
2013AD	- PUERTO RICO	\$ 0.40	LI
2014	Contractor Managed Storage -		
2014AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
2014AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
2014AC	Contractor Managed Storage - Region	\$ 0.41	LI
2015	Contractor Managed Storage -		
2015AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
2015AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
2015AC	Contractor Managed Storage - Region	\$ 0.41	LI
2016	Restocking of Contractor Managed		
2016AA	Restocking of Contractor Managed	\$ 0.41	LI
	OPTION YEAR 2		
3001	CONUS		
3001AA	Bottled Water	\$ 0.40	LI
3001AB	Unloading	\$ 0.015	LI
3001AC	Mileage	\$ 2.52	MI
3001AD	Standby Time	\$ 75.00	HR
3001AE	Ground Transportation of GFW	\$ 2.52	MI
3001AF	Loading or Unloading of GFW	\$ 0.015	LI
3001AG	Leased Trailer	\$ 200.00	DA
3001AH	Drayage	\$ 1,450.00	DA
3002	ALASKA - FAIRBANKS &		
3002AA	Bottled Water-Ground	\$ 0.52	LI
3002AB	Bottled Water-Air	\$ 2.96	LI
3002AC	Bottled Water-Ocean	\$ 0.67	LI
3002AD	Unloading	\$ 0.02	LI
3002AE	Mileage	\$ 2.55	MI
3002AF	Standby Time	\$ 75.00	HR
3002AG	Ground Transportation of GFW	\$ 2.55	MI
3002AH	Loading or Unloading of GFW	\$ 0.02	LI
3002AJ	Leased Trailer	\$ 200.00	DA
3002AK	Drayage	\$ 1,450.00	DA

3003	ALASKA - JUNEAU		
3003AA	Bottled Water-Ground	\$ 0.52	LI
3003AB	Bottled Water-Air	\$ 2.96	LI
3003AC	Bottled Water-Ocean	\$ 0.67	LI
3003AD	Unloading	\$ 0.02	LI
3003AE	Mileage	\$ 2.55	MI
3003AF	Standby Time	\$ 75.00	HR
3003AG	Ground Transportation of GFW	\$ 2.55	MI
3003AH	Loading or Unloading of GFW	\$ 0.02	LI
3003AJ	Leased Trailer	\$ 200.00	DA
3003AK	Drayage	\$ 1,450.00	DA
3004	HAWAII - OAHU & MAUI		
3004AA	Bottled Water-Ground	\$ 0.59	LI
3004AB	Bottled Water-Air	\$ 3.50	LI
3004AC	Bottled Water-Ocean	\$ 0.60	LI
3004AD	Unloading	\$ 0.02	LI
3004AE	Mileage	\$ 2.85	MI
3004AF	Standby Time	\$ 75.00	HR
3004AG	Ground Transportation of GFW	\$ 2.85	MI
3004AH	Loading or Unloading of GFW	\$ 0.02	LI
3004AJ	Leased Trailer	\$ 200.00	DA
3004AK	Drayage	\$ 1,450.00	DA
3005	HAWAII - KAUAI		
3005AA	Bottled Water-Ground	\$ 0.59	LI
3005AB	Bottled Water-Air	\$ 3.50	LI
3005AC	Bottled Water-Ocean	\$ 0.60	LI
3005AD	Unloading	\$ 0.02	LI
3005AE	Mileage	\$ 2.85	MI
3005AF	Standby Time	\$ 75.00	HR
3005AG	Ground Transportation of GFW	\$ 2.85	MI
3005AH	Loading or Unloading of GFW	\$ 0.02	LI
3005AJ	Leased Trailer	\$ 200.00	DA
3005AK	Drayage	\$ 1,450.00	DA
3006	GUAM		
3006AA	Bottled Water-Ground	\$ 0.70	LI
3006AB	Bottled Water-Air	\$ 7.30	LI
3006AC	Bottled Water-Ocean	\$ 0.60	LI
3006AD	Unloading	\$ 0.02	LI
3006AE	Mileage	\$ 5.85	MI
3006AF	Standby Time	\$ 75.00	HR
3006AG	Ground Transportation of GFW	\$ 5.85	MI
3006AH	Loading or Unloading of GFW	\$ 0.02	LI
3006AJ	Leased Trailer	\$ 200.00	DA
3006AK	Drayage	\$ 1,450.00	DA
3007	PUERTO RICO		
3007AA	Bottled Water-Ground	\$ 0.60	LI
3007AB	Bottled Water-Air	\$ 3.30	LI
3007AC	Bottled Water-Ocean	\$ 0.75	LI
3007AD	Unloading	\$ 0.02	LI
3007AE	Mileage	\$ 5.85	MI
3007AF	Standby Time	\$ 75.00	HR
3007AG	Ground Transportation of GFW	\$ 5.85	MI
3007AH	Loading or Unloading of GFW	\$ 0.02	LI
3007AJ	Leased Trailer	\$ 200.00	DA
3007AK	Drayage	\$ 1,450.00	DA

3008	US VIRGIN ISLANDS		
3008AA	Bottled Water-Ground	\$ 0.82	LI
3008AB	Bottled Water-Air	\$ 3.50	LI
3008AC	Bottled Water-Ocean	\$ 0.77	LI
3008AD	Unloading	\$ 0.02	LI
3008AE	Mileage	\$ 5.85	MI
3008AF	Standby Time	\$ 75.00	HR
3008AG	Ground Transportation of GFW	\$ 5.85	MI
3008AH	Loading or Unloading of GFW	\$ 0.02	LI
3008AJ	Leased Trailer	\$ 200.00	DA
3008AK	Drayage	\$ 1,450.00	DA
3009	NORTHERN MARIANA ISLANDS -		
3009AA	Bottled Water-Ground	\$ 0.75	LI
3009AB	Bottled Water-Air	\$ 7.85	LI
3009AC	Bottled Water-Ocean	\$ 0.75	LI
3009AD	Unloading	\$ 0.02	LI
3009AE	Mileage	\$ 5.85	MI
3009AF	Standby Time	\$ 75.00	HR
3009AG	Ground Transportation of GFW	\$ 5.85	MI
3009AH	Loading or Unloading of GFW	\$ 0.02	LI
3009AJ	Leased Trailer	\$ 200.00	DA
3009AK	Drayage	\$ 1,450.00	DA
3010	AMERICAN SAMOA - PAGO PAGO &		
3010AA	Bottled Water-Ground	\$ 0.90	LI
3010AB	Bottled Water-Air	\$ 7.25	LI
3010AC	Bottled Water-Ocean	\$ 0.90	LI
3010AD	Unloading	\$ 0.02	LI
3010AE	Mileage	\$ 5.80	MI
3010AF	Standby Time	\$ 75.00	HR
3010AG	Ground Transportation of GFW	\$ 5.85	MI
3010AH	Loading or Unloading of GFW	\$ 0.02	LI
3010AJ	Leased Trailer	\$ 200.00	DA
3010AK	Drayage	\$ 1,450.00	DA
3011	FEDERATED STATES OF		
3011AA	Bottled Water-Ground	\$ 1.10	LI
3011AB	Bottled Water-Air	\$ 8.60	LI
3011AC	Bottled Water-Ocean	\$ 1.10	LI
3011AD	Unloading	\$ 0.02	LI
3011AE	Mileage	\$ 5.85	MI
3011AF	Standby Time	\$ 75.00	HR
3011AG	Ground Transportation of GFW	\$ 5.85	MI
3011AH	Loading or Unloading of GFW	\$ 0.02	LI
3011AJ	Leased Trailer	\$ 200.00	DA
3011AK	Drayage	\$ 1,450.00	DA
3012	REPUBLIC OF THE MARSHALL		
3012AA	Bottled Water-Ground	\$ 1.10	LI
3012AB	Bottled Water-Air	\$ 8.60	LI
3012AC	Bottled Water-Ocean	\$ 1.10	LI
3012AD	Unloading	\$ 0.02	LI
3012AE	Mileage	\$ 5.85	MI
3012AF	Standby Time	\$ 75.00	HR
3012AG	Ground Transportation of GFW	\$ 5.85	MI
3012AH	Loading or Unloading of GFW	\$ 0.02	LI
3012AJ	Leased Trailer	\$ 200.00	DA

3012AK	Drayage	\$ 1,450.00	DA
3013	Restocking of FEMA TLC		
3013AA	- CONUS	\$ 0.40	LI
3013AB	- HAWAII	\$ 0.40	LI
2013AC	- GUAM	\$ 0.45	LI
2013AD	- PUERTO RICO	\$ 0.40	LI
3014	Contractor Managed Storage -		
3014AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
3014AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
3014AC	Contractor Managed Storage - Region	\$ 0.41	LI
3015	Contractor Managed Storage -		
3015AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
3015AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
3015AC	Contractor Managed Storage - Region	\$ 0.41	LI
3016	Restocking of Contractor Managed		
3016AA	Restocking of Contractor Managed	\$ 0.41	LI
	OPTION YEAR 3		
4001	CONUS		
4001AA	Bottled Water	\$ 0.40	LI
4001AB	Unloading	\$ 0.015	LI
4001AC	Mileage	\$ 2.52	MI
4001AD	Standby Time	\$ 75.00	HR
4001AE	Ground Transportation of GFW	\$ 2.52	MI
4001AF	Loading or Unloading of GFW	\$ 0.015	LI
4001AG	Leased Trailer	\$ 200.00	DA
4001AH	Drayage	\$ 1,450.00	DA
4002	ALASKA - FAIRBANKS &		
4002AA	Bottled Water-Ground	\$ 0.52	LI
4002AB	Bottled Water-Air	\$ 2.96	LI
4002AC	Bottled Water-Ocean	\$ 0.67	LI
4002AD	Unloading	\$ 0.02	LI
4002AE	Mileage	\$ 2.55	MI
4002AF	Standby Time	\$ 75.00	HR
4002AG	Ground Transportation of GFW	\$ 2.55	MI
4002AH	Loading or Unloading of GFW	\$ 0.02	LI
4002AJ	Leased Trailer	\$ 200.00	DA
4002AK	Drayage	\$ 1,450.00	DA
4003	ALASKA - JUNEAU		
4003AA	Bottled Water-Ground	\$ 0.52	LI
4003AB	Bottled Water-Air	\$ 2.96	LI
4003AC	Bottled Water-Ocean	\$ 0.67	LI
4003AD	Unloading	\$ 0.02	LI
4003AE	Mileage	\$ 2.55	MI
4003AF	Standby Time	\$ 75.00	HR
4003AG	Ground Transportation of GFW	\$ 2.55	MI
4003AH	Loading or Unloading of GFW	\$ 0.02	LI
4003AJ	Leased Trailer	\$ 200.00	DA
4003AK	Drayage	\$ 1,450.00	DA
4004	HAWAII - OAHU & MAUI		
4004AA	Bottled Water-Ground	\$ 0.59	LI
4004AB	Bottled Water-Air	\$ 3.50	LI

4004AC	Bottled Water-Ocean	\$ 0.60	LI
4004AD	Unloading	\$ 0.02	LI
4004AE	Mileage	\$ 2.85	MI
4004AF	Standby Time	\$ 75.00	HR
4004AG	Ground Transportation of GFW	\$ 2.85	MI
4004AH	Loading or Unloading of GFW	\$ 0.02	LI
4004AJ	Leased Trailer	\$ 200.00	DA
4004AK	Drayage	\$ 1,450.00	DA
4005	HAWAII - KAUAI		
4005AA	Bottled Water-Ground	\$ 0.59	LI
4005AB	Bottled Water-Air	\$ 3.50	LI
4005AC	Bottled Water-Ocean	\$ 0.60	LI
4005AD	Unloading	\$ 0.02	LI
4005AE	Mileage	\$ 2.85	MI
4005AF	Standby Time	\$ 75.00	HR
4005AG	Ground Transportation of GFW	\$ 2.85	MI
4005AH	Loading or Unloading of GFW	\$ 0.02	LI
4005AJ	Leased Trailer	\$ 200.00	DA
4005AK	Drayage	\$ 1,450.00	DA
4006	GUAM		
4006AA	Bottled Water-Ground	\$ 0.70	LI
4006AB	Bottled Water-Air	\$ 7.30	LI
4006AC	Bottled Water-Ocean	\$ 0.60	LI
4006AD	Unloading	\$ 0.02	LI
4006AE	Mileage	\$ 5.85	MI
4006AF	Standby Time	\$ 75.00	HR
4006AG	Ground Transportation of GFW	\$ 5.85	MI
4006AH	Loading or Unloading of GFW	\$ 0.02	LI
4006AJ	Leased Trailer	\$ 200.00	DA
4006AK	Drayage	\$ 1,450.00	DA
4007	PUERTO RICO		
4007AA	Bottled Water-Ground	\$ 0.60	LI
4007AB	Bottled Water-Air	\$ 3.30	LI
4007AC	Bottled Water-Ocean	\$ 0.75	LI
4007AD	Unloading	\$ 0.02	LI
4007AE	Mileage	\$ 5.85	MI
4007AF	Standby Time	\$ 75.00	HR
4007AG	Ground Transportation of GFW	\$ 5.85	MI
4007AH	Loading or Unloading of GFW	\$ 0.02	LI
4007AJ	Leased Trailer	\$ 200.00	DA
4007AK	Drayage	\$ 1,450.00	DA
4008	US VIRGIN ISLANDS		
4008AA	Bottled Water-Ground	\$ 0.82	LI
4008AB	Bottled Water-Air	\$ 3.50	LI
4008AC	Bottled Water-Ocean	\$ 0.77	LI
4008AD	Unloading	\$ 0.02	LI
4008AE	Mileage	\$ 5.85	MI
4008AF	Standby Time	\$ 75.00	HR
4008AG	Ground Transportation of GFW	\$ 5.85	MI
4008AH	Loading or Unloading of GFW	\$ 0.02	LI
4008AJ	Leased Trailer	\$ 200.00	DA
4008AK	Drayage	\$ 1,450.00	DA
4009	NORTHERN MARIANA ISLANDS -		
4009AA	Bottled Water-Ground	\$ 0.75	LI

4009AB	Bottled Water-Air	\$ 7.85	LI
4009AC	Bottled Water-Ocean	\$ 0.75	LI
4009AD	Unloading	\$ 0.02	LI
4009AE	Mileage	\$ 5.85	MI
4009AF	Standby Time	\$ 75.00	HR
4009AG	Ground Transportation of GFW	\$ 5.85	MI
4009AH	Loading or Unloading of GFW	\$ 0.02	LI
4009AJ	Leased Trailer	\$ 200.00	DA
4009AK	Drayage	\$ 1,450.00	DA
4010	AMERICAN SAMOA - PAGO PAGO &		
4010AA	Bottled Water-Ground	\$ 0.90	LI
4010AB	Bottled Water-Air	\$ 7.25	LI
4010AC	Bottled Water-Ocean	\$ 0.90	LI
4010AD	Unloading	\$ 0.02	LI
4010AE	Mileage	\$ 5.80	MI
4010AF	Standby Time	\$ 75.00	HR
4010AG	Ground Transportation of GFW	\$ 5.85	MI
4010AH	Loading or Unloading of GFW	\$ 0.02	LI
4010AJ	Leased Trailer	\$ 200.00	DA
4010AK	Drayage	\$ 1,450.00	DA
40011	FEDERATED STATES OF		
4011AA	Bottled Water-Ground	\$ 1.10	LI
4011AB	Bottled Water-Air	\$ 8.60	LI
4011AC	Bottled Water-Ocean	\$ 1.10	LI
4011AD	Unloading	\$ 0.02	LI
4011AE	Mileage	\$ 5.85	MI
4011AF	Standby Time	\$ 75.00	HR
4011AG	Ground Transportation of GFW	\$ 5.85	MI
4011AH	Loading or Unloading of GFW	\$ 0.02	LI
4011AJ	Leased Trailer	\$ 200.00	DA
4011AK	Drayage	\$ 1,450.00	DA
4012	REPUBLIC OF THE MARSHALL		
4012AA	Bottled Water-Ground	\$ 1.10	LI
4012AB	Bottled Water-Air	\$ 8.60	LI
4012AC	Bottled Water-Ocean	\$ 1.10	LI
4012AD	Unloading	\$ 0.02	LI
4012AE	Mileage	\$ 5.85	MI
4012AF	Standby Time	\$ 75.00	HR
4012AG	Ground Transportation of GFW	\$ 5.85	MI
4012AH	Loading or Unloading of GFW	\$ 0.02	LI
4012AJ	Leased Trailer	\$ 200.00	DA
4012AK	Drayage	\$ 1,450.00	DA
4013	Restocking of FEMA TLC		
4013AA	- CONUS	\$ 0.40	LI
4013AB	- HAWAII	\$ 0.40	LI
4013AC	- GUAM	\$ 0.45	LI
4013AD	- PUERTO RICO	\$ 0.40	LI
4014	Contractor Managed Storage -		
4014AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
4014AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
4014AC	Contractor Managed Storage - Region	\$ 0.41	LI
4015	Contractor Managed Storage -		
4015AA	Contractor Managed Storage - Region	\$ 369,000.00	LS

4015AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
4015AC	Contractor Managed Storage - Region	\$ 0.41	LI
4016	Restocking of Contractor Managed		
4016AA	Restocking of Contractor Managed	\$ 0.41	LI
	OPTION YEAR 4		
5001	CONUS		
5001AA	Bottled Water	\$ 0.40	LI
5001AB	Unloading	\$ 0.015	LI
5001AC	Mileage	\$ 2.52	MI
5001AD	Standby Time	\$ 75.00	HR
5001AE	Ground Transportation of GFW	\$ 2.52	MI
5001AF	Loading or Unloading of GFW	\$ 0.015	LI
5001AG	Leased Trailer	\$ 200.00	DA
5001AH	Drayage	\$ 1,450.00	DA
5002	ALASKA - FAIRBANKS &		
5002AA	Bottled Water-Ground	\$ 0.52	LI
5002AB	Bottled Water-Air	\$ 2.96	LI
5002AC	Bottled Water-Ocean	\$ 0.67	LI
5002AD	Unloading	\$ 0.02	LI
5002AE	Mileage	\$ 2.55	MI
5002AF	Standby Time	\$ 75.00	HR
5002AG	Ground Transportation of GFW	\$ 2.55	MI
5002AH	Loading or Unloading of GFW	\$ 0.02	LI
5002AJ	Leased Trailer	\$ 200.00	DA
5002AK	Drayage	\$ 1,450.00	DA
5003	ALASKA - JUNEAU		
5003AA	Bottled Water-Ground	\$ 0.52	LI
5003AB	Bottled Water-Air	\$ 2.96	LI
5003AC	Bottled Water-Ocean	\$ 0.67	LI
5003AD	Unloading	\$ 0.02	LI
5003AE	Mileage	\$ 2.55	MI
5003AF	Standby Time	\$ 75.00	HR
5003AG	Ground Transportation of GFW	\$ 2.55	MI
5003AH	Loading or Unloading of GFW	\$ 0.02	LI
5003AJ	Leased Trailer	\$ 200.00	DA
5003AK	Drayage	\$ 1,450.00	DA
5004	HAWAII - OAHU & MAUI		
5004AA	Bottled Water-Ground	\$ 0.59	LI
5004AB	Bottled Water-Air	\$ 3.50	LI
5004AC	Bottled Water-Ocean	\$ 0.60	LI
5004AD	Unloading	\$ 0.02	LI
5004AE	Mileage	\$ 2.85	MI
5004AF	Standby Time	\$ 75.00	HR
5004AG	Ground Transportation of GFW	\$ 2.85	MI
5004AH	Loading or Unloading of GFW	\$ 0.02	LI
5004AJ	Leased Trailer	\$ 200.00	DA
5004AK	Drayage	\$ 1,450.00	DA
5005	HAWAII - KAUAI		
5005AA	Bottled Water-Ground	\$ 0.59	LI
5005AB	Bottled Water-Air	\$ 3.50	LI
5005AC	Bottled Water-Ocean	\$ 0.60	LI
5005AD	Unloading	\$ 0.02	LI
5005AE	Mileage	\$ 2.85	MI

5005AF	Standby Time	\$ 75.00	HR
5005AG	Ground Transportation of GFW	\$ 2.85	MI
5005AH	Loading or Unloading of GFW	\$ 0.02	LI
5005AJ	Leased Trailer	\$ 200.00	DA
5005AK	Drayage	\$ 1,450.00	DA
5006	GUAM		
5006AA	Bottled Water-Ground	\$ 0.70	LI
5006AB	Bottled Water-Air	\$ 7.30	LI
5006AC	Bottled Water-Ocean	\$ 0.60	LI
5006AD	Unloading	\$ 0.02	LI
5006AE	Mileage	\$ 5.85	MI
5006AF	Standby Time	\$ 75.00	HR
5006AG	Ground Transportation of GFW	\$ 5.85	MI
5006AH	Loading or Unloading of GFW	\$ 0.02	LI
5006AJ	Leased Trailer	\$ 200.00	DA
5006AK	Drayage	\$ 1,450.00	DA
5007	PUERTO RICO		
5007AA	Bottled Water-Ground	\$ 0.60	LI
5007AB	Bottled Water-Air	\$ 3.30	LI
5007AC	Bottled Water-Ocean	\$ 0.75	LI
5007AD	Unloading	\$ 0.02	LI
5007AE	Mileage	\$ 5.85	MI
5007AF	Standby Time	\$ 75.00	HR
5007AG	Ground Transportation of GFW	\$ 5.85	MI
5007AH	Loading or Unloading of GFW	\$ 0.02	LI
5007AJ	Leased Trailer	\$ 200.00	DA
5007AK	Drayage	\$ 1,450.00	DA
5008	US VIRGIN ISLANDS		
5008AA	Bottled Water-Ground	\$ 0.82	LI
5008AB	Bottled Water-Air	\$ 3.50	LI
5008AC	Bottled Water-Ocean	\$ 0.77	LI
5008AD	Unloading	\$ 0.02	LI
5008AE	Mileage	\$ 5.85	MI
5008AF	Standby Time	\$ 75.00	HR
5008AG	Ground Transportation of GFW	\$ 5.85	MI
5008AH	Loading or Unloading of GFW	\$ 0.02	LI
5008AJ	Leased Trailer	\$ 200.00	DA
5008AK	Drayage	\$ 1,450.00	DA
5009	NORTHERN MARIANA ISLANDS -		
5009AA	Bottled Water-Ground	\$ 0.75	LI
5009AB	Bottled Water-Air	\$ 7.85	LI
5009AC	Bottled Water-Ocean	\$ 0.75	LI
5009AD	Unloading	\$ 0.02	LI
5009AE	Mileage	\$ 5.85	MI
5009AF	Standby Time	\$ 75.00	HR
5009AG	Ground Transportation of GFW	\$ 5.85	MI
5009AH	Loading or Unloading of GFW	\$ 0.02	LI
5009AJ	Leased Trailer	\$ 200.00	DA
5009AK	Drayage	\$ 1,450.00	DA
5010	AMERICAN SAMOA - PAGO PAGO &		
5010AA	Bottled Water-Ground	\$ 0.90	LI
5010AB	Bottled Water-Air	\$ 7.25	LI
5010AC	Bottled Water-Ocean	\$ 0.90	LI
5010AD	Unloading	\$ 0.02	LI

5010AE	Mileage	\$ 5.80	MI
5010AF	Standby Time	\$ 75.00	HR
5010AG	Ground Transportation of GFW	\$ 5.85	MI
5010AH	Loading or Unloading of GFW	\$ 0.02	LI
5010AJ	Leased Trailer	\$ 200.00	DA
5010AK	Drayage	\$ 1,450.00	DA
50011	FEDERATED STATES OF		
5011AA	Bottled Water-Ground	\$ 1.10	LI
5011AB	Bottled Water-Air	\$ 8.60	LI
5011AC	Bottled Water-Ocean	\$ 1.10	LI
5011AD	Unloading	\$ 0.02	LI
5011AE	Mileage	\$ 5.85	MI
5011AF	Standby Time	\$ 75.00	HR
5011AG	Ground Transportation of GFW	\$ 5.85	MI
5011AH	Loading or Unloading of GFW	\$ 0.02	LI
5011AJ	Leased Trailer	\$ 200.00	DA
5011AK	Drayage	\$ 1,450.00	DA
5012	REPUBLIC OF THE MARSHALL		
5012AA	Bottled Water-Ground	\$ 1.10	LI
5012AB	Bottled Water-Air	\$ 8.60	LI
5012AC	Bottled Water-Ocean	\$ 1.10	LI
5012AD	Unloading	\$ 0.02	LI
5012AE	Mileage	\$ 5.85	MI
5012AF	Standby Time	\$ 75.00	HR
5012AG	Ground Transportation of GFW	\$ 5.85	MI
5012AH	Loading or Unloading of GFW	\$ 0.02	LI
5012AJ	Leased Trailer	\$ 200.00	DA
5012AK	Drayage	\$ 1,450.00	DA
5013	Restocking of FEMA TLC		
5013AA	- CONUS	\$ 0.40	LI
5013AB	- HAWAII	\$ 0.40	LI
5013AC	- GUAM	\$ 0.45	LI
4013AD	- PUERTO RICO	\$ 0.40	LI
5014	Contractor Managed Storage -		
5014AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
5014AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
5014AC	Contractor Managed Storage - Region	\$ 0.41	LI
5015	Contractor Managed Storage -		
5015AA	Contractor Managed Storage - Region	\$ 369,000.00	LS
5015AB	Contractor Managed Storage - Region	\$ 369,000.00	LS
5015AC	Contractor Managed Storage - Region	\$ 0.41	LI
5016	Restocking of Contractor Managed		
5016AA	Restocking of Contractor Managed	\$ 0.41	LI
	LEGEND:		
	LI = Liter		
	MI = Mile		
	HR = Hour		
	DA = Day		
	LS = Lump Sum		
	GFW = Government Furnished Water		
PLEASE NOTE UNIT PRICES OF THE SUCCESSFUL OFFEROR MAY BE CONSIDERED RELEASABLE			
INFORMATION UPON CONTRACT AWARD.			

Section C - Descriptions and Specifications

SOW

Section C

**Statement of Work
For
Bottled Water****C.1 GENERAL**

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- C.1.2 Purpose**
- C.1.3 Utilization**
- C.1.4 Release of Information**
- C.1.5 Contract Period**
- C.1.6 Conversion Factor for Gallons to Liters**

C.2 GENERAL PERFORMANCE REQUIREMENTS

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- C.2.2 Continuous Liaison with the Government**
- C.2.3 Communication and Information Management**
 - C.2.3.1 Communication with Ground Transportation Assets (Truck Drivers)**
- C.2.4 Movement Coordination Requirements -Transportation**
- C.2.5 Quality Control and Quality Assurance**
 - C.2.5.1 Water Certification and Testing Results**
- C.2.6 Management and Operations**
 - C.2.6.1 Operations Manager**
 - C.2.6.2 Senior Managers**
 - C.2.6.3 Logistical Field Managers**
- C.2.7 Performance Reporting**
 - C.2.7.1 Internet-Based Tracking and Reporting System**
 - C.2.7.2 Automated Feed to FEMA Logistics Supply Chain Management System (LSCMS)**
 - C.2.7.3 Interim Manual Reporting Procedures**
- C.2.8 Use of Local Firms and Individuals**
- C.2.9 Safety and Health Program**
- C.2.10 Timeliness of Contractor Invoicing**
- C.2.11 Contract Submittals**
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 - C.2.12.1 Early Deliveries and Starts of Service**
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C.3 PERFORMANCE REQUIREMENTS

- C.3.1 Issuance of Delivery Orders**
- C.3.2 Partnering and Strategic Planning Services**
 - C.3.2.1 Delivery Orders for Partnering and Strategic Planning Services**
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 - C.3.2.3 Strategic Planning Services**

- C.3.2.4 Travel and Per Diem for Partnering and Strategic Planning Services
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- C.3.3 Bottled Water
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 - C.3.3.3 Primary Container
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 - C.3.3.5 Pallet Packing Slip
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 - C.3.4.1 Contractor Unloading of Bottled Water
 - C.3.4.2 Unloading CONUS
 - C.3.4.3 Unloading at Additional Sites OCONUS
 - C.3.4.4 Payment for Unloading
- C.3.5 Additional Ground Mileage
 - C.3.5.1 Documentation of Additional Ground Mileage
 - C.3.5.2 Payment for Additional Ground Mileage
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 - C.3.6.1 Documentation of Standby Time
 - C.3.6.2 Payment for Standby Time
- C.3.7 Loading
 - C.3.7.1 Documentation for Loading of Government-Furnished Bottled Water
 - C.3.7.2 Payment for Loading of Government-Furnished Bottled Water
- C.3.8 Ground Transportation of Government-Furnished Bottled Water
 - C.3.8.1 Documentation for Ground Transportation of Government-Furnished Bottled Water
 - C.3.8.2 Payment for Ground Transportation of Government-Furnished Bottled Water
- C.3.9 Leased Trailers
 - C.3.9.1 Standards for Leased Trailers
 - C.3.9.2 Documentation of Leased Trailers

C.1 GENERAL

C.1.1 Background: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)(88 Stat. 143)(The Stafford Act), authorizes the President (FEMA per Executive Order 12673) to provide financial and other forms of assistance to local, tribal and state governments; certain private nonprofit organizations; and individuals to support response, recovery, and mitigation efforts following presidentially declared major disasters and emergencies. The National Response Framework (NRF) is a guide to how the Nation conducts all-hazards response. It is built upon scalable, flexible, and adaptable coordinating structures to align key roles and responsibilities across the Nation, linking all levels of government, nongovernmental organizations, and the private sector. It is intended to capture specific authorities and best practices for managing incidents that range from the serious but purely local, to large-scale terrorist attacks or catastrophic natural disasters. The NRF describes the mechanism and structure by which the federal government mobilizes resources and conducts activities to address the consequences of any major disaster or emergency that overwhelms the capabilities of state, tribal and local governments. The NRF organizes the types of federal response assistance that a state, tribal or local government is most likely to need under the 15 Emergency Support Functions (ESF's), each of which has a designated primary agency. The Department of Defense has the responsibility for ESF 3, Public Works and Engineering, and has designated the U. S. Army Corps of Engineers (USACE) as its operating agent for ESF 3 planning, preparation, and response. One of the typical missions under ESF 3 is to provide for humanitarian support (i.e., Potable Water). FEMA fulfills requirements for water at disaster locations first by utilizing bottled water stored from previous disasters, donated water, supplies from vendor managed storage and bottled or bulk water supplied by other federal agencies. If water from these sources is inadequate to meet required quantities of water, USACE may be tasked by FEMA to purchase additional potable water.

C.1.2 Purpose: The primary purpose of this contract is to provide bottled water, to include vendor managed storage, transportation, loading and unloading, drayage, additional ground mileage, leased trailers, etc., to sites including possible future Government or vendor warehouse storage in the 48 States and the District of Columbia in the Continental United States (CONUS) and to sites Outside the Continental United States (OCONUS) in the States of Alaska and Hawaii, Puerto Rico, the U. S. Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands. The contract also includes requirements for participation in Partnering efforts and provision of Strategic Planning Services.

C.1.3 Utilization: The U. S. Army Corps of Engineers will utilize this contract for its purchase requirements for bottled water, to include supporting items and services identified in **C.1.2**, in performance of its ESF 3 responsibilities for man-made or natural emergency or disaster response and recovery activities under the NRF. The Government reserves the right, for purchase requirements OCONUS, to purchase bottled water using the Contract Line Item Number (CLIN) for CONUS and have the bottled water delivered to points of embarkation for further transportation to OCONUS locations by the Government. The Government also reserves the right, at its discretion, to utilize this contract for other bottled or bulk water requirements.

C.1.4 Release of Information: Neither the Contractor nor the Contractor's representatives shall release any report, data, specification, photograph, cost estimate, nor other information in any form obtained or prepared under this contract without prior specific written approval of the Contracting/Ordering Officer. The Contractor is prohibited from using the Water Delivery, Dry Storage, and Drayage Information forms for other than Corps contracts.

C.1.5 Contract Period: This contract shall be for a base period from date of award (anticipated September/October 2013) through March 31, 2014. At the option of the Government, the contract period may be extended in one-year increments up to four (4) times. If exercised, the optional performance periods will be as follows:

- Option 1 - April 1, 2014 through March 31, 2015
- Option 2 - April 1, 2015 through March 31, 2016
- Option 3 - April 1, 2016 through March 31, 2017
- Option 4 - April 1, 2017 through March 31, 2018

C.1.6 Conversion Factor for Gallons to Liters: For this contract, the conversion factor for converting gallons to liters shall be 1 gallon equals 3.79 liters.

C.2 GENERAL PERFORMANCE REQUIREMENTS

The paragraphs in Section C.2 describe the performance requirements of this contract for which there are no Contract Line Item Numbers (CLINs) in Section B – Supplies or Services and Prices, and for which no separate payment will be made.

C.2.1 Contractor Performance: The Contractor is responsible for performing all management, supervision and other administrative activities necessary to assure performance in strict compliance with the terms and conditions of this contract. Time is of the essence in performance of this contract, as the potable water to be provided under this contract is required to sustain life in the aftermath of disasters that have or will disrupt the normal supply of water in the disaster area. Therefore, this contract requires immediate response; including nights, weekends and holidays; with timely production, delivery, and reporting by the Contractor. The Contractor may be required to respond to simultaneous disasters with deliveries to multiple sites for each disaster. Much of the work to be performed under this contract will be performed in a disaster area under emergency conditions. Delivery Orders may be issued prior to the occurrence of a natural disaster, such as an approaching hurricane, to pre-position water for anticipated needs. During the initial phase of any emergency response effort, the Contractor should expect and be prepared to commit transportation assets for several days of standby time as pre-positioned water and initial deliveries are likely to be staged until distribution sites are identified. Drivers need to be self-sufficient during disaster response efforts for food and lodging as limited hotel accommodations must be reserved for those evacuating the impacted area. During a disaster response, the Contractor will be competing against FEMA and other interests for limited bottled water supplies and transportation assets, especially in and around the impacted area. In performing this contract, the Contractor shall cooperate fully with public officials and other Contractors in emergency and disaster response and recovery operations.

C.2.2 Continuous Liaison with the Government: Beginning on the date of award of this contract, the Contractor shall be continuously available to the Government's representatives for response to requests for information, receipt of Delivery Orders, discussion of contract performance, and other contract administration activities. To fulfill this requirement, within four (4) hours of receipt of the Notice of Award of this contract (unless a different period is allowed by the Contracting Officer), the Contractor shall:

- a. Provide the names, job titles, and contact information, to include email address and telephone numbers (business, cell phones, facsimile, email, etc.) for both business and non-business hours, of a Senior Manager within the Contractor's organization, and a minimum of one

similarly qualified alternate, available on a 24-hour, 7 days-a-week basis, to serve as continuously available liaison with the Government.

- b. Submit an Organization Chart consisting of a wiring diagram displaying lines of authorities and assigned responsibilities within the Contractor's organization relative to the performance and administration of this contract. The Organization Chart shall include names, position/job titles, contact information, to include email address and telephone numbers (business, cell phones, facsimile, email, etc.) for both business and non-business hours, and a description of each person's responsibilities under this contract.

The Contractor shall submit the above information to the Contracting Officer by facsimile, email and regular mail. During the contract period, including any optional performance periods, the Government shall be notified immediately, by facsimile, email and regular mail, of any changes regarding the designated liaisons or in the Organization Chart.

C.2.3 Communication and Information Management: The Contractor shall have and use Windows 2007 Professional software including Word, Excel, PowerPoint, and Access; and internet browser software to access email in performance of work under this contract. Unless authorized in writing by the Ordering Officer, the software is not to be upgraded to a newer version. In addition, the Contractor shall have, and use in the performance of the work, facsimile machines, cellular telephones and electronic mail usable throughout the geographic performance areas identified in this contract.

C.2.3.1 Communication with Ground Transportation Assets (Truck Drivers): Performance under this contract will be ordered in response to natural or man-made disasters. Therefore, it is very likely that adverse conditions could develop on roadways that are or would be utilized to transport bottled water. Examples are flooding of roadways, washing out of roads and/or bridges, or other damage to roadways and bridges that could create a safety hazard for trucks and/or delay shipments by truck; roadways being utilized as evacuation routes and the normal flow of traffic for lanes being changed to flow in the opposite direction; the need to provide police escorts for trucks to lead around blocked roadways, etc. In addition, during emergency/disaster responses, it is not unusual to need to divert shipments from the delivery destination identified in a Delivery Order to a new delivery destination while the shipment is in route. In these situations, it is critical that the Contractor have the capability to track trucks and directly communicate with truck drivers at all times. The Contractor shall utilize an internet-based satellite tracking system, such as mobile GPS transceivers reporting to a data collection computer for each vehicle in transit. The automated tracking system shall update every 10 to 15 minutes and information recorded at a central location operated by the Contractor. The GPS units are to be placed on the trailers so that they do not interfere with operation of the trailer doors. The internet tracking system shall have the capability to distinguish trucks that are in route to the disaster area and trucks that have already been received and are being repositioned within the disaster area. Authorized government personnel shall have access to the internet-based tracking system to monitor vehicle movement and location. If the automated system is inoperable, the Contractor shall provide reports with vehicle movement and locations at four (4) hour intervals minimum as long as any bottled water delivery vehicles are in transit or within one hour of a U.S. Army Corps of Engineers' request for this information. All truck drivers shall have cellular telephone or other communication capability sufficient to provide the Contractor the ability to make immediate contact with the driver at all times during transport.

C.2.4 Movement Coordination Requirements -Transportation: The U.S. Army Corps of Engineers is required to coordinate movement of all transportation assets (trucks, ships, airplanes) and their cargo into disaster locations. This coordination will be performed by the U.S. Army Corps of Engineers office established at a site to be determined. The Contractor is required, in concert with the

Contracting/Ordering Officer, to perform advance coordination with the U.S. Army Corps of Engineers for all CONUS and OCONUS shipments into disaster locations. The U.S. Army Corps of Engineers will approve schedules for such shipments or provide alternate shipment delivery times/dates as well as different delivery locations, such as airports and seaports, in or outside of the disaster locations. The Contracting Officer shall adjust, as appropriate, Delivery Order delivery time requirements when the U.S. Army Corps of Engineers makes any changes that cause shipment delays. Information required from the Contractor for performance of this coordination is addressed in paragraphs **C.2.7.1** and **C.2.7.2** below. The Contractor shall provide to the Contracting Officer a Confirmation Transportation Schedule, to include all modes of transportation, and a next day's Estimated Transportation Schedule no later than 2300 hours (time zone of the disaster location) of each day by fax or email. The appropriate emails and fax numbers for the schedule will be provided at the time the Delivery Order is issued. At the top of each estimated transportation schedule shall be printed the heading with the Contractor's name, address, phone number, point of contact, date and the title, "Estimated Transportation Schedule for (date)". Below the heading, in columnar format, shall be the aircraft tail number/ship name/truck and trailer numbers, aircraft/ship/truck Contractor name (if different from the heading), location departing from, estimated quantity (liters) carried, estimated time of departure, estimated time of arrival at destination, and location at which arriving. The Confirmation Transportation Schedule shall have the same items as the Estimated Transportation Schedule, except where estimated is used actual quantity (liters) and times shall be given. The title, "Actual Transportation Schedule for (date)" will be used.

C.2.5 Quality Control and Quality Assurance: The Contractor is responsible for controlling the quality of supplies provided or services performed under this contract and tendering to the Government for acceptance only those supplies or services that conform with the requirements of this contract. In addition, the Contractor must ensure and maintain substantiating evidence that vendors or suppliers of raw materials, parts, components, etc., have an acceptable quality control system and that the supplies or services conform to contract quality requirements, and furnish such information to the Government as required. Contract Clause 52.246-2 requires the Contractor to provide, maintain and implement an inspection system acceptable to the Government covering supplies provided under this contract. The Contractor shall submit and shall readily maintain a Quality Control Plan, to include a complete description of the inspection system and procedures as described in Clause 52.246-2, to the Contracting Officer for review and approval within five (5) calendar days from award of the contract.

C.2.5.1 Water Certification and Testing Results: The Contractor must maintain an inspection system that ensures the quality of bottled water to be provided under this contract. This requirement shall be satisfied by the Contractor obtaining copies of applicable certificates, licenses, notifications, permits, appraisals, and inspection reports; annual chemical, physical and radiological analysis of source water; and results of any other testing of source water and bottled water from each bottled water producer from which bottled water is to be purchased under this contract. The Contractor shall maintain these records throughout the term of this contract. The Contracting/Ordering Officer may request the Contractor to provide copies of this data on any or all bottled water subcontractors, at any time during the term of this contract. When requested, the Contractor shall provide this data within six (6) hours of such request by facsimile, email, or other means, unless the Contracting/Ordering Officer authorizes a different time period.

C.2.6 Management and Operations: The Contractor is responsible for providing all management and operations sufficient to meet the requirements specified in Delivery Orders, including, but not limited to, obtaining water, bottles, caps, labels, packaging, loading, transportation to delivery sites, unloading, quality control, strategic planning, partnering and reporting on all matters related to the contract.

C.2.6.1 Operations Manager: In addition to the overall responsibility for management and operations, not later than four (4) hours after issuance of a Delivery Order for delivery of Bottled Water or any of the other requirements of this contract, the Contractor shall, by facsimile, email and regular mail, provide to the Contracting/Ordering Officer the name, job/position title, and contact information (email addresses and telephone, cell phone and facsimile numbers) of an Operations Manager knowledgeable in all facets of the Contractor's operation relative to the requirements of this contract. The Operations Manager would serve as liaison between the Contracting/Ordering Officer and the Contractor's senior management on issues related to performance and administration of Delivery Orders. The Operations Manager shall have authority to act on behalf of the Contractor's senior management, to make any and all decisions required during performance of Delivery Orders, and shall have the authority to sign all contractual documents related to Delivery Orders. The Operations Manager shall be on call twenty-four (24) hours per day, seven (7) days per week and shall be able to immediately contact the Contractor's senior management, via electronic means (e-mail capabilities, cell phone and fax machine). Computer software utilized by the Operations Manager shall comply with the requirements of paragraph C.2.3. The Operations Manager must be capable of responding to all Contracting/Ordering Officer requests within thirty (30) minutes of notification.

C.2.6.2 Senior Managers: In addition to the overall responsibility for management and operations, not later than four (4) hours after issuance of a Delivery Order for delivery of Bottled Water or any of the other requirements of this contract, the Contractor shall, by facsimile, email and regular mail, provide to the Contracting/Ordering Officer the name, job/position title, and contact information (email addresses and telephone, cell phone and facsimile numbers) of two (2) Senior Managers knowledgeable in all facets of the Contractor's operation relative to the requirements of this contract. The Senior Manager(s) would serve as liaison between the Contracting/Ordering Officer and the Contractor's Operations Manager on issues related to performance and administration of Delivery Orders. The Senior Manager(s) shall have authority to act on behalf of the Contractor's Operations Manager to make any and all decisions required during performance of Delivery Orders. Upon issuance of a Delivery Order, the Contracting/Ordering Officer may require a Senior Manager's presence at the National Water Team's District Office, currently either New England District in Concord, Massachusetts or Kansas City District in Kansas City, Missouri. The Senior Manager must be capable of arriving at the appropriate District Office within twenty-four (24) hours of the Contracting/Ordering Officer's request. The Senior Manager will be required until all deliveries of bottled water ordered under this contract for a specific disaster response are delivered or until the Contracting/Ordering Officer determines there is no longer a need for the Senior Manager presence at the National Water Team's District Office. Depending on the size and complexity of the response mission, the Contracting Officer may determine that it is also necessary to have a Senior Manager physically located at the National Response Coordination Center (NRCC) in Washington, DC. The Senior Manager must be capable of arriving at the NRCC within twenty-four (24) hours of the Contracting/Ordering Officer's request. The Senior Manager at the NRCC would provide the services described above as well as be available to attend meetings, participate in briefings, conferences, etc., relative to specific disaster responses, to deal with performance issues on Delivery Orders issued, to negotiate changes to Delivery Orders, or other activities as deemed necessary during the performance of Delivery Orders. The Senior Manager must be capable of responding to all inquiries from the NRCC within thirty (30) minutes of notification on a 24 hour per day, 7 days per week basis. The Contractor shall establish its own office and provide all related communication and office equipment required to support the activities of the on-site Senior Manager(s). The Contractor will be reimbursed for round trip travel and per diem costs for each day these services are required as described in paragraph C.3.2.4. The cost for the Senior Manager(s) labor will be included in the unit price for each CLIN in Section B – Supplies or Services and Prices for Bottled Water Delivered (CONUS) or Bottled Water Delivered and Unloaded (OCONUS).

C.2.6.3 Logistical Field Managers: Within four (4) hours after issuance of a Delivery Order for delivery of Bottled Water or any of the other requirements of this contract, the Contractor shall, by facsimile, email and regular mail, provide to the Contracting/Ordering Officer the name, job/position title, and contact information (email addresses and telephone, cell phone and facsimile numbers) of the Logistical Field Managers knowledgeable in all facets of the Contractor's operation relative to the requirements of this contract for each initial delivery site. The Logistical Field Manager(s) is responsible for providing quality control and quality assurance that the Contractor's products or services provided to the initial delivery site meet the contract requirements. The Logistical Field Manager will coordinate with the Corps Commodities Site Manager at the initial delivery site(s). The Logistical Field Manager would provide input to and serve as liaison between the Contracting/Ordering Officer and the Contractor's Operations Manager on issues related to performance and administration of Delivery Orders. The Logistical Field Manager(s) shall have authority to act on behalf of the Contractor's Operations Manager, to make any and all decisions required to insure products or services meet the contract requirements during performance of Delivery Orders.

C.2.7 Performance Reporting: Reporting on the status of the Contractor's performance is of extreme importance during disaster response and recovery. To ensure the Government has the ability to track production and transportation of water and report on performance in a timely manner, the Contractor shall report on the status of performance under Delivery Orders in accordance with the following paragraphs.

C.2.7.1 Internet-Based Tracking and Reporting System: The Contractor shall establish and maintain a password protected, Internet-based tracking and reporting system accessible to authorized government personnel. Once established, the password shall not be changed without written permission from the Contracting Officer. Within four (4) hours from the time of issuance of a Delivery Order, the Contractor will populate the system with dates and times of scheduled deliveries. This system shall be maintained continuously during the performance of Delivery Orders to reflect real time information including actual shipped dates and times, trailer numbers and actual received dates and times. This information is necessary for the Government to coordinate deliveries and track Contractor progress. The system will also identify all subcontractors involved in bottled water production and transportation, identify all subcontracting in the disaster area, identify scheduled delivery times so as to provide information necessary for performing coordination of shipments with the U.S. Army Corps of Engineers as described in paragraph C.2.4, to ensure availability of U.S. Army Corps of Engineers or other Government personnel to receive deliveries, and assure testing data and other information that is required for each producer/manufacturer providing bottled water under this contract is available and provided, if requested. This system will be color coded to distinguish between trucks entering the disaster area in transit to the original delivery site, trucks that have been received at the original delivery site and trucks being moved between various staging areas and points of distribution. Transponders on trucks that have been unloaded and leased trailers that have been released for pick-up by the Contractor will be turned off. This system will include the following information:

1. Contract number;
2. Delivery Order number;
 - a. Date of issue;
 - b. Quantity or service ordered;
 - c. Required delivery or performance dates;
1. Names and addresses of water suppliers;
2. Quantity of water to be provided from each supplier;
3. Names and addresses of transportation companies;
4. Carrier names and Identification Number for each trailer, airplane and ship that will transport water from suppliers to specified delivery sites, airports and seaports;
5. Trailer license plate number and State that issued license plate;

6. Quantity of water being transported by each trailer, airplane and ship;
7. Scheduled delivery location including points of embarkation when transporting water by air or sea;
8. Estimated and actual dates and times of all deliveries, total quantity of water delivered, and any other information required by the Government;
9. Bill of lading and/or manifest numbers;
10. Identification of points of embarkation when shipping further by air or sea;
11. The shipping carriers' names and modes of transportation;
12. Identification number for each airplane or ship;
13. Dates, time and quantities to be shipped for each airplane or ship,
14. Intermediate and final bottled water delivery sites;
15. Estimated and actual dates and times of all deliveries, total quantity of bottled water delivered;
16. Current location of each truck (not more than 4 hours old), and any other information required by the U.S. Army Corps of Engineers.
17. If the trailer is a leased trailer.

Within fifteen (15) calendar days from the date of contract award the Contractor shall submit, for the review and approval of the Contracting Officer, a description of the Internet-based system including a schedule for development, testing and full implementation. The system shall be fully implemented within sixty (60) calendar days from the date of contract award. Implementation will include a requirement for the Contractor to provide to the Contracting Officer an electronic version of an instruction manual detailing how to access and use the system. Meetings will be held, as are deemed necessary, to discuss issues relative to the content and operation of this system. The Government will also conduct a table top operational capabilities exercise with the Contractor to test the Internet-based system to determine the ability of the Contractor and the system to effectively track and report on commodity location and status within the timeline specified in the contract.

C.2.7.2 Automated Feed to FEMA Logistics Supply Chain Management System (LSCMS): FEMA shares a common interest with USACE in ensuring the visibility and tracking of emergency response commodities. This visibility is critical to ensuring decision makers (USACE, FEMA, other Federal, State and Local entities) have situational awareness of incoming and received deliveries such as water to effectively plan and execute emergency response efforts. FEMA has a LSCMS through which Federal assets for emergency response are tracked in Washington, D.C. LSCMS is expected to become fully functional in 2013. The Contractor is advised that the Government anticipates issuing a request for proposal during the life of this contract for the Contractor to automatically feed shipping information into the FEMA Field Vision module of the system. Advanced Shipment Notifications (ASN) is an integral part of modern supply chain systems and is universally considered a "best practice" as they link the flow of goods to and from suppliers to their destination. Commercial off-the Shelf (COTS) systems are available to provide this information in a variety of formats. For example, the EDI 856 ASN format is widely used in the supply chain industry. In addition, Manhattan Associates has developed a standard XML schema for ASNs. FEMA's LSCMS can import either EDI 856 or Manhattan XML through an automated interface. The system to be used by the Contractor shall be compatible to one of these systems. Shipment delivery information to be automatically shared with FEMA LSCMS:

1. Delivery Order Number
2. Contractor Company Name
3. Bill Of Lading Number
4. Ordering Agency (i.e. USACE)

5. GPS ESN Number
6. Latitude/Longitude
7. Commodity Type (i.e. Water)
8. Trailer Number
9. Trailer License Plate
10. Destination Location
11. Estimated Date and Time of Arrival at Destination

EDI and XML will leverage the FEMA Service Oriented Architecture General Support System (SOA GSS) as the middleware for the interface. SOA GSS uses the Oracle Service Bus and web services (REST, SOAP, etc) for integration with external partners such as the US Army Corps of Engineers. Thus, partner systems use a web service to send an ASN message in either EDI or XML format to the SOA GSS which would then forward the message to LSCMS' ASN interface. The interface will have to accord to FEMA and USACE security requirements and be documented in an Interconnection Security Agreement (ISA) to be signed by the Contractor and the Government.

Frequency of GPS location tracking information:

1. Provided every 30 minutes on average/1 hour maximum for every shipment that is moving
2. Provided once every 24 hours for shipments that are not moving
3. Provided within one hour of dispatch of shipment from origin location
4. Continue until the shipment is received at the destination location and the transportation provider equipment (trailer or power – whichever is being tracked) is released by the Government.
5. Include a “key” field that can be used to combine the in-transit location data for a shipment to the ASN data for that shipment

For the technical aspects of providing the information - FEMA/LSCMS has an agreement with Numerex, Inc to aggregate In-Transit Location Information from FEMA Partners and their suppliers/carriers and forward it to LSCMS through a single interface. Numerex was selected because it is the in-Transit Location provider for FEMA shipments and thus already have an interface to LSCMS. For other Partners/contractors, Numerex has defined a standard interface for receiving In-Transit Location information from external providers using common web technical standards and XML data formats. Numerex then combines the data received from these sources, puts them in a LSCMS standardized format, and sends the integrated data to FEMA/LSCMS through an automated interface. This requires a business and technical interface agreement between Numerex and the Partner and its in-transit location information provider.

C.2.7.3 Interim Manual Reporting Procedures: Should a Delivery Order for Bottled Water be issued under this contract prior to the implementation of the Internet-based reporting and tracking system described above, the Contractor will be required to provide the information to be included in the Internet-based system in writing via email to the Contracting Officer every four (4) hours until all deliveries are completed. While utilizing manual reporting procedures, the information to be reported and the schedule for reporting may be revised by the Contracting/Ordering Officer, as appropriate. If, after implementation of the Internet-based reporting and tracking system, there is a system failure during the performance of a Delivery Order, the Contractor is required to immediately convert to a manual reporting system with reports submitted every four (4) hours to the Contracting Officer until the Internet-based system is again operable or until all deliveries are completed, unless a different timeframe is provided by the

Contracting/Ordering Officer. When the automated system is again operable, the Contractor shall enter into the system any data reported manually while the automatic system was inoperable.

C.2.8 Use of Local Firms and Individuals: In order to meet the intent of the Stafford Act, the Contractor, in performance of Delivery Orders issued under this contract, shall give preference, to the extent feasible and practicable, in meeting its subcontracting and hiring requirements with those organizations, firms, and individuals residing or doing business primarily in the area affected by the disaster. The Contractor will be required to submit daily reports to the Contracting Officer on subcontracting and hiring in the disaster area until or unless the Contracting/Ordering Officer specifies a different reporting period.

C.2.9 Safety and Health Program: The Contractor is required to develop, implement and maintain a Safety and Health Program covering all activities under this contract that complies with Occupational Safety and Health Administration (OSHA) standards and the U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in print on the date of issuance of the solicitation for this contract. The Contractor shall, within sixty (60) calendar days from award of the contract, submit to the Contracting Officer the Accident Prevention Plan as required by EM 385-1-1, Appendix A, that covers all activities to be performed under this contract.

C.2.10 Timeliness of Contractor Invoicing: Timely close-out of emergency response efforts, such as water missions, is paramount to the overall success of FEMA response efforts as remaining funds are often needed for recovery efforts. To ensure timely close-out of delivery orders, all fully completed billing documents must be provided within 30 days of final delivery or end of service.

C.2.11 Contract Submittals: Upon award of this contract, the Contractor shall submit the information required under paragraphs C.2.2, C.2.5, C.2.7.1 and C.2.9 to the Contracting Officer within the specified timeframes.

<u>Paragraph</u>	<u>Description</u>	<u>Due From Contract Award</u>
C.2.2	Senior Manager & Alternate/Organization Chart	Within 4 hours
C.2.5	Quality Control Plan	Within 5 calendar days
18.		
19. C.2.7.1	Reporting/Tracking System	
20.	a. System Description	Within 15 calendar days
21.	b. Electronic Instruction Manual	Within 60 calendar days
C.2.9	Accident Prevention Plan	Within 60 calendar days

Mailing Address: U. S. Army Corps of Engineers, New England District
 ATTN: CENAE-CT, Sheila Winston-Vincuilla
 22. 696 Virginia Road
 Concord, MA 01742-2751

Email Address: Sheila.M.Winston@usace.army.mil
 23. Facsimile (Fax) Number: (978) 318-8207

The Contractor will be advised, in writing, of any change in the Contracting Officer or the information provided above.

C.2.12 Delivery Order Submittals: Upon issuance of Delivery Orders, the Contractor shall submit the information required under paragraphs **C.2.6.1, C.2.6.2, C.2.6.3, C.2.7.1, C.2.7.2, C.2.8 and C.2.10**, within the specified timeframes.

<u>Paragraph</u>	<u>Description</u>	<u>Due from Delivery Order Issue</u>
C.2.6.1	Operations Manager	Within 4 hours
C.2.6.2	Two (2) Senior Managers	Within 4 hours
C.2.6.3	Logistical Field Managers (One Per Site)	Within 4 hours
C.2.7.1	Internet-based Tracking System	Within 4 hours
C.2.7.3	Manual Tracking Reports	If after 60 days in the event of a system failure, every 4 hours via email as well as a corrective action plan that will be completed within 24 hours that will restore system with all data up to date
C.2.8	Report of Local Subcontracting	Within 4 hours
C.2.10	Final Invoice	Complete documentation must be provided within 30 days of final delivery or end of service

Delivery Orders will provide the name, mailing address, email address, and facsimile (fax) number for the appropriate Contracting/Ordering Officer. The Contracting/Ordering Officer at the ordering District will send a copy of all Delivery Orders to the Contracting Officer at New England District.

C.2.12 Timely Delivery and Start of Service: Upon issuance of a Delivery Order the Contractor must identify the date and time of scheduled deliveries. All times will be expressed in the time zone of the delivery site. Unless stated in the Delivery Order, the time of issuance of the Delivery Order shall be considered to be 11:59 p.m. on the date of issue. Scheduled deliveries must be of sufficient quantity and within the timeframes necessary to meet the requirements of substantial performance as described in paragraph **C.3.3.12**. The Contractor should be aware that not all delivery sites operate twenty-four (24) hours per day and must schedule deliveries accordingly. The time of delivery will be determined from the actual Time-In and Date-In recorded on "Water Delivery Information" and "Drayage Information" forms. Deliveries and starts of service will be considered timely if made at the specified delivery site within 2 hours before or after the time scheduled for delivery by the Contractor in accordance with the requirements of the Delivery Order.

C.2.12.1 Early Deliveries and Starts of Service: The Government is not required to have an on-site representative at the initial delivery site(s) more than two hours prior to the first scheduled delivery. The Government, at its discretion, may or may not allow early delivery before the specified time period for timely delivery, or may direct that deliveries be made only within the time allowed.

C.2.12.2 Late Deliveries and Starts of Service: The Government is not required to have an on-site representative at a delivery site(s) more than twenty-four hours after the final scheduled delivery. In the event of delivery after the time period specified for timely delivery, the Government, at its sole discretion, may or may not accept such a delivery.

C.3 PERFORMANCE REQUIREMENTS

The paragraphs in Section C.3 provide information on the content of Delivery Orders and describe the performance requirements of this contract for which there are Contract Line Item Numbers (CLINs) included in Section B – Supplies or Services and Prices, and for which payment will be made to the Contractor.

C.3.1 Issuance of Delivery Orders: Work under this contract will be ordered by issuance of oral and written Delivery Orders to the Contractor by the Contracting/Ordering Officer. When oral orders are issued, the Contracting/Ordering Officer shall issue a written Delivery Order confirming the oral order within twenty-four (24) hours. Written Delivery Orders will be provided to the Contractor by electronic mail or facsimile and by regular mail. The Contractor shall perform all work ordered within the time specified in such Delivery Orders, in compliance with all terms and conditions of this contract. All Delivery Orders will identify:

1. Specific Contract Line Item Numbers (CLINs) that are being ordered, to include quantities and pricing as reflected in Section B of this contract or as negotiated and agreed to prior to issuance of the Delivery Order;
2. Date and time of the issuance of the order in the local time at the delivery or performance site;
3. Address of Site(s) for delivery or performance of services, including description of site(s);
4. Date(s) and time(s) for delivery or performance of services;
5. Description of equipment and or personnel provided by the Government for unloading at the delivery site(s), if applicable;
6. Name(s) and telephone number(s) of the Government's point(s) of contact;
7. Name and telephone numbers of the Contracting Officer's Representative (COR), if applicable;
8. Name, mailing and email addresses, facsimile (fax) number, and telephone number of the Contracting/Ordering Officer for use by the Contractor in submitting the information required in paragraphs C.2.6.1, C.2.6.2, C.2.6.3, C.2.7.3 and C.2.8; and name and address to which invoices shall be submitted.

In addition to the above, Delivery Orders will include specific additional information as stated in the following paragraphs and any other information determined by the Contracting/Ordering Officer to be necessary.

C.3.2 PARTNERING AND STRATEGIC PLANNING SERVICES

C.3.2.1 Delivery Orders for Partnering and Strategic Planning Services: The Government may request that during non-emergency period that the Contractors attend meetings with the Government or others. Delivery Orders for Partnering Activities and Strategic Planning Services will identify:

1. Date and time the work is required to begin and anticipated duration;
2. Number and identity (if determined necessary) of individuals performing for the Contractor; and
3. An estimated amount for travel and per diem costs.

C.3.2.2 Partnering Activities and Meetings: The Government will be utilizing a partnered approach in administering this contract. To that extent, the Government will be seeking feedback and lessons learned from the Contractor on specific disaster responses that can be considered for making changes to the contract and/or changes in activities by the Government in structuring and administering Delivery Orders that would facilitate improvements in time required for or cost of performance under this contract. Provision of feedback and submission of written lessons learned are considered an overhead cost for

which no separate payment will be made. In addition to requests for feedback and submission of lessons learned, the Government may require the Contractor to (1) participate in meetings with USACE at various locations to discuss specific issues related to the water mission; these meetings could also include the Federal Emergency Management Agency (FEMA) and other federal, state or local agencies involved in developing requirements and/or performing the water mission under the NRP; (2) participate in development of and conduct of training courses/exercises for the Water Planning and Response Teams (PRTs); (3) participate in disaster response exercises or performance review meetings during and after a disaster response with any USACE Division or District, USACE Headquarters, etc.; (4) develop presentations, handouts, training materials, etc. either as a part of the Contractor's participation/attendance at these meetings or to provide to the Government for their use; or (5) perform other activities not specifically identified herein. Prior to issuance of a Delivery Order for these services, the Government will negotiate with the Contractor the estimated number of days required for performance, the location where these services will be performed, the number and identity of the Contractor representative(s) that will provide these services, the start and ending times and dates of meetings to be attended, the start and ending dates of the services, and any other issues that may apply to each requirement. If the Contractor is required to travel to perform these services, an amount will be agreed upon for estimated round trip travel and per diem costs, as described in paragraph **C.3.2.4**, for each day these services are not being performed in the Contractor's office.

C.3.2.3 Strategic Planning Services: The Government's response to disasters may require additional coordination with the Contractor during non-emergency periods relative to overall contract performance and strategic planning for disaster response and recovery activities related to bottled and bulk water, to include providing support to USACE members responsible for providing Technical Assistance to state and local governments or other federal agencies relative to Water issues. In performance of these services, the Contractor shall provide a Senior Manager in the Contractor's organization, experienced with the work covered by this contract. This Senior Manager shall have full access to the Contractor's communication and information management resources required to perform this contract. The Government may require the Contractor to provide these services by either participation in telephone conference calls from their office or face-to-face meetings with USACE at various locations, or a combination of both and may require that these services be performed simultaneously at various locations. Prior to issuance of a Delivery Order for these services, the Government will negotiate with the Contractor the estimated number of days required for performance, the location where these services will be performed, the number and identity of the Contractor representative(s) that will provide these services, the hours during each day that the Contractor representative is to be available to provide these services, and any other issues that may apply to each requirement. If the Contractor is required to travel to perform these services, an amount will be agreed upon for estimated round trip travel and per diem costs, as described in paragraph **C.3.2.4**, for each day these services are not being performed in the Contractor's office.

C.3.2.4 Travel and Per Diem for Partnering and Strategic Planning Services: If Contractor personnel are required to travel to perform activities described in paragraphs **C.3.2.2** and **C.3.2.3**, an amount will be included in the Delivery Order to cover estimated travel costs. Travel costs are limited to coach airfare and round trip transportation costs (taxi, shuttle, etc.) between airports and locations services are to be performed or mileage if travel is by automobile. Mileage to be reimbursed is the round trip mileage between the Contractor's Office and the location identified in Delivery Orders for performance of services described in paragraphs **C.3.2.2** and **C.3.2.3**. Mileage and per diem rates will not exceed that allowed for the performance location by the Department of Defense Joint Travel Regulations (JTR) in effect at the time the travel or services are performed. Rental cars are not authorized during

performance of travel and will not be reimbursed unless specifically approved and authorized by the Contracting/Ordering Officer in the Delivery Order.

C.3.2.5 Payment for Partnering and Strategic Planning Services: Payment for these services will be based on the negotiated amount at the time the service is ordered. Associated travel and per diem costs will be paid based on actual travel expenses and allowable mileage and per diem rates, as described in paragraph C.3.2.4. The Contractor is required to submit documentation to support travel and per diem costs (receipts for airline tickets, hotel rooms, taxi/shuttle fares, and rental car, if authorized) with their invoices in order to receive payment for such costs.

C.3.3 BOTTLED WATER

C.3.3.1 Contractor Responsibility: The Contractor is responsible for all activities required to provide bottled water, including transportation, to delivery sites specified in orders placed by the Government. All costs of such activities, except bottle deposits, shall be included in the unit price for each CLIN in Section B – Supplies or Services and Prices for Bottled Water Delivered (CONUS) or Bottled Water Delivered and Unloaded (OCONUS). For deliveries to locations requiring bottle deposit fees, the Contractor must submit separate documentation of actual costs for payment. It should be noted that frequently the impacted states will waive bottle deposits or only require bottle deposits for bottled water distributed within the state. The Corps will work with FEMA to have bottle deposits waived or reduced to actual product distributed.

C.3.3.2 Product Standards: All water shall be produced, packaged, labeled, transported, stored and handled in accordance with Title 21, Code of Federal Regulations, Parts 101, 110, 129 and 165 and all other applicable Federal, state, and local laws and regulations. Any deviation must be authorized in writing by the Contracting/Ordering Officer.

C.3.3.3 Primary Container: The water shall be packaged in single-service polyethylene terephthalate (PET) bottles with flat caps. Bottles shall be individually labeled indicating ingredients, size and date bottled. Bottles may be any size from 12 ounces to 1.5 liters (16.9-ounces preferred). The Contractor shall make every effort to standardize to 16.9-ounce bottles as soon as possible without jeopardizing timely deliveries of quantities of bottled water ordered.

C.3.3.4 Packaging of Shipping Cases: Bottled water shall be packed in cases that are individually shrink-wrapped and shipped on industry standard size pallets (48 inches by 40 inches). Pallets of bottled water will be fully covered on all four sides with a minimum of a double layer of stretch-wrap. The stretch wrap shall be placed so that it overlaps the top on all four corners a minimum of four inches. Due to the many unknown circumstances which can arise during disaster response and recovery, it is possible that the water may be moved several times, may be double-stacked for storage, and may be stored outside, with no protection, in all types of weather as well as stored in warehouses. The Contractor shall ensure that the bottled water containers are packaged to withstand such handling as well as severe climatic conditions.

C.3.3.5 Pallet Packing Slip: Each pallet of bottled water shall have labels attached clearly stating the information listed in items 1 through 7 of Table 1, Pallet Packing Slip Information. Information listed in item 8 is required when the Government orders water produced to local standards for OCONUS locations. Water produced to Environmental Protection Agency (EPA) local standards may only be distributed for consumption within that island location, other islands within that island chain, or other island chains with identical EPA local standards. In order to assure that each pallet of water produced to EPA local

standards for OCONUS locations is readily identifiable; the lettering for item 8 shall be a minimum of 2" in height and shall be in all capital letters. Labels shall be placed under the interior of the outer-most layer of stretch-wrap. Labels are required on at least two sides of all pallets of bottled water.

Table 1. Pallet Packing Slip Information

1	U.S. Army Corps of Engineers Contract Number
2	Delivery Order Number
3	Contractor's Name
4	Name, Address and Telephone Number of Bottled Water Manufacturer
5	Name, Address and Telephone Number of Bottled Water Plant
6	Total Quantity on Pallet, in Liters
7	Manufacturer's Lot Container Code(s), if any
8	MANUFACTURED TO EPA LOCAL STANDARDS FOR (Identify Island Location)
9	Date Product Bottled

C.3.3.6 Product Certification Documentation: In addition to the product certification requirements in paragraph C.2.5.1, upon issuance of a Delivery Order for bottled water, the Contractor shall obtain weekly bacteriological analysis of source water and product samples, the date of production and the date of expiration of the bottled water supplied under this contract. The Contractor shall maintain these records until completion and acceptance by the Government of all bottled water deliveries. The Contracting/Ordering Officer may request the Contractor to provide copies of this data, at any time during the performance of the Delivery Order, from any or all of the subcontractors providing bottled water under this contract. When requested, the Contractor shall provide this data within six (6) hours of such request by facsimile, email, or other means, unless the Contracting/Ordering Officer authorizes a different time period.

C.3.3.7 Transportation: The Contractor shall comply with all applicable federal, state, and local laws and regulations in the transportation of bottled water. At no time will the Contractor exceed applicable legal weight limits in transporting bottled water. Loads exceeding legal weight limits may be rejected in their entirety at the discretion of the Government. During transportation, if the cases of water are not in contact with the trailer sides, the Contractor is to provide dunnage, or bracing on the sides, front and back so that the pallets of bottled water are supported on all four sides and cannot shift during transportation. Loads that have shifted and cannot be readily offloaded by forklift may be rejected in their entirety at the discretion of the Government. For each delivery, the Contractor shall provide a Delivery Information Sheet, bill of lading or manifest, which includes at least the information shown in Table 2, Delivery Information Sheet.

Table 2. Delivery Information Sheet

1	U.S. Army Corps of Engineers Contract Number
2	Delivery Order Number
3	Contractor's Name
4	Itemized list of supplies and quantities

5	Name of shipment origination facility (i.e., bottling plant, warehouse, etc.)
6	Name of the transportation carrier
7	Total quantity of liters per truck per delivery

C.3.3.8 Delivery Orders for Bottled Water Delivered (CONUS): The Government will order bottled water in multiples of standard industry truckloads, approximately 18,000 liters per truck. The Government acknowledges that the actual number of liters shipped will vary based on the bottler, bottle size, case configuration and number of pallets. For this reason, the Government will accept and pay for up to 18,200 liters per truckload. Loads containing more than 18,200 liters may be rejected in their entirety at the discretion of the Government. The Contractor shall deliver bottled water in the quantities specified, to the delivery sites specified, and at the times specified in Delivery Orders for timely delivery. At no time will the Contractor exceed applicable legal weight limits in transporting bottled water. Bottled water delivered under this paragraph shall not have been bottled earlier than 180 days from the date of issuance of the delivery order without the written approval of the Contracting Officer. Bottles shall have either a “bottled on” date or an expiration date. The expiration date is assumed to be 2 years from the date the water was bottled. Payment for bottled water will be at the CLIN price for the actual number of liters delivered up to a maximum of 18,200 liters per truckload. The Contractor shall affix placards/signs on the front and rear of each trailer that are highly visible with a minimum height and width of 12 inches and with the US Army Corps of Engineers Castle logo. The placards/signs shall include the word “Water” in bold black lettering as the most significant attribute. One placard/sign shall be placed on the front driver’s side and a second placard/sign shall be placed on the rear trailer door. The placards/signs must be able to withstand long-distance travel and severe weather conditions. When removed, the placards/signs shall leave no permanent damage or residue.

C.3.3.9 Delivery Orders for Bottled Water Delivered and Unloaded (OCONUS): The minimum quantity ordered for any day to a delivery site will be 36,000 liters. The cost of providing bottled water to OCONUS locations could vary greatly depending on the water source and method of transportation. For this reason, bottled water for OCONUS locations is being priced as follows:

1. Locally procured bottled water and ground transportation;
2. Bottled water procured outside the specific OCONUS location and air transportation; and
3. Bottled water procured outside the specific OCONUS location and ocean transportation.

The Government recognizes that there may be limited sources and quantities of locally produced bottled water at some OCONUS locations and that these sources may be unavailable following a major disaster. The current quantity of locally produced bottled water available and the daily amount that can be produced and provided will be confirmed by the Contractor and provided to the Government in writing before issuance of a Delivery Order for locally procured bottled water and ground transportation. For ground deliveries, the Contractor shall deliver and unload bottled water at the specified delivery site(s) within the confirmed time period specified for timely delivery. For air deliveries, the Government recognizes that there may be limited military or commercial runways and flight time available following a major disaster. The availability of aircraft and flight schedules will be confirmed by the Contractor and provided to the Government in writing before issuance of a Delivery Order for bottled water procured outside the specific OCONUS location and air transportation. The Contractor shall deliver and unload bottled water at the specified military or commercial airport within the confirmed time period specified for timely delivery. The Government also recognizes that additional lead-time is required for sea transportation. Shipping schedules and lead-time will be confirmed by the Contractor and provided to the Government in writing before issuance of a Delivery Order for bottled water procured outside the specific

OCONUS location and ocean transportation. For sea deliveries, the Contractor shall deliver and unload bottled water at the specified military or commercial seaport within the confirmed time period for timely delivery.

C.3.3.10 Documentation of Bottled Water Deliveries: The Contractor shall assure that every water delivery is properly presented to the Government or a Government appointed representative and that Government acknowledgement of every delivery is obtained. The Contractor shall be responsible for assuring that every delivery has all required documentation. Delivery shall be considered made when the Contractor has obtained acknowledgement of the date and time of the arrival at the delivery site by the on-site Government or a Government appointed representative. Upon arrival at the delivery site, the Contractor shall document delivery by having its personnel:

1. Register water deliveries in the format shown in Appendix A, "Water Delivery Information", with the Government's on-site representative;
2. Provide the bill of lading or manifest containing the information shown in Table 2 of paragraph **C.3.3.7** to the Government's on-site representative; and
3. Obtain a copy of the completed "Water Delivery Information" form from the Government's on-site representative.
4. Enter actual delivery information into the Internet-based tracking system.

C.3.3.11 FDA Hold Notification: If the Contractor or its subcontractors receive notification from the United States Food and Drug Administration (FDA) that a shipment of bottled water has not been released for distribution, the Contracting/Ordering Officer shall be notified immediately. The Government will not be liable for any expenses or losses incurred by the Contractor due to such notifications. Before the Government will accept such a shipment of bottled water, it will be the responsibility of the Contractor to provide and forward a copy of the release notification from the FDA to the Ordering Officer.

C.3.3.12 Requirements of Substantial Performance: The Government recognizes that Delivery Orders may be issued after normal business hours, over the weekend and during holidays with little to no advanced notice. The Government also recognizes that upon receipt of Delivery Orders the Contractor will need time to fully mobilize significant water production and transportation assets to establish a steady flow of bottled water into disaster locations. These considerations are reflected in the following requirements of substantial performance for delivery of bottled water. Unless different delivery schedules are specified in a Delivery Order, failure to meet the following requirements, except any shipment delays caused by changes directed by the U.S. Army Corps of Engineers as discussed in paragraph **C.2.4** or may be determined excusable under Contract Clause 52.249-8, could result in termination of Delivery Orders for default and could further result in a decision not to exercise options described in paragraph **C.1.5**. The following two paragraphs identify the requirements of substantial performance per event for Delivery Orders issued before 11:59 a.m. For Delivery Orders issued after 11:59 a.m. the Contractor will be allowed an additional 24 hours to delivery sufficient quantity of bottled water to meet the requirements of substantial delivery. If a Delivery Order is issued without a time identified, it will be assumed that the Delivery Order was issued at 11:59 p.m.

C.3.3.12.1 Orders for Daily Quantities of 720,000 Liters or Less: For CONUS orders of 720,000 liters (40 truckloads) or less of bottled water per day, if the Delivery Order is issued before 11:59 a.m. delivery of the full ordered quantity is required by 11:59 p.m. of the following day for substantial performance of the contract.

C.3.3.12.2 Orders for Daily Quantities of More Than 720,000 Liters: For CONUS orders in excess of 720,000 liters (40 truckloads) of bottled water per day, if the Delivery Order is issued before 11:59 a.m. delivery amounts required for substantial performance of the contract are as follows:

1. Delivery of 720,000 liters (40 truckloads) by 11:59 p.m. of the day after issuance of the Delivery Order.
2. The next 24 hour period, delivery of an additional 1,800,000 liters (100 truckloads) or, if less, the remaining quantity scheduled for delivery.
3. Each subsequent 24 hour period, delivery of an additional 3,600,000 liters (200 truckloads) daily or, if less, the remaining quantity scheduled for delivery.
4. For subsequent orders placed at least 60 hours prior to the first scheduled delivery, substantial performance will be 3,600,000 liters (200 truckloads) daily until the order is fulfilled.

C.3.3.12.3 For OCONUS orders to Juneau, Fairbanks and Anchorage, Alaska; Puerto Rico; the US Virgin Islands; the Islands of Oahu, Hawaii, Maui, and Kauai, in the State of Hawaii; Guam; Northern Mariana Islands, Island of Saipan; American Samoa, Pago Pago, Island of Tutuila; Federated States of Micronesia, Island of Pohnpei; and Republic of the Marshall Islands, Island of Majuro: In accordance with paragraph C.3.3.9, the quantity and or schedule of OCONUS bottled water deliveries will be confirmed by the Contractor and provided to the Government in writing before issuance of a Delivery Order. The Contractor must deliver a minimum of 75 percent of the daily quantity ordered to meet the requirements of substantial performance of the contract.

C.3.3.13 Payment for Bottled Water: The Government will order bottled water in multiples of standard industry truckloads, approximately 18,000 liters per truck. The Contractor shall be paid for each liter of bottled water delivered (CONUS) or delivered and unloaded (OCONUS) in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms, including bills of lading and/or manifests that support the quantity for which payment is being requested. The Contractor shall not ship more than 18,200 liters per truckload. At no time will the Contractor exceed applicable legal weight limits in transporting bottled water. Payment for bottled water will be at the CLIN price for the actual number of liters delivered up to a maximum of 18,200 liters per truckload. Bottle deposit fees will be paid separately upon documentation by the Contractor of actual fees paid.

C.3.4 UNLOADING

C.3.4.1 Contractor Unloading of Bottled Water: The Contractor shall comply with all applicable federal, state, and local laws and regulations in the unloading of bottled water.

C.3.4.2 Unloading CONUS: When specified in a Delivery Order, the Contractor shall provide all labor, equipment, and materials required to promptly unload bottled water at delivery sites within the Continental United States.

C.3.4.3 Unloading at Additional Sites OCONUS: The Contractor shall deliver and unload bottled water delivered at airports, seaports and original delivery sites under the CLINs for bottled water delivered and unloaded OCONUS. The Government may require the Contractor to move and unload

bottled water at additional OCONUS sites. When specified in a Delivery Order, the Contractor shall provide all labor, equipment, and materials required to unload bottled water at the alternate delivery site(s).

C.3.4.4 Payment for Unloading: The Contractor shall be paid for each liter of bottled water unloaded in accordance with the pricing for the ordered CLIN in Section B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms, including bills of lading and/or manifests that support the quantity of bottled water unloaded for which payment is being requested.

C.3.5 ADDITIONAL GROUND MILEAGE

C.3.5.1 Documentation of Additional Ground Mileage: It is anticipated that deliveries may be required to locations in addition to the delivery sites specified in Delivery Orders for deliveries within CONUS, and in addition to the airport and seaport delivery sites specified OCONUS. Additional delivery sites OCONUS will be identified in Delivery Orders for initial deliveries to airport and seaport delivery sites, if known at the time of issuance. Additional ground mileage for deliveries to any additional delivery sites will be paid for only on the basis of the mileage traveled between the original delivery site and the additional delivery site(s). The price per mile shall be paid for each truckload of approximately 18,000 liters of bottled water. No per diem or other costs will be paid separately for additional ground mileage. Time spent by the Contractor performing Additional Ground Mileage is not included in Standby Time.

C.3.5.2 Payment for Additional Ground Mileage: The Contractor shall be paid for each additional mile of ground mileage in accordance with the pricing for the ordered CLIN in Section B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms that support the mileage for which payment is being requested.

C.3.6 STANDBY TIME

C.3.6.1 Documentation of Standby Time: If the Contractor stands by at the direction of the Ordering Officer for more than a cumulative total of four hours, at the original or subsequent delivery site(s), when making delivery by truckload of approximately 18,000 liters of bottled water, then the Contractor shall be entitled to standby time of up to a maximum of six hours on the first calendar day and ten hours per calendar day thereafter. No other payment will be made for standby time. The Contractor shall document its entitlement to standby time by having its delivery personnel register arrival and departure times with the Government's on-site representative. These records will be used to determine the amount of standby time. The amount, if any, to be paid will be determined by rounding the elapsed time to the nearest hour. Standby Time will not be paid for any delays caused by the Contractor. Delays in unloading caused by the Contractor or the time it takes for unloading by the Contractor are not included in Standby Time.

C.3.6.2 Payment for Standby Time: The Contractor shall be paid for each hour of standby time in excess of four hours in accordance with the pricing for the ordered CLIN in Section B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms that support the number of hours of standby time for which payment is being requested. The number of hours will be determined by totaling the quantity recorded on all supporting "Water Delivery Information" forms. Standby time will be the sum of the date and time out minus the date and time in at each delivery site(s) up to a maximum of 10 hours a day until

the date and time released from the final delivery/distribution site where the truck was unloaded, as recorded on the "Water Delivery Information" form, minus 4 hours.

C.3.7 LOADING

C.3.7.1 Documentation for Loading of Government-Furnished Bottled Water: When specified in a Delivery Order, the Contractor shall provide all labor, equipment and materials required to load Government-furnished bottled water at the designated loading site(s). The Contractor shall comply with applicable federal, state, and local laws and regulations in the loading of Government-furnished bottled water. Loading of Government-furnished bottled water shall be documented on the "Water Delivery Information" form.

C.3.7.2 Payment for Loading of Government-Furnished Bottled Water: The Contractor shall be paid for each liter of Government-furnished bottled water loaded in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms that support the quantity for which payment is being requested.

C.3.8 GROUND TRANSPORTATION OF GOVERNMENT-FURNISHED BOTTLED WATER

C.3.8.1 Documentation for Ground Transportation of Government-Furnished Bottled Water: When specified in a Delivery Order, the Contractor shall provide transportation of Government-furnished bottled water to and from designated sites. Transportation of Government-furnished bottled water will be paid for separately and shall be documented on the "Water Delivery Information" form.

C.3.8.2 Payment for Ground Transportation of Government-Furnished Bottled Water: The Contractor shall provide trucks capable of transporting 18,000 liters per truck. The Contractor shall insure that the transportation assets are ordered and dispatched within 6 hours of receipt of a Delivery Order. The Contractor shall be paid for each mile of transportation of Government-furnished bottled water, for each truckload of approximately 18,000 liters of bottled water or the equivalent, if delivery is by other than a standard truckload, in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms that support the mileage for which payment is being requested.

C.3.9 LEASED TRAILERS

C.3.9.1 Standards for Leased Trailers: When specified in a Delivery Order, the Contractor shall provide leased trailers for delivery and/or storage of bottled water at sites designated by the Delivery Order. The leased trailers shall hold approximately 18,000 liters per trailer. This requirement will be ordered as a daily rate, with a minimum of ten (10) days per order. The Contracting/Ordering Officer will notify the Contractor at least 24-hours in advance of required pick-up date(s) and time(s). The contractor shall retrieve the leased trailer within 48 hours of being informed that the trailer is available for pick up. Failure to retrieve the trailer in the 48-hour period will affect contractor's performance rating. Any leased trailer provided by the Contractor shall be equipped with a GPS tracking device. The tracking device shall be installed so that it does not interfere with the operation of the trailer doors. Reasonable effort will be made by the Government to return trailers to within 50 miles of their original delivery site. For trailers not returned to within 50 miles of the original delivery site, the Contractor will identify the location where the rental unit will be returned. If the trailer is closer to the return site than the original delivery site, no

matter how far from the original delivery site, no additional ground mileage will be paid. However, if the trailer is more than 50 miles from its original delivery site and not closer to the return site, the Contractor will be reimbursed for additional ground mileage under paragraph **C.3.5.2 Payment for Additional Ground Mileage** for the mileage between the trailer pick-up and return sites less the mileage between the original lease and delivery sites. For payment of additional ground mileage, the Contractor shall document that the trailer return site is the same or no further away than the site from which the trailer was leased. Leased trailers will likely be ordered to arrive loaded with bottled water to be dropped at a delivery site for onward movement by the Government. This is FEMA's preferred method of operation. In these cases, the bottled water will be paid separately under paragraph **C.3.3.13 Payment for Bottled Water**. The Contractor shall affix placards/signs on the front and rear of each leased trailer that are highly visible with a minimum height and width of 12 inches and with the US Army Corps of Engineers Castle logo. The placards/signs shall include the words "Leased Trailer" and "Water" in bold black lettering with the word "Water" as the most significant attribute. One placard/sign shall be placed on the front driver's side and a second placard/sign shall be placed on the rear trailer door. The placards/signs must be able to withstand long-distance travel and severe weather conditions. When removed, the placards/signs shall leave no permanent damage or residue.

C.3.9.2 Documentation of Leased Trailers: The Contractor shall assure that documentation of delivery of each leased trailer is properly presented to the Government and that Government acknowledgement is obtained. The Contractor shall be responsible for assuring that every delivery and pick-up of leased trailers has all required documentation. Delivery shall be considered made when the Contractor has obtained acknowledgement of the date and time of the arrival at the delivery site by the on-site Government representative. Upon arrival at the delivery sites, the Contractor shall document delivery by having its personnel register delivery of leased trailers on the "Delivery Information Sheet", as shown in Appendix A, with the Government's on-site representative. Pick-up will be considered made twenty-four hours after notification from the Contracting/Ordering Officer that the trailer is empty and ready for pick-up. The contractor is required to retrieve leased trailers no later than 48 hours after being notified that trailers are available for pick up.

C.3.9.3 Payment for Leased Trailers: The Contractor shall be paid for each day of leased trailer usage in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. The number of days/quantity will be determined from the "Delivery Information Sheet" for the Start of Service (Date In), and the End of Service (Date Out) will be considered as the day after the Contracting/Ordering Officer's notification that the trailer is ready for pick-up. The Contractor will be paid for the number of days of actual usage or a minimum of ten days, whichever is greater. Invoices submitted for payment shall include copies of all "Delivery Information Sheets" that document the date of delivery and the Contracting/Ordering Officer's notification of pick-up.

C.3.10 DRAYAGE

C.3.10.1 Standards for Drayage: When specified in a Delivery Order, the Contractor shall provide tractor power units, with fifth wheel, and drivers for 24 hours of service. The tractors and drivers shall move leased trailers as directed by the Ordering Officer. Service shall be on a seven (7) day-per-week and twenty-four (24) hour-per-day basis.

C.3.10.2 Documentation of Drayage: The Contractor shall assure that the start of service and end of service for drayage is properly presented to the Government and that Government acknowledgement of every start of service and end of service is obtained. The Contractor shall be responsible for assuring that start of service and end of service has all required documentation. Start of service and end of service shall

be considered made when the Contractor has obtained acknowledgement of the date and time of the arrival or departure at the delivery site by the on-site Government representative. Upon arrival and departure at the delivery sites, the Contractor shall document start of service and end of service for drayage by having its personnel:

1. Register start of service and end of service in the format shown in Appendix B, "Drayage Information," with the Government's on-site representative; and
2. Obtain a copy of the completed "Drayage Information" form from the Government's on-site representative.

C.3.10.3 Payment for Drayage: The Contractor shall be paid for each day, or portion of a day, of providing drayage in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Drayage Information" forms that support the number of days of providing drayage for which payment is being requested.

C.3.11 CONTRACTOR MANAGED STORAGE

C.3.11.1 Contractor Managed Storage – Region IV: If specified in a Delivery Order, The Contractor will maintain a stock level of approximately 50 truckloads of bottled water in FEMA Region IV. The Contractor shall identify a storage facility(ies) capable of storing the bottled water for a minimum of six (6) months with an option for an additional six (6) months. The storage facilities are to be located and have the loading/unloading capability so that the 50 percent of the stored bottled water can be delivered to any state within the Region within 24 hours of notification for movement. The geographic extent of Region IV, the states in the region and more specific information on the region can be found on the FEMA Web page at the hyperlink: <http://www.fema.gov/about/regions/index.shtm>

The Contractor is responsible for the security of the bottled water and any product loss will be replaced by the Contractor at no cost to the Government. The water must be available for inspection and use by the Government at any time. The stored bottled water shall meet the contract requirements stipulated in paragraphs C.3.3.2 and C.3.3.6. Bottled water is to be stored on pallets and have been packaged in accordance with paragraphs C.3.3.3, C.3.3.4 and C.3.3.5.

The Contractor shall secure a storage facility(ies) within 30 days of Delivery Order award. After storage is secured, Contractor shall provide the address and POC of the facility(ies). The delivery of bottled water shall be delivered in accordance with C.3.3.8. The Contractor shall provide the Contracting Officer a written schedule of deliveries, within 48 (forty-eight) hours of securing the storage facility.

The Government will provide 12-hour notification to the Contractor of impending need of out loading of bottled water. The Contractor may be requested to load the bottled water onto Government furnished transportation or may be requested to provide transportation of the bottled water. The Contractor shall be ready to start out loading bottled water within thirty (30) minutes of the arrival of the government or Contractor furnished transportation assets. See Section C.3.8 for Contractor furnished transportation.

If bottled water is moved from storage, the Government may at its discretion have surplus water placed back into storage for the remainder of the six (6) month period.

If at the end of the Delivery Order period (including exercise of all options), bottled water remains in the storage facility, the Contractor shall buy-back the remaining inventory and apply a credit to the Government within 45 days. The Contractor's credit price to the Government shall be based per liter.

C.3.11.2 Additional Six Months of Storage – Region IV: The Government reserves the right to exercise an additional six months of storage if necessary. If the Government exercises this option, the Government will provide a written thirty (30) day advance notice to the Contractor. Within ninety (90) days of the issuance of this Delivery Order, the Contractor is required rotate the bottled water currently in storage so that no bottle water is more than nine (9) months old.

C.3.11.3 Payment for Contractor Managed Storage – Region IV: The Contractor shall be paid a lump sum amount to include the cost of 50 truckloads of bottled water (liters), transportation to the storage facility, unloading and placement of bottled water into the facility and six months of storage. Any out loading of the bottled water from storage, transportation to a delivery site or unloading will be paid at the applicable CLIN price for those items in the contract.

C.3.11.4 Contractor Managed Storage – Region VI: The Contractor will maintain a stock level of approximately 50 truckloads of bottled water in FEMA Region VI. The Contractor shall identify a storage facility(ies) capable of storing the bottled water for a minimum of six (6) months with an option for an additional six (6) months. The storage facilities are to be located and have the loading/unloading capability so that the 50 percent of the stored bottled water can be delivered to any state within the Region within 24 hours of notification for movement. The geographic extent of Region VI, the states in the region and more specific information on the region can be found on the FEMA Web page at the hyperlink: <http://www.fema.gov/about/regions/index.shtm>

The Contractor is responsible for the security of the water and any product loss will be replaced by the Contractor at no cost to the Government. The water must be available for inspection and use by the Government at any time. The stored bottled water shall meet the entire contract requirements stipulated in paragraphs C.3.3.2 and C.3.3.6. The bottled water is to be stored on pallets that have been packaged according to the requirements of paragraphs C.3.3.3, C.3.3.4 and C.3.3.5.

The Contractor shall secure a storage facility(ies) within 30 days of Delivery Order award. After storage is secured, Contractor shall provide the address and POC of the facilities. The delivery of bottled water shall be delivered in accordance with C.3.3.8. The Contractor shall provide the Contracting Officer a written schedule of deliveries, within forty-eight hours of securing storage facility.

The Government will provide 12-hour notification to the Contractor of impending need of out loading of bottled water. The Contractor may be requested to load the bottled water onto Government furnished transportation or may be requested to provide transportation of the bottled water. The Contractor shall be ready to start out loading bottled water within thirty minutes of the arrival of the government or Contractor furnished transportation assets. See Section C.3.8 for Contractor furnished transportation.

If bottled water is moved from storage, the Government may at its discretion have surplus water placed back into storage for the remainder of the six month period.

If at the end of the Delivery Order period (including exercise of all options), bottled water remains in the storage facility, the Contractor shall buy-back the remaining inventory and apply a credit to the Government within 45 days. The Contractor's credit price to the Government shall be based per liter.

C.3.11.5 Additional Six Months of Storage – Region VI: The Government reserves the right to exercise an additional six months of storage if necessary. If the Government exercises this option, the Government will provide a written thirty (30) day advance notice to the Contractor. Within ninety (90) days of the issuance of this Delivery Order, the Contractor is required rotate the bottled water currently in storage so that no bottle water is more than nine (9) months old.

Payment for Vendor Managed Storage – Region IV: The Contractor shall be paid a lump sum amount to include the cost of 50 truckloads of bottled water (liters), transportation to the storage facility, unloading and placement of bottled water into the facility and six months of storage. Any loading, transportation or unloading of the bottled water from storage will be paid at the applicable CLIN price for those items in the contract.

C.3.11.6 Payment for Contractor Managed Storage – Region VI: The Contractor shall be paid a lump sum amount to include the cost of 50 truckloads of bottled water (liters), transportation to the storage facility, unloading and placement of bottled water into the facility and six months of storage. Any out loading of the bottled water from storage, transportation to a delivery site or unloading will be paid at the applicable CLIN price for those items in the contract.

C.3.11.7 Restocking of Contractor Storage Facility: The Contractor is responsible for all activities required to acquire and deliver bottled water, including all transportation, to restock the Contractor Storage Facility as specified in orders placed by the Government. Costs of such activities shall be included in the unit price for each CLIN in Schedule B for Restocking of Contractor Storage facility

C.3.12 BULK WATER

C.3.12.1 Definition of Bulk Water: The term "bulk water" includes, but is not limited to, supplying bulk water, storage bladders, tank containers, providing and/or operating Reverse Osmosis Water Purifying (ROWP) Units, transportation, testing, and related services, to include providing Strategic Planning in support of potential bulk water needs. The Government anticipates that it may have requirements to provide bulk water to some disaster locations. However, the cost for providing bulk water can vary substantially depending upon the location(s), source of water, method of transportation, testing requirements and numerous other factors, which cannot be described in sufficient detail to enable pricing of bulk water in this contract. The Government is not limited to use this contract to meet bulk water requirements but reserves the right to request proposals from the Contractor for meeting bulk water needs. Upon negotiation and agreement between the Government and the Contractor for provision of bulk water, the Government will issue Delivery Orders that will specify the agreement, to include a detailed description of the work, the delivery and/or performance location(s), dates of performance, and pricing.

C.3.13 RESTOCKING OF FEMA DISTRIBUTION CENTERS (DC)

C.3.13.1 Contractor Responsibility: The Contractor is responsible for all activities required to deliver bottled water, including all transportation, to FEMA DC sites specified in orders placed by the Government. Costs of such activities shall be included in the unit price for each CLIN in Schedule B for Restocking of FEMA DC(s) (CONUS) or Restocking of specific FEMA DC(s) (OCONUS).

C.3.13.2 Product Standards: See paragraph C.3.3.2.

C.3.13.3 Primary Container: Water shall be packaged in 16.9-ounce polyethylene terephthalate (PET) bottles with flat caps.

C.3.13.4 Packaging of Shipping Cases: Bottled water shall be packed in cases constructed of sturdy cardboard with minimal space between bottle caps and top of box (flush fit preferred). Cases shall contain 24 bottles per case and stacked no more than six (6) layers on a pallet. Cases shall meet, as a minimum, construction/freight classifications of Bursting Test 400 pounds PSI; Minimum Combined Weight Facings 180 pounds PSI; and Gross Weight limits 120 pounds. Pallets shall be constructed of hardwood, 40"x48", and designed for pickup from all four sides. Pallets of bottled water shall be fully covered on the top and all four sides with a minimum of a double layer of stretch-wrap.

C.3.13.5 Pallet Packing Slip: See paragraph C.3.3.5.

C.3.13.6 Product Certification Documentation: See paragraph C.3.3.6.

C.3.13.7 Transportation: See paragraph C.3.3.7.

C.3.13.8 Delivery Orders for Restocking of FEMA DC: The Contractor shall deliver bottled water in the quantities specified, to the DC(s) specified and at the times specified in Delivery Orders. Unloading of bottled water at the DC(s) will be performed by the Government.

C.3.13.9 Documentation for Restocking of FEMA DC: The Contractor shall assure that every water delivery is properly presented to the Government and that Government acknowledgement of every delivery is obtained. The Contractor shall be responsible for assuring that every delivery has all required documentation. Delivery shall be considered made when the Contractor has obtained acknowledgement of the date and time of the arrival at the delivery site by the on-site Government representative. Upon arrival at the delivery site, the Contractor shall document delivery by having its personnel:

1. Register water deliveries in the format shown in Appendix A, "Water Delivery Information", with the Government's on-site representative;
2. Provide the bill of lading or manifest containing the information shown in Table 2 of paragraph C.3.3.7 to the Government's on-site representative; and
3. Obtain a copy of the completed "Water Delivery Information" form from the Government's on-site representative.

C.3.13.10 FDA Hold Notification: See paragraph C.3.3.11.

C.3.13.11 Payment for Restocking of FEMA DC: The Contractor shall be paid for each liter of bottled water delivered to the FEMA DC; that is accepted by the Government, in accordance with the pricing for the ordered CLIN in Schedule B that is in effect at the time of issuance of each Delivery Order. Invoices submitted for payment shall include copies of all fully executed "Water Delivery Information" forms, including bills of lading and/or manifests that support the quantity of bottled water delivered and accepted for which payment is being requested.

C.3.13.12 FEMA DC Delivery Site Information:

FEMA DC-Atlanta
3780 Southside Industrial Court
Atlanta, Georgia 30354

(404) 279-6380

FEMA DC-Forth Worth
501 W. Felix St, Bldg #12
Forth Worth, TX 76115
(817) 759-4752

FEMA DC-Moffett
NASA Ames Research Center, Bldg 144, Door #7
Moffett Field, CA 94035
(650) 603-8501 FEMA DC-Frederick
4420 Buckeystown Pike
Frederick, MD 21704
(301)874-4200

FEMA DC-District of Columbia
2021 Martinsburg Pike
Winchester, VA 22603
(540)686-3111

FEMA DC-Hawaii
79-1269 Iwaena Street
Aiea, HI 96706
(808) 485-3352

FEMA DC-Guam
Building 100
Barrigada, Guam 96913
(671) 344-5813

FEMA DC-Caribbean
Road 4 Km 25.1 Querada Arenas Ward

Caguas, Puerto Rico 00725
(787) 720-4044

Signature / Printed Name of Contractor's Representative			Date		Total Loaded	

All blanks must be completely filled in. This document must be provided with an accurate Bill of Lading.

Remarks/Comments (Use back of form as needed)

DO NOT DUPLICATE NUMBER.

APPENDIX B

DRAYAGE INFORMATION

NO: _____

Section A (To Be Completed by Contractor)

COE Contract #: _____

Name of Disaster:

Delivery Order#: _____

Delivery Site Name & Address: _____

Tractor Power Unit (Truck) #: _____

Trailer #:

Transportation Sub-Contractor: _____

Section B (To Be Completed by Government On-Site Representative)

START OF SERVICE: **Date In:** _____ **Time In:** _____

Government On-Site Representative

Signature: _____

Print Name

Job Title

Employer

Amount of Liters: _____

END OF SERVICE: **Date Out:** _____ **Time Out:** _____

Government On-Site Representative Signature:

Print Name

Job Title

Employer

Name of Contractor's Representative (Print Name): _____

Remarks/Comments (use back of form as needed):

Section E - Inspection and Acceptance

CLAUSES INCORPORATED BY FULL TEXT

52.246-2 INSPECTION OF SUPPLIES--FIXED-PRICE (AUG 1996)

- (a) Definition. "Supplies," as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.
- (c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.
- (d) If the Government performs inspection or test 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. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; provided, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.
- (e)(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
- (2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes reinspection or retest necessary.
- (f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i)(1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.246-16 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) of this section 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) of this section shall apply.

(d) Under paragraph (b) of this section, 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.

(End of clause)

Section F - Deliveries or Performance

CLAUSES INCORPORATED BY FULL TEXT

52.211-17 DELIVERY OF EXCESS QUANTITIES (SEP 1989)

The Contractor is responsible for the delivery of each item quantity within allowable variations, if any. If the Contractor delivers and the Government receives quantities of any item in excess of the quantity called for (after considering any allowable variation in quantity), such excess quantities will be treated as being delivered for the convenience of the Contractor. The Government may retain such excess quantities up to \$250 in value without compensating the Contractor therefor, and the Contractor waives all right, title, or interests therein. Quantities in excess of \$250 will, at the option of the Government, either be returned at the Contractor's expense or retained and paid for by the Government at the contract unit price.

CLAUSES INCORPORATED BY FULL TEXT

52.242-15 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 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.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.242-17 GOVERNMENT DELAY OF WORK (APR 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.247-34 F.O.B. DESTINATION (NOV 1991)

(a) The term "f.o.b. destination," as used in this clause, means--

(1) Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarded for less than carload shipments, the contractor shall ensure that

the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall--

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

(End of clause)

Section G - Contract Administration Data

INVOICING INFORMATION

INVOICING INFORMATION

(a) The Contractor's invoice for payment shall be submitted to:

USACE Finance Center
ATTN: CEFC-AO-P
5722 Integrity Drive
Millington, TN 38054-5000

(b) A copy of each invoice shall be furnished to the Contracting Officer at the location that issued the delivery order.

NOTE:

NOTE TO OFFERORS: Please pay special attention Solicitation Provision 52.204-8, Annual Representations and Certifications (DEC 2012). All bidders must complete the annual representations and certifications electronically via System for Award Management website at <https://www.sam.gov/portal/public/SAM/>. **OFFERORS MUST COMPLETE BOTH THE FAR AND DFARS CERTIFICATIONS.** Please ensure that your firm is registered in the System for Award Management (SAM) database prior to completing the Request for Proposal requirements.

The applicable NAICS Code and Size Standard for this procurement are as follows:

NAICS Code: 312112
Size Standard: 500 Employee

ACCOUNTING AND APPROPRIATION DATA

AA: 96X31250000 082418 25006GFKG7000160 NA 96190
AMOUNT: \$100,000,000.00
CIN W13G86301751610001: \$100,000,000.00

Section H - Special Contract Requirements

OFFEROR REQUIREMENTS
OFFEROR REQUIREMENTS

H.1 OFFEROR REQUIREMENTS (PRICING OPTION YEARS)

Offerors are required to submit an offer on all items in the Base Period and any listed Option Period. This contract is renewable at the option of the Government, for the award of any Option Period of work at the prices shown, by the Contracting Officer giving written notice of renewal to the Contractor at least sixty (60) days before the end of the contract period. The same conditions for renewal are applicable to any Option Period of work at the expiration of previous renewal.

H.2 ORDERING (DELIVERY ORDERS FOR EMERGENCY CONTRACTS)

- (a) Delivery Orders against the contract may be issued by facsimile, by electronic mail, or in writing.
- (b) Delivery Order may be issued by any U.S. Army Corps of Engineers (USACE) Division or District for deliveries to any geographic location specified in the contract. Within their Contracting Officer warrant limitations, all USACE Contracting Officers are hereby appointed as Ordering Officers for this contract, pursuant to AFARS 1.603-1(2).
- (c) Ordering Officers issuing Delivery Orders against this contract, will provide their name, phone and fax numbers and electronic mail address to the contract.

H.3 DELIVERY ORDERS

Deliveries will be scheduled against this requirements contract by issuance of a Delivery Order. It is critical that the Delivery Order number be included on the applicable invoice. Only the Contracting Officer and/or USACE Ordering Officers for this contract have authority to order supplies/services against this contract. No other Government employee, including any appointed Contracting Officer's Representative (COR), has the authority to order supplies/services. The Contractor is hereby specifically directed to refrain from furnishing supplies/services that have not been ordered by the Contracting Officer or any USACE Ordering Officer for this contract. Failure to follow this direction may relieve the Government of liability for payment of services that were ordered by unauthorized employees.

H.4 ESTIMATED TOTAL QUANTITY

- (a) Because of uncertainties in the nature of emergencies and major disasters, and in the factors affecting the responses of the President and of the Federal Emergency Management Agency (FEMA) to emergencies and disasters, it is difficult to estimate the quantities that may be required under this contract.
- (b) The Contracting Officer is advised that during the period 1992-2007, the U.S. Army Corps of Engineers has purchased the following estimated quantities of bottled drinking water in fulfillment of the tasks from FEMA:

<u>EVENT</u>	<u>QUANTITY (Millions of Gallons)</u>	<u>DATE</u>	<u>LOCATION</u>
Andrew	2.0	Aug 92	CONUS
Midwest Floods	2.0Jul 93		CONUS

Alberto	4.0	Jul 94	CONUS
Marilyn	1.2	Nov 95	U.S. Virgin Islands
Fran	0.7	Sep 96	CONUS
Del Rio Flooding	1.3	Aug 98	CONUS
Bonnie	0.2	Aug 98	CONUS
Georges	9.0	Sep 98	Puerto Rico
Georges	0.4	Sep 98	CONUS
Floyd	3.0	Sep 99	CONUS
Lili	0.3	Oct 02	CONUS
Isabel	2.3	Sep 03	CONUS
Ernesto	0.4	Sep 03	CONUS
Ivan	11.8	Sep 04	CONUS
Katrina	20.2	Aug 05	CONUS
Rita	3.4	Sep 05	CONUS
Chris	0.1	Sep 06	Puerto Rico

- (c) For the calendar years 2008 to 2012 the following quantities of bottled drinking water were delivered to fulfill CONUS tasks from FEMA:

YEAR	LITERS
2008	36,945,000
2009	0
2010	2,303,000
2011	1,710,000
2012	13,900,000

- (d) The Contractor is encouraged to make use of publicly available information about past weather related disasters and about predictions for future weather events. The Contracting Officer is advised that such data is available from multiple sources and media, including the following internet sites:

<http://typhoon.atmos.colostate.edu/forcasts/1998>
<http://typhoon.atmos.colostate.edu/forcasts/1999>
<http://typhoon.atmos.colostate.edu/forcasts/2000>
<http://www.nhc.noaa>

- (e) The estimated quantities stated below are based on the Contracting Officer's best judgment. However, actual requirements may vary widely from these estimates, and it is possible that there could be no requirements at all during the contract period.

- (f) The estimated total quantities for the Base Period are:
1. 3,600,000 liters of drinking water delivered
 2. 360,000 liters of unloading at delivery site by Contractor
 3. 20,000 miles of additional ground mileage
 4. 5,000 hours of standby time in excess of four hours
 5. 5,000 miles of Government furnished drinking water
 6. 36,000 liters of loading Government furnished drinking water

7. 2,000 days of leased storage trailers
8. 50 days of drayage

H.5 LOCAL LABOR PREFERENCE

In performance of work included in this contract, the Contractor shall, in the procurement of supplies and equipment, awarding subcontracts, and in the employment of laborers and mechanics give first priority to those residing in or doing business in the county(ies) of the affected area. This paragraph shall be included in all subcontracts awarded. Failure of the Contractor to comply with requirements of this paragraph may result in termination of the contract for default.

H.6 SAFETY PUBLICATION

The U.S. Army Corps of Engineers Safety Manual, EM 385-1-1 in print on the date of issuance of this solicitation is applicable to work to be performed under this contract. The manual may be obtained without charge by applicants considered to be properly interested upon separate request to the Contracting Division issuing this solicitation.

CLAUSES INCORPORATED BY FULL TEXT

52.216-18 ORDERING. (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the date of contract award or any option exercised thereto.

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

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.216-19 ORDER LIMITATIONS. (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$25,000.00, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of \$10,000,000.00

(2) Any order for a combination of items in excess of \$20,000,000.00; or

(3) A series of orders from the same ordering office within 3 days that together call for quantities exceeding the

limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 4 hours after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

52.216-21 REQUIREMENTS (OCT 1995)

(a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as "estimated" or "maximum" in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

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

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

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

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

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.227-5001 PARTICIPATION OF FOREIGN NATIONALS IN USACE CONTRACTS

All contractor employees (U.S. Citizens and Non-U.S. Citizens) working under this contract who require access to Automated Information Systems (AIS), (stand alone computers, network computers/systems, email) shall, at a minimum, be designated into an ADP-III position (non sensitive) in accordance with DoD 5220-22-R, Industrial Security Regulation. The investigative requirements for an ADP – III position are favorable National Agency Check (NAC), SF-85P, Public Trust Position. The contractor shall have each applicable employee complete a SF-85P and submit to the U.S. Army Engineer District, New England, 696 Virginia Road, Concord, MA 01742-2751, Security Officer, within three (3) working days after award of any contract or task order, and shall be submitted prior to the individual being permitted to access AIS. Contractors that have a commercial or government entity (CAGE) Code and Facility Security Clearance through the Defense Security Service shall process the NAC's and forward visit requests/results of NAC to the U.S. Army Engineer District, New England, 696 Virginia Road, Concord, MA 01742-2751 – Security Officer. For those contractors that do not have a Cage Code or Facility Security Clearance, the U.S. Army Engineer District, New England – Bldg 1, 696 Virginia Road, Concord, MA 01742-2751, Security Officer will process the investigation in coordination with the Contractor and contract employees.

In accordance with Engineering Regulation, ER-380-1-18, Section 4, foreign nationals who work on Corps of Engineers' contracts or task orders shall be approved by HQUSACE Foreign Disclosure Officer or higher before beginning work on the contract/task order. This regulation includes subcontractor employees. (NOTE: exceptions to the above requirement include foreign nationals who perform janitorial and/or grounds maintenance services.) The contractor shall submit to the U.S. Army Engineer District, New England, Contracting Division, the names of all foreign nationals proposed for performance under this contract/task order, along with documentation to verify that he/she was legally admitted into the United States and has authority to work and/or go to school in the US. Such documentation may include a U.S. Passport, Certificate of U.S. Citizenship (INS Form N-560 or N-561), Certificate of Naturalization (INS Form N-550 or N-570), foreign passport with I-551 stamp or attached INS Form I-94 indicating employment authorization, Alien Registration Receipt Card with photograph (INS Form I-151 or I-551), Temporary Resident Card (INS Form I-688), Employment Authorization Card (INS Form I-688A), Reentry Permit (INS Form I-327), Refugee Travel Document (INS Form I-571), Employment Authorization Document issued by INS which contains a photograph (INS Form I-688B).

CLAUSES INCORPORATED BY FULL TEXT

52.236-4004 INSURANCE REQUIRED

In accordance with CONTRACT CLAUSE titled "INSURANCE – WORK ON A GOVERNMENT INSTALLATION" the Contractor shall procure and maintain during the entire period of his performance under this contract the following kinds and minimum amounts of insurance:

TYPE	AMOUNT
Workmen's Compensation and Employers' Liability Insurance The Contractor shall comply with all applicable Workmen's Compensation Statutes and shall furnish evidence of Employers' Liability Insurance.	Not less than \$100,000
General Liability Insurance Bodily injury liability insurance on the comprehensive form of policy.	Minimum limits of \$500,000 per accident

Automobile Liability Insurance
damage liability insurance on the
comprehensive form of policy and shall
cover the operation of all automobiles
used in performance of the contract.

Minimum limits of
\$200,000 per person and
\$500,000 per accident
\$20,000 per accident
For property damage.

Section I - Contract Clauses

CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS (JAN 2012)

(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.acquisition.gov/far> at the end of the FAR, after the FAR Appendix.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-3 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) of this clause, 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.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)

(a) Except as provided in (b) of this clause, 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 (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts

under this contract which exceed the simplified acquisition threshold.

52.203-7 ANTI-KICKBACK PROCEDURES. (OCT 2010)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be

made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold, from sums owed a subcontractor under the prime contract, the amount of any kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

CLAUSES INCORPORATED BY FULL TEXT

52.203-8 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 subsections 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.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-10 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.

(End of clause)

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

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

Agency means executive agency as defined in Federal Acquisition Regulation (FAR) 2.101.

Covered Federal action means any of the following actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.
- (4) Entering into any cooperative agreement.
- (5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization 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 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 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 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 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 eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation 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 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 includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Regularly employed 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 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) Prohibition. 31 U.S.C. 1352 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 covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor shall not use 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 the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term appropriated funds does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) Agency and legislative liaison by Contractor employees.

(i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern--

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

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

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub.L. 95-507, and subsequent amendments.

(2) Professional and technical services. (i) 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.

(ii) 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.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) 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.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) Disclosure. (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) Penalties. (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) 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.

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

(f) 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.

(g) Subcontracts. (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$150,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$150,000.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011)

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

Postconsumer fiber means—

(1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or

(2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not

(3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

(b) The Contractor is required to submit paper documents, such as offers, letters, or reports that are printed or copied double-sided on paper containing at least 30 percent postconsumer fiber, whenever practicable, when not using electronic commerce methods to submit information or data to the Government.

(End of clause)

52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUNE 2013)

(a) Definitions. As used in this clause:

Executive means officers, managing partners, or any other employees in management positions.

First-tier subcontract means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

Month of award means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) Salary and bonus.

(2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(5) Above-market earnings on deferred compensation which is not tax-qualified.

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information.

(d)(1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the Central Contractor Registration (CCR) database (FAR provision 52.204-7), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

(2) First-tier subcontract information. Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, the Contractor shall report the following information at <http://www.fsr.gov> for that first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsr.gov> to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) Executive compensation of the first-tier subcontractor.

Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <http://www.fsr.gov>, if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$25,000 to avoid the reporting requirements in paragraph (d).

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at <http://www.fsrs.gov> will be prepopulated with some information from CCR and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the CCR database information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

FAR 52.204-99 (DEVIATION)

System for Award Management Registration (August 2012) (DEVIATION)

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

“Central Contractor Registration (CCR) database” means the **retired** 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 Agency (DLA) Logistics Information Service to identify a commercial or Government entity; or

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

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

“Data Universal Numbering System+4 (DUNS+4) number” means the DUNS number means the 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 **SAM** records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same concern.

“Registered in the **SAM** database” means that—

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

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

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

“System for Award Management (SAM)” means the primary Government repository for prospective federal awardee information and the centralized Government system for certain contracting, grants, and other assistance related processes. It includes—

(1) Data collected from prospective federal awardees required for the conduct of business with the Government;

(2) Prospective contractor submitted annual representations and certifications in accordance with FAR Subpart 4.12; and

(3) The list of all parties suspended, proposed for debarment, debarred, declared ineligible, or excluded or disqualified under the nonprocurement common rule by agencies, Government corporations, or by the Government Accountability Office.

(b)(1) The Contractor shall be registered in the **SAM** database prior to submitting an invoice and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The SAM registration shall be for the same name and address identified on the contract, with its associated CAGE code and DUNS or DUNS+4.

(3) If indicated by the Government during performance, registration in an alternate system may be required in lieu of SAM.

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

(1) A contractor may obtain a DUNS number—

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the contractor 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 contractor should indicate that it is a contractor for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The **Contractor** 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) **Reserved.**

(e) Processing time **for registration in SAM, which normally takes five business days**, should be taken into consideration when registering. **Contractors** who are not already registered should consider applying for registration **at least two weeks prior to invoicing**.

(f) The Contractor is responsible for the accuracy and completeness of the data within the **SAM** database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the **SAM** 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 **SAM** database to ensure it is current, accurate and complete. Updating information in the **SAM** 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 **sufficient documentation to support the legally changed name with** a minimum of one business day's written notification of its intention to—

(A) Change the name in the **SAM** 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.

(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 **SAM** 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 **SAM** record 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 **SAM** database. Information provided to the Contractor's **SAM** 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) Contractors may obtain information on registration and annual confirmation requirements via the **SAM** accessed through <https://www.acquisition.gov> or by calling **866-606-8220, or 334-206-7828 for international calls.**

(End of Clause)

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)

(a) Definition. Commercially available off-the-shelf (COTS) item, as used in this clause--

(1) Means any item of supply (including construction material) that is--

(i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);

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

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

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

(b) The Government suspends or debar Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed \$30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

- (1) The name of the subcontractor.
 - (2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.
 - (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that--
- (1) Exceeds \$30,000 in value; and
 - (2) Is not a subcontract for commercially available off-the-shelf items.
- (End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.211-5 MATERIAL REQUIREMENTS (AUG 2000)

(a) Definitions.

As used in this clause--

New means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; provided that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

Reconditioned means restored to the original normal operating condition by readjustments and material replacement.

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

Remanufactured means factory rebuilt to original specifications.

Virgin material means--

- (1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

- (2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.
- (b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.
- (c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.
- (d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Contracting Officer for approval.
- (e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.

(End of clause)

52.215-2 AUDIT AND RECORDS--NEGOTIATION (OCT 2010)

- (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 the contract.
- (c) Certified cost or pricing data. If the Contractor has been required to submit certified 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 certified 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 and to interview any current employee regarding such transactions.

(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 certified 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 only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.215-8 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.

(e) The specifications.

(End of clause)

52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA--
MODIFICATIONS (AUG 2011)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the certified cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted certified cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA--MODIFICATIONS (OCT 2010)

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate,

complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

52.215-14 INTEGRITY OF UNIT PRICES (OCT 2010)

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.

The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

(End of clause)

52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA OR INFORMATION OTHER THAN CERTIFIED COST OR PRICING DATA--MODIFICATIONS (OCT 2010)

(a) Exceptions from certified cost or pricing data.

(1) In lieu of submitting certified cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable--

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items.

(A) If--

(1) The original contract or subcontract was granted an exception from certified cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a

contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include--

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) Requirements for certified cost or pricing data. If the Contractor is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Contractor shall submit certified cost or pricing data, data other than certified cost or pricing data, and supporting attachments in accordance with the instructions contained in Table 15-2 of FAR 15.408, which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15-2 are incorporated as a mandatory format to be used in this contract, unless the Contracting Officer and the Contractor agree to a different format and change this clause to use Alternate I.

As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance

hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 60 days before expiration of the contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

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

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

(End of clause)

52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 2011)

(a) Definitions. See 13 CFR 125.6(e) for definitions of terms used in paragraph (d).

(b) Evaluation preference. (1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from HUBZone small business concerns that have not waived the evaluation preference; and

(ii) Otherwise successful offers from small business concerns.

(2) The factor of 10 percent shall be applied on a line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation shall be applied before application of the factor.

(3) A concern that is both a HUBZone small business concern and a small disadvantaged business concern will receive the benefit of both the HUBZone small business price evaluation preference and the small disadvantaged business price evaluation adjustment (see FAR clause 52.219-23). Each applicable price evaluation preference or adjustment shall be calculated independently against an offeror's base offer.

These individual preference amounts shall be added together to arrive at the total evaluated price for that offer.

(4) When the two highest rated offerors are a HUBZone small business concern and a large business, and the evaluated offer of the HUBZone small business concern is equal to the evaluated offer of the large business after considering the price evaluation preference, award will be made to the HUBZone small business concern.

(c) Waiver of evaluation preference. A HUBZone small business concern may elect to waive the evaluation preference, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraphs (d) and (e) of this clause do not apply if the offeror has waived the evaluation preference.

___ Offeror elects to waive the evaluation preference.

(d) Agreement. A HUBZone small business concern agrees that in the performance of the contract, in the case of a contract for

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other HUBZone small business concerns;

(2) Supplies (other than procurement from a nonmanufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other HUBZone small business concerns;

(3) General construction. (i) At least 15 percent of the cost of contract performance to be incurred for personnel will be spent on the prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the prime contractor's employees or on a combination of the prime contractor's employees and employees of HUBZone small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns; or

(4) Construction by special trade contractors. (i) At least 25 percent of the cost of contract performance to be incurred for personnel will be spent on the prime contractor's employees;

(ii) At least 50 percent of the cost of the contract performance to be incurred for personnel will be spent on the prime contractor's employees or on a combination of the prime contractor's employees and employees of HUBZone small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns.

(e) A HUBZone joint venture agrees that the aggregate of the HUBZone small business concerns to the joint venture, not each concern separately, will perform the applicable percentage of work requirements.

(f)(1) When the total value of the contract exceeds \$25,000, a HUBZone small business concern nonmanufacturer agrees to furnish in performing this contract only end items manufactured or produced by HUBZone small business concern manufacturers.

(2) When the total value of the contract is equal to or less than \$25,000, a HUBZone small business concern nonmanufacturer may provide end items manufactured by other than a HUBZone small business concern manufacturer provided the end items are produced or manufactured in the United States.

(3) Paragraphs (f)(1) and (f)(2) of this section do not apply in connection with construction or service contracts.

(g) Notice. The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the

Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

(End of clause)

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(c) Definitions. As used in this contract--

HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

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

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

Small disadvantaged business concern means a small business concern that represents, as part of its offer that--

(1)(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B;

(ii) No material change in disadvantaged ownership and control has occurred since its certification;

(iii) Where the concern is owned by one or more individuals, 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); and

(iv) It is identified, on the date of its representation, as a certified small disadvantaged business in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, or

(2) It represents in writing that it qualifies as a small disadvantaged business (SDB) for any Federal subcontracting program, and believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SDB eligibility criteria of 13 CFR 124.1002.

Veteran-owned small business concern means a small business concern--

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

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

Women-owned small business 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.

(d)(1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting the SBA. Options for contacting the SBA include--

(i) HUBZone small business database search application Web page at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm; or <http://www.sba.gov/hubzone>;

(ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC 20416; or

(iii) The SBA HUBZone Help Desk at hubzone@sba.gov.

(End of clause)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause--

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

“Commercial item” means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business concerns, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and with women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all

subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of --

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to --

(i) Small business concerns,

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

- (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns, and
 - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.
- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with --
- (i) Small business concerns (including ANC and Indian tribes);
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
 - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$650,000 (\$1.5 million for construction of any public facility with further subcontracting possibilities) to adopt a plan similar to the plan that complies with the requirements of this clause.
- (10) Assurances that the offeror will --
- (i) Cooperate in any studies or surveys as may be required;
 - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating --

(A) Whether small business concerns were solicited and if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and if not, why not;

(F) Whether women-owned small business concerns were solicited and if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact --

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through --

(A) Workshops, seminars, training, etc., and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided --

- (1) The master plan has been approved;
 - (2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and
 - (3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.
- (j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.
- (k) The failure of the Contractor or subcontractor to comply in good faith with --
- (1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or
 - (2) An approved plan required by this clause, shall be a material breach of the contract.
- (l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.
- (1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.
 - (i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are

required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides--

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans--

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$650,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan--

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.219-16 LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (APR 2012)

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

Long-term contract means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

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 the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall rerepresent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts--

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the rerepresentation required by paragraph (b) of this clause by validating or updating all its representations in the Online Representations and Certifications Application and its data in the Central Contractor Registration, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in ORCA, or does not have a representation in ORCA for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

The Contractor represents that it () is, () is not a small business concern under NAICS Code 312112 - assigned to contract number W912WJ-13-R-0003.

(Contractor to sign and date and insert authorized signer's name and title).

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.222-3 CONVICT LABOR (JUN 2003)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall not employ in the performance of this contract any person undergoing a sentence of imprisonment imposed by any court of a State, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands.

(b) The Contractor is not prohibited from employing persons--

(1) On parole or probation to work at paid employment during the term of their sentence;

(2) Who have been pardoned or who have served their terms; or

(3) Confined for violation of the laws of any of the States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if--

(i) The worker is paid or is in an approved work training program on a voluntary basis;

(ii) Representatives of local union central bodies or similar labor union organizations have been consulted;

(iii) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services;

(iv) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality in which the work is being performed; and

(v) The Attorney General of the United States has certified that the work-release laws or **regulations** of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.222-20 WALSH-HEALEY PUBLIC CONTRACTS ACT (OCT 2010)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$15,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) Segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services

at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

(End of clause)

52.222-26 EQUAL OPPORTUNITY (MAR 2007)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b)(1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard

Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

52.222-35 EQUAL OPPORTUNITY FOR VETERANS (SEP 2010)

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

All employment openings means all positions except executive and senior management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Armed Forces service medal veteran means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

Disabled veteran means--

(1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Executive and senior management means—

(1) Any employee--

(i) Compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities;

(ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(iii) Who customarily and regularly directs the work of two or more other employees; and

(iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or

(2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

Other protected veteran means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Qualified disabled veteran means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

Recently separated veteran means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(b) General.

(1) The Contractor shall not discriminate against any employee or applicant for employment because the individual is a disabled veteran, recently separated veteran, other protected veterans, or Armed Forces service medal veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a disabled veteran, recently separated veteran, Armed Forces service medal veteran, and other protected veteran in all employment practices including the following:

(i) Recruitment, advertising, and job application procedures.

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.

(iii) Rate of pay or any other form of compensation and changes in compensation.

- (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
- (v) Leaves of absence, sick leave, or any other leave.
- (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor.
- (vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.
- (viii) Activities sponsored by the Contractor including social or recreational programs.
- (ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(3) The Department of Labor's regulations require contractors with 50 or more employees and a contract of \$100,000 or more to have an affirmative action program for veterans. See 41 CFR part 60-300, subpart C.

(c) Listing openings.

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate employment service delivery system where the opening occurs. Listing employment openings with the State workforce agency job bank or with the local employment service delivery system where the opening occurs shall satisfy the requirement to list jobs with the appropriate employment service delivery system.

(2) The Contractor shall make the listing of employment openings with the appropriate employment service delivery system at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State workforce agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(e) Postings.

(1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall--

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, Armed Forces service medal veterans, and other protected veterans; and

(ii) Be in a form prescribed by the Director, Office of Federal Contract Compliance Programs, and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor. This includes implementing any sanctions imposed on a contractor by the Department of Labor for violations of this clause (52.222-35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include--

(1) Withholding progress payments;

(2) Termination or suspension of the contract; or

(3) Debarment of the contractor.

(g) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance.

(End of clause)

52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

- (iii) Rates of pay or any other form of compensation and changes in compensation;
 - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 - (v) Leaves of absence, sick leave, or any other leave;
 - (vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
 - (vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 - (viii) Activities sponsored by the Contractor, including social or recreational programs; and
 - (ix) Any other term, condition, or privilege of employment.
- (2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.
- (b) Postings. (1) The Contractor agrees to post employment notices stating--
- (i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and
 - (ii) The rights of applicants and employees.
- (2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.
- (3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.
- (c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
- (d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

52.222-37 EMPLOYMENT REPORTS ON VETERANS (SEP 2010)

- (a) Definitions. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "other protected veteran," and "recently separated veteran," have the meanings given in the Equal Opportunity for Veterans clause 52.222-35.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The total number of employees in the contractor's workforce, by job category and hiring location, who are disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans; and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by completing the Form VETS-100A, entitled "Federal Contractor Veterans' Employment Report (VETS-100A Report)."

(d) The Contractor shall submit VETS-100A Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date--

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(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.

Forced Labor means knowingly providing or obtaining the labor or services of a person--

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

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, subcontractors, 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 result in --
- (1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;
- (2) Requiring the Contractor to terminate a subcontract;
- (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 non-compliance;
- (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.
- (g) Mitigating Factor. The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.
- (End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

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

"Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled

Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

"Drug-free workplace" means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

"Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

"Individual" means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall-- within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration--

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about--

(i) The dangers of drug abuse in the workplace;

(ii) The Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by subparagraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will--

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the

workplace:

- (i) Taking appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs (b)(1) through (b)(6) of this clause.
- (c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.
- (d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

(End of clause)

52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001)

(a) Definition. Ozone-depleting substance, as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR part 82 as--

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR Part 82, Subpart E, as follows:

“WARNING: Contains (or manufactured with, if applicable), a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.”-----

The Contractor shall insert the name of the substance(s).

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.225-1 BUY AMERICAN ACT--SUPPLIES (FEB 2009)

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

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply (including construction material) that is--

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

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

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

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

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

Cost of components means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic end product means--

(1) An unmanufactured end product mined or produced in the United States;

(2) An end product manufactured in the United States, if--

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(ii) The end product is a COTS item.

End product means those articles, materials, or supplies to be acquired under the contract for public use.

Foreign end product means an end product other than a domestic end product.

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

(b) The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for an end product that is a COTS item (See 12.505(a)(1)).

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Act Certificate."

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.225-13 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 [TerList1.html](http://www.treas.gov/offices/enforcement/ofac/terlist1.html). 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 Web site at <http://www.treas.gov/offices/enforcement/ofac/>.

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

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.225-14 INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT (FEB 2000)

In the event of inconsistency between any terms of this contract and any translation into another language, the English language meaning shall control.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.226-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUN 2000)

(a) Definitions. As used in this clause:

"Indian" means any person who is a member of any Indian tribe, band, group, pueblo or community that is

recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

"Indian organization" means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

"Indian-owned economic enterprise" means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitute not less than 51 percent of the enterprise.

"Indian tribe" means any Indian tribe, band, group, pueblo or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1542(c).

"Interested party" means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contractor shall use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW., MS 2626-MIB, Washington, DC 20240-4000.

The BIA will determine the eligibility and notify the Contracting Officer. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

- (i) The estimated cost of a cost-type contract.
- (ii) The target cost of a cost-plus-incentive-fee prime contract.
- (iii) The target cost and ceiling price of a fixed-price incentive prime contract.
- (iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

(c) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The Contracting Officer will seek funding in accordance with agency procedures.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent--

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.228-5 INSURANCE--WORK ON A GOVERNMENT INSTALLATION (JAN 1997)

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective (1) for such period as the laws of the State in which this contract is to be performed prescribe, or (2) until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon

request.

(End of clause)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)

(a) As used in this clause—

“After-imposed Federal tax” means any new or increased Federal excise 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, 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. It does not include social security tax or other employment taxes.

“After-relieved Federal tax” means any amount of Federal excise tax or duty, except social security or other employment taxes, 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 or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

“All applicable Federal, State, and local 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.

“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.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b)(1) The contract price includes all applicable Federal, State, and local taxes and duties, except as provided in subparagraph (b)(2)(i) of this clause.

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

(i) Included in the contract price; nor

(ii) Reimbursed.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

(d) The contract price shall be decreased by the amount of any after-relieved Federal tax.

(e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, 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.

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

(g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty 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.

(h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)

(a) Discounts for prompt payment 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 Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)

If more than one clause or Schedule term of this contract authorizes the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts withheld at any one time shall not exceed the greatest amount that may be withheld under any one clause or Schedule term at that time; provided, that this limitation shall not apply to--

- (a) Withholdings pursuant to any clause relating to wages or hours of employees;
- (b) Withholdings not specifically provided for by this contract;
- (c) The recovery of overpayments; and
- (d) Any other withholding for which the Contracting Officer determines that this limitation is inappropriate.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-11 EXTRAS (APR 1984)

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

(End of clause)

52.232-17 INTEREST (OCT 2010)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Certified 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 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 paragraph (e) 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) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(c) Final Decisions. The Contracting Officer will issue a final decision as required by 33.211 if--

(1) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(2) 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

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

(d) 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.

(e) 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, including any demand for payment resulting from a default termination.

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

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

(2) 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

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

(g) 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.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-25 PROMPT PAYMENT (OCT 2008)

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 paragraph (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 is 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 or 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 Pub. L. 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 not 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 notify 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 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 regulations 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 FAR 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 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 makes 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--
- (1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--
 - (i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
 - (ii) Affected contract number and delivery order number if applicable;
 - (iii) Affected contract line item or subline item, if applicable; and
 - (iv) Contractor point of contact.
 - (2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-33 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 directed 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.

(End of Clause)

52.233-1 DISPUTES. (JUL 2002)

(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 the contract, and comply with any decision of the Contracting Officer.

(End of clause)

52.233-3 PROTEST AFTER AWARD (AUG. 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. 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. Upon receipt of the final decision in the protest, 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 either before or after a final decision in the protest, 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 an 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 a proposal 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.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of clause)

52.243-1 CHANGES--FIXED-PRICE (AUG 1987)

(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) 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.

(2) Method of shipment or packing.

(3) 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.

(End of clause)

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)

(a) Definitions.

"Commercial item", has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract", includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds \$5,000,000 and has a performance period of ore than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.219-8, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212(a));

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (OCT 2010) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

(ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

52.246-23 LIMITATION OF LIABILITY (FEB 1997)

(a) Except as provided in paragraphs (b) and (c) below, and except for remedies expressly provided else-where in this contract, the Contractor shall not be liable for loss of or damage to property of the Government (excluding the supplies delivered under this contract) that (1) occurs after Government acceptance of the supplies delivered under this contract, and (2) results from any defects or deficiencies in the supplies.

(b) The limitation of liability under paragraph (a) of this clause shall not apply when a defect or deficiency in, or the Government's acceptance of, the supplies 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 purchase or use of the supplies required to be delivered 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 or deficiencies in, the supplies delivered under this contract.

(End of clause)

52.247-28 CONTRACTOR'S INVOICES (APR 1984)

The Contractor shall submit itemized invoices as instructed by the agency ordering services under this contract. The Contractor shall annotate each invoice with the contract number and other ordering office document identification.

(End of clause)

52.248-1 VALUE ENGINEERING (OCT 2010)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) Definitions. "Acquisition savings," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include--

(1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;

(2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and

(3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"Collateral costs," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contracting office" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Future unit cost reduction," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either (1) throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated or (2) to the calculation of a lump-sum payment, which cannot later be revised.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"Instant contract," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

"Instant unit cost reduction" means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

"Negative instant contract savings" means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

"Net acquisition savings" means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

"Sharing base," as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

Sharing period, as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

"Unit," as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change--
 - (i) In deliverable end item quantities only;
 - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
 - (iii) To the contract type only.
- (c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:
 - (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
 - (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
 - (3) Identification of the unit to which the VECP applies.
 - (4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.
 - (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
 - (6) A prediction of any effects the proposed change would have on collateral costs to the agency.
 - (7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.
 - (8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.
- (d) Submission. The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.
- (e) Government action. (1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.
 - (2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the

Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing rates. If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon (1) this contract's type (fixed-price, incentive, or cost-reimbursement), (2) the sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule), and (3) the source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS

(Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	(1) 50	(1) 50	(1) 25	25

(1) The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.

(2) Same sharing arrangement as the contract's profit or fee adjustment formula.

(3) The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below). Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) Contract adjustment. The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall--

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts--add to contract price.

(ii) Cost-reimbursement contracts--add to contract fee.

(i) Concurrent and future contract savings.

(1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by (i) subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset and (ii) multiplying the result by the Contractor's sharing rate.

(3) The Contracting Officer shall calculate the Contractor's share of future contract savings by (i) multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period, (ii) subtracting any Government costs or negative instant contract savings not yet offset, and (iii) multiplying the result by the Contractor's sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.

(5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(k) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$150,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(m) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering clause of contract , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012)

(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 (g) 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 (f)(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 (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, for the loss of the Government property.

(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.

(End of clause)

52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

(a)(1) The Government may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to--

- (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;
- (ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) of this clause); or
- (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Government's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

(b) If the Government terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, supplies or services similar to those terminated, and the Contractor

will be liable to the Government for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Government may require the Contractor to transfer title and deliver to the Government, as directed by the Contracting Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the Government has an interest.

(f) The Government shall pay contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The Government may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect the Government against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Government.

(h) The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.253-1 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 than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-
CONTRACT-RELATED FELONIES (DEC 2008)

(a) Definitions. As used in this clause—

(1) "Arising out of a contract with the DoD" means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) "Conviction of fraud or any other felony" means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

(3) "Date of conviction" means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

(1) In a management or supervisory capacity on this contract;

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone 301-937-1542; www.ojp.usdoj.gov/BJA/grant/DPFC.html".

(End of clause)

252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JAN 2009)

The Contractor shall inform its employees in writing of employee whistleblower rights and protections under 10 U.S.C. 2409, as described in Subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

(End of clause)

252.204-7003 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.

(End of clause)

252.204-7006 BILLING INSTRUCTIONS (OCT 2005)

When submitting a request for payment, the Contractor shall--

(a) Identify the contract line item(s) on the payment request that reasonably reflect contract work performance; and

(b) Separately identify a payment amount for each contract line item included in the payment request.

(End of clause)

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

(a) Definition.

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

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

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

(End of clause)

252.209-7004 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 notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(End of clause)

252.215-7000 PRICING ADJUSTMENTS (DEC 2012)

The term "pricing adjustment," as used in paragraph (a) of the clauses entitled "Price Reduction for Defective Certified Cost or Pricing Data - Modifications," "Subcontractor Certified Cost or Pricing Data," and "Subcontractor Certified Cost or Pricing Data - Modifications," means the aggregate increases and/or decreases in cost plus applicable profits.

(End of clause)

252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (AUG 2012)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small Business Subcontracting Plan, clause of this contract.

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

Historically black colleges and universities means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions means institutions meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

Summary Subcontract Report (SSR) Coordinator means the individual at the department or agency level who is registered in eSRS and is responsible for acknowledging receipt or rejecting SSRs in eSRS for the department or agency.

(b) Except for company or division-wide commercial items subcontracting plans, the term "small disadvantaged business," when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph

(d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian Tribe or a Tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 8502-8504), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under section 831 of Public Law 101-510, as amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(1) Protege firms which are qualified organizations employing the severely disabled; and

(2) Former protege firms that meet the criteria in Section 831(g)(4) of Public Law 101-510.

(f) The master plan is approved by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(h)(1) For DoD, the Contractor shall submit reports in eSRS as follows:

(i) The Individual Subcontract Report (ISR) shall be submitted to the contracting officer at the procuring contracting office, even when contract administration has been delegated to the Defense Contract Management Agency.

(ii) An SSR for other than a commercial subcontracting plan, or construction and related maintenance repair contracts, shall be submitted in eSRS to the department or agency within DoD that administers the majority of the Contractor's individual subcontracting plans. An example would be Defense Finance and Accounting Service or Missile Defense Agency.

(2) For DoD, the authority to acknowledge receipt or reject reports in eSRS is as follows:

(i) The authority to acknowledge receipt or reject the ISR resides with the contracting officer who receives it, as described in paragraph (h)(1)(i) of this clause.

(ii) Except as provided in (h)(2)(iii), the authority to acknowledge receipt or reject SSRs in eSRS resides with the SSR Coordinator at the department or agency that administers the majority of the Contractor's individual subcontracting plans.

(iii) The authority to acknowledge receipt or reject SSRs for construction and related maintenance and repair contracts resides with the SSR Coordinator for each department or agency.

(iv) The authority to acknowledge receipt or reject the Year-End Supplementary Report for Small Disadvantaged Businesses resides with the SSR Coordinator who acknowledges receipt or rejects the SSR.

(v) If the Contractor submits the Small Disadvantaged Business Participation report using eSRS, the authority to acknowledge receipt or reject this report in eSRS resides with the contracting officer who acknowledges receipt or rejects the ISR.

(End of clause)

252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and

efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employees has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2..1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (DEC 2012)

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

Commercially available off-the-shelf (COTS) item--

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

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

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

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

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

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

Domestic end product means--

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if—

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that--

(1) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(2) It is inconsistent with the public interest to apply the restrictions of the Buy American statute; or

(B) The end product is a COTS item.

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

Foreign end product means an end product other than a domestic end product.

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

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

Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

Qualifying country end product means--

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if--

(A) The cost of the following types of components exceeds 50 percent of the cost of all its components:

(1) Components mined, produced, or manufactured in a qualifying country.

(2) Components mined, produced, or manufactured in the United States.

(3) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) The end product is a COTS item. United States means the 50 States, the District of Columbia, and outlying areas.

(b) This clause implements, Buy American. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (see section 12.505(a)(1) of the Federal Acquisition Regulation). Unless otherwise specified, this clause applies to all line items in the contract.

(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American--Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, the Contractor shall deliver a qualifying country end product or, at the Contractor's option, a domestic end product.

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

(End of clause)

252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (DEC 2012)

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

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

(b) Subject to the restrictions in section 225.872 of the Defense FAR Supplement, the Contractor shall not preclude qualifying country sources or U.S. sources from competing for subcontracts under this contract.

(End of clause)

252.225-7004 REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA--SUBMISSION AFTER AWARD (OCT 2010)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Reporting requirement. The Contractor shall submit a report in accordance with this clause, if the Contractor or a first-tier subcontractor will perform any part of this contract outside the United States and Canada that--

(1) Exceeds \$650,000 in value; and

(2) Could be performed inside the United States or Canada.

(c) Submission of reports. The Contractor--

(1) Shall submit a report as soon as practical after the information is known;

(2) To the maximum extent practicable, shall submit a report regarding a first-tier subcontractor at least 30 days before award of the subcontract;

(3) Need not resubmit information submitted with its offer, unless the information changes;

(4) Shall submit all reports to the Contracting Officer; and

(5) Shall submit a copy of each report to: Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), OUSD(AT&L)DPAP(CPIC), Washington, DC 20301-3060.

(d) Report format. The Contractor--

(1) Shall submit reports using--

(i) DD Form 2139, Report of Contract Performance Outside the United States; or

(ii) A computer-generated report that contains all information required by DD Form 2139; and

(2) May obtain copies of DD Form 2139 from the Contracting Officer or via the Internet at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

(End of clause)

252.225-7006 QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (OCT 2010)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Reporting requirement. Except as provided in paragraph (c) of this clause, within 10 days after the end of each quarter of the Government's fiscal year, the Contractor shall report any subcontract, purchase, or intracompany transfer that--

- (1) Will be or has been performed outside the United States;
- (2) Exceeds the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; and
- (3) Has not been identified in a report for a previous quarter.

(c) Exception. Reporting under this clause is not required if--

- (1) A foreign place of performance is the principal place of performance of the contract; and
- (2) The Contractor specified the foreign place of performance in its offer.

(d) Submission of reports. The Contractor shall submit the reports required by this clause to: Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), OUSD(AT&L)DPAP(CPIC), Washington, DC 20301-3060.

(e) Report format. The Contractor--

(1) Shall submit reports using--

- (i) DD Form 2139, Report of Contract Performance Outside the United States; or
- (ii) A computer-generated report that contains all information required by DD Form 2139; and

(2) May obtain copies of DD Form 2139 from the Contracting Officer or via the Internet at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

(f) Subcontracts. The Contractor--

- (1) Shall include the substance of this clause in all first-tier subcontracts exceeding \$650,000, except those for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence;
- (2) Shall provide the number of this contract to its subcontractors required to submit reports under this clause; and
- (3) Shall require the subcontractor, with respect to performance of its subcontract, to comply with the requirements directed to the Contractor in paragraphs (b) through (e) of this clause.

(End of clause)

252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (FEB 2013)

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

Component means any item supplied to the Government as part of an end product or of another component.

End product means supplies delivered under a line item of this contract.

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

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

Structural component of a tent--

- (i) Means a component that contributes to the form and stability of the tent (e.g., poles, frames, flooring, guy ropes, pegs);
- (ii) Does not include equipment such as heating, cooling, or lighting.

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

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

(b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been grown, reprocessed, reused, or produced in the United States:

- (1) Food.
- (2) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia.
- (3) (i) Tents and structural components of tents;

- (ii) Tarpaulins; or
 - (iii) Covers.
 - (4) Cotton and other natural fiber products.
 - (5) Woven silk or woven silk blends.
 - (6) Spun silk yarn for cartridge cloth.
 - (7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.
 - (8) Canvas products.
 - (9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).
 - (10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing fibers, yarns, fabrics, or materials listed in this paragraph (b).
- (c) This clause does not apply--
- (1) To items listed in section 25.104(a) of the Federal Acquisition Regulation (FAR), or other items for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;
 - (2) To incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool--
 - (i) Is not more than 10 percent of the total price of the end product; and
 - (ii) Does not exceed the simplified acquisition threshold in FAR part 2;
 - (3) To waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives;
 - (4) To foods, other than fish, shellfish, or seafood, that have been manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. Fish, shellfish, or seafood manufactured or processed in the United States and fish, shellfish, or seafood contained in foods manufactured or processed in the United States shall be provided in accordance with paragraph (d) of this clause;
 - (5) To chemical warfare protective clothing produced in a qualifying country; or
 - (6) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if--
 - (i) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include--
 - (A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);
 - (B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;
 - (C) Upholstered seats (whether for household, office, or other use); and

(D) Parachutes (Federal Supply Class 1670); or

(ii) The fibers and yarns are para-aramid fibers and continuous filament para-aramid yarns manufactured in a qualifying country.

(d)(1) Fish, shellfish, and seafood delivered under this contract, or contained in foods delivered under this contract--

(i) Shall be taken from the sea by U.S.-flag vessels; or

(ii) If not taken from the sea, shall be obtained from fishing within the United States; and

(2) Any processing or manufacturing of the fish, shellfish, or seafood shall be performed on a U.S.-flag vessel or in the United States.

(End of clause)

252.225-7013 DUTY-FREE ENTRY (JUN 2012)

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

Component means any item supplied to the Government as part of an end product or of another component.

Customs territory of the United States means the 50 States, the District of Columbia, and Puerto Rico.

Eligible product means--

(i) Designated country end product as defined in the Trade Agreements clause of this contract;

(ii) Free Trade Agreement country end product, other than a Bahrainian end product, a Moroccan end product, or a Peruvian end product, as defined in the Buy American-Free Trade Agreements-Balance of Payments Program clause of this contract; or

(iii) Canadian end product as defined in Alternate I of the Buy American-Free Trade Agreements-Balance of Payments Program clause of this contract.

Qualifying country and qualifying country end product have the meanings given in the Trade Agreements clause, the Buy American and Balance of Payments Program clause, or the Buy American--Free Trade Agreements--Balance of Payments Program clause of this contract.

(b) Except as provided in paragraph (i) of this clause, or unless supplies were imported into the customs territory of the United States before the date of this contract or the applicable subcontract, the price of this contract shall not include any amount for duty on--

(1) End items that are eligible products or qualifying country end products;

(2) Components (including, without limitation, raw materials and intermediate assemblies) produced or made in qualifying countries, that are to be incorporated in U.S.-made end products to be delivered under this contract; or

(3) Other supplies for which the Contractor estimates that duty will exceed \$200 per shipment into the customs territory of the United States.

(c) The Contractor shall--

- (1) Claim duty-free entry only for supplies that the Contractor intends to deliver to the Government under this contract, either as end items or components of end items; and
- (2) Pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use, other than--
 - (i) Scrap or salvage; or
 - (ii) Competitive sale made, directed, or authorized by the Contracting Officer.
- (d) Except as the Contractor may otherwise agree, the Government will execute duty-free entry certificates and will afford such assistance as appropriate to obtain the duty-free entry of supplies--
 - (1) For which no duty is included in the contract price in accordance with paragraph (b) of this clause; and
 - (2) For which shipping documents bear the notation specified in paragraph (e) of this clause.
- (e) For foreign supplies for which the Government will issue duty-free entry certificates in accordance with this clause, shipping documents submitted to Customs shall--
 - (1) Consign the shipments to the appropriate--
 - (i) Military department in care of the Contractor, including the Contractor's delivery address; or
 - (ii) Military installation; and
 - (2) Include the following information:
 - (i) Prime contract number and, if applicable, delivery order number.
 - (ii) Number of the subcontract for foreign supplies, if applicable.
 - (iii) Identification of the carrier.
 - (iv) (A) For direct shipments to a U.S. military installation, the notation: ``UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE Duty-Free Entry to be claimed pursuant to Section XXII, Chapter 98, Subchapter VIII, Item 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, please release shipment under 19 CFR part 142 and notify Commander, Defense Contract Management Agency (DCMA) New York, ATTN: Customs Team, DCMAE-GNTF, 207 New York Avenue, Staten Island, New York, 10305-5013, for execution of Customs Form 7501, 7501A, or 7506 and any required duty-free entry certificates."
 - (B) If the shipment will be consigned to other than a military installation, e.g., a domestic contractor's plant, the shipping document notation shall be altered to include the name and address of the contractor, agent, or broker who will notify Commander, DCMA New York, for execution of the duty-free entry certificate. (If the shipment will be consigned to a contractor's plant and no duty-free entry certificate is required due to a trade agreement, the Contractor shall claim duty-free entry under the applicable trade agreement and shall comply with the U.S. Customs Service requirements. No notification to Commander, DCMA New York, is required.)
 - (v) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight).
 - (vi) Estimated value in U.S. dollars.

(vii) Activity address number of the contract administration office administering the prime contract, e.g., for DCMA Dayton, S3605A.

(f) Preparation of customs forms.

(1)(i) Except for shipments consigned to a military installation, the Contractor shall--

(A) Prepare any customs forms required for the entry of foreign supplies into the customs territory of the United States in connection with this contract; and

(B) Submit the completed customs forms to the District Director of Customs, with a copy to DCMA NY for execution of any required duty-free entry certificates.

(ii) Shipments consigned directly to a military installation will be released in accordance with sections 10.101 and 10.102 of the U.S. Customs regulations.

(2) For shipments containing both supplies that are to be accorded duty-free entry and supplies that are not, the Contractor shall identify on the customs forms those items that are eligible for duty-free entry.

(g) The Contractor shall--

(1) Prepare (if the Contractor is a foreign supplier), or shall instruct the foreign supplier to prepare, a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry;

(2) Consign the shipment as specified in paragraph (e) of this clause; and

(3) Mark on the exterior of all packages--

(i) "UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE"; and

(ii) The activity address number of the contract administration office administering the prime contract.

(h) The Contractor shall notify the Administrative Contracting Officer (ACO) in writing of any purchase of eligible products or qualifying country supplies to be accorded duty-free entry, that are to be imported into the customs territory of the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. The Contractor shall furnish the notice to the ACO immediately upon award to the supplier and shall include in the notice--

(1) The Contractor's name, address, and Commercial and Government Entity (CAGE) code;

(2) Prime contract number and, if applicable, delivery order number;

(3) Total dollar value of the prime contract or delivery order;

(4) Date of the last scheduled delivery under the prime contract or delivery order;

(5) Foreign supplier's name and address;

(6) Number of the subcontract for foreign supplies;

(7) Total dollar value of the subcontract for foreign supplies;

(8) Date of the last scheduled delivery under the subcontract for foreign supplies;

(9) List of items purchased;

(10) An agreement that the Contractor will pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use other than--

(i) Scrap or salvage; or

(ii) Competitive sale made, directed, or authorized by the Contracting Officer;

(11) Country of origin; and

(12) Scheduled delivery date(s).

(i) This clause does not apply to purchases of qualifying country supplies in connection with this contract if--

(1) This clause does not apply to purchases of eligible products or qualifying country supplies in connection with this contract if--

(2) It is not economical or feasible to account for such supplies so as to ensure that the amount of the supplies for which duty-free entry is claimed does not exceed the amount purchased in connection with this contract.

(j) The Contractor shall--

(1) Insert the substance of this clause, including this paragraph (j), in all subcontracts for--

(i) Qualifying country components; or

(ii) Nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit;

(2) Require subcontractors to include the number of this contract on all shipping documents submitted to Customs for supplies for which duty-free entry is claimed pursuant to this clause; and

(3) Include in applicable subcontracts--

(i) The name and address of the ACO for this contract;

(ii) The name, address, and activity address number of the contract administration office specified in this contract; and

(iii) The information required by paragraphs (h)(1), (2), and (3) of this clause.

(End of clause)

252.225-7021 TRADE AGREEMENTS (DEC 2012)

(a) Definitions. As used in this clause—

“Caribbean Basin country end product”—

(i) Means an article that—

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

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

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

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

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

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

“Commercially available off-the-shelf (COTS) item”—

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

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

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

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

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

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

“Designated country” means—

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

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

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

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

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

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

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

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

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

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

(i) Is wholly the growth, product, or manufacture of a least developed country; or

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

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

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

Australia
Austria
Belgium
Canada
Czech Republic
Denmark
Egypt

Finland
 France
 Germany
 Greece
 Israel
 Italy
 Luxembourg
 Netherlands
 Norway
 Poland
 Portugal
 Spain
 Sweden
 Switzerland
 Turkey
 United Kingdom of Great Britain and Northern Ireland.

“Qualifying country end product” means—

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

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

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

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

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

- (i) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation

services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

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

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

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

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

(ii) A national interest waiver has been granted.

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

(e) The HTSUS is available on the Internet at <http://www.usitc.gov/tata/hts/bychapter/index.htm>. The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

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

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

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

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

(End of clause)

252.226-7001 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES, AND NATIVE HAWAIIAN SMALL BUSINESS CONCERNS (SEP 2004)

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

Indian means--

(1) Any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c); and

(2) Any "Native" as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

Indian organization means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C. chapter 17.

Indian-owned economic enterprise means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

Native Hawaiian small business concern means an entity that is--

(1) A small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632) and relevant implementing regulations; and

(2) Owned and controlled by a Native Hawaiian as defined in 25 U.S.C. 4221(9).

(b) The Contractor shall use its best efforts to give Indian organizations, Indian-owned economic enterprises, and Native Hawaiian small business concerns the maximum practicable opportunity to participate in the subcontracts it awards, to the fullest extent consistent with efficient performance of the contract.

(c) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status.

(d) In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to--

(1) For matters relating to Indian organizations or Indian-owned economic enterprises: U.S. Department of the Interior, Bureau of Indian Affairs, Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street NW, MS-2626-MIB, Washington, DC 20240-4000. The BIA will determine the eligibility and will notify the Contracting Officer.

(2) For matters relating to Native Hawaiian small business concerns: Department of Hawaiian Home Lands, PO Box 1879, Honolulu, HI 96805. The Department of Hawaiian Home Lands will determine the eligibility and will notify the Contracting Officer.

(e) No incentive payment will be made--

(1) While a challenge is pending; or

(2) If a subcontractor is determined to be an ineligible participant.

(f)(1) The Contractor, on its own behalf or on behalf of a subcontractor at any tier, may request an incentive payment in accordance with this clause.

(2) The incentive amount that may be requested is 5 percent of the estimated cost, target cost, or fixed price included in the subcontract at the time of award to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(3) In the case of a subcontract for commercial items, the Contractor may receive an incentive payment only if the subcontracted items are produced or manufactured in whole or in part by an Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(4) The Contractor has the burden of proving the amount claimed and shall assert its request for an incentive payment prior to completion of contract performance.

(5) The Contracting Officer, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the estimated cost, target cost, or fixed price included in the subcontract awarded to the Indian organization, Indian-owned economic enterprise, or Native Hawaiian small business concern.

(6) If the Contractor requests and receives an incentive payment on behalf of a subcontractor, the Contractor is obligated to pay the subcontractor the incentive amount.

(g) The Contractor shall insert the substance of this clause, including this paragraph (g), in all subcontracts exceeding \$500,000.

(End of clause)

252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (JUNE 2012)

(a) Definitions. As used in this clause—

(1) Contract financing payment and invoice payment have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) Electronic form means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.

(3) Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(4) Receiving report means the data required by the clause at 252.246-7000, Material Inspection and Receiving Report.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at <https://wawf.eb.mil/>.

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

(1) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment;

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

(3) DoD makes payment for rendered health care services using the TRICARE Encounter Data System (TEDS) as the electronic format; or

(4) When the Governmentwide commercial purchase card is used as the method of payment, only submission of the receiving report in electronic form is required.

(d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.

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

(End of clause)

252.232-7010 LEVIES ON CONTRACT PAYMENTS (DEC 2006)

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

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

(1) The total dollar amount of the levy;

(2) A statement that the Contractor believes that the levy may result in an inability to perform the contract, including rationale and adequate supporting documentation; and

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

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

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

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

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

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

(End of clause)

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

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

252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (DEC 2012)

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

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

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

(Official's Name)

(Title)

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

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

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

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

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

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

252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (JUN 2013)

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

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

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

(End of clause)

252.247-7023 Transportation of Supplies by Sea (JUN 2013)

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

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

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

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

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

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

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

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

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

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

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

(i) This contract is a construction contract; or

(ii) The supplies being transported are--

(A) Noncommercial items; or

(B) Commercial items that--

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

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

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

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

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

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

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

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

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of the steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

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

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
_____	_____	_____
_____	_____	_____
_____	_____	_____
TOTAL	_____	_____

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, including subcontracts for commercial items, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

(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 of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

Section J - List of Documents, Exhibits and Other Attachments

Appendixes:

Appendix A: Past Performance Questionnaire (PPQ)

Appendix B: Small Business Participation Plan

Appendix C: Representative CLIN for Further Price Evaluation