

AUTHORIZED FOR LOCAL REPRODUCTION
PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 1449 (REV. 2/2012)
Prescribed by GSA - FAR (48 CFR) 53.212

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED
 ☐ INSPECTED
 ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE			32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
			32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
38. S/R ACCOUNT NO.	39. S/R VOUCHER NUMBER	40. PAID BY		
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT		42a. RECEIVED BY (<i>Print</i>)		
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		42b. RECEIVED AT (<i>Location</i>)		
		42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS

Form**TECHNICAL REQUIREMENTS**

THIS DOCUMENT INCORPORATES TECHNICAL AND/OR QUALITY REQUIREMENTS (IDENTIFIED BY AN 'R' OR AN 'I' NUMBER IN SECTION B) SET FORTH IN FULL TEXT IN THE DLA MASTER LIST OF TECHNICAL AND QUALITY REQUIREMENTS FOUND ON THE WEB AT:

<http://www.dla.mil/HQ/Acquisition/Offers/eProcurement.aspx>. FOR SIMPLIFIED ACQUISITIONS, THE REVISION OF THE MASTER IN EFFECT ON THE SOLICITATION ISSUE DATE OR THE AWARD DATE CONTROLS. FOR LARGE ACQUISITIONS, THE REVISION OF THE MASTER IN EFFECT ON THE RFP ISSUE DATE APPLIES UNLESS A SOLICITATION AMENDMENT INCORPORATES A FOLLOW-ON REVISION, IN WHICH CASE THE AMENDMENT DATE CONTROLS.

CAUTION NOTICE

THE CONTENT AND STRUCTURE OF SOLICITATION SPE302-23-R-0002 IS NEW. PLEASE READ CAREFULLY BEFORE SUBMITTING YOUR OFFER.

The awardee will be required to have a computer system capable of accepting delivery orders and processing Electronic Data Interchange (EDI) transactions. This contract will require the contractor to have electronic commerce/electronic data interchange EC/EDI capabilities.

All contractors who choose to conduct business with the Department of Defense must now be registered in the System of Award Management (SAM) database. In addition, we encourage all vendors who receive contract awards as a result of this solicitation to access the "Dynamic Small Business Search" feature of SAM to identify potential suppliers and teaming partners for this initiative. You may go to the System of Award Management at www.sam.gov and click on the "Dynamic Small Business Search" button. When making your procurement decisions we encourage one's consideration of local business as a means to nurture small business and local economies.

All contractors who receive awards as a result of this initiative are encouraged to utilize the SBA SUBNet database to assist them in further identifying additional small business sources of supply. Vendors may post notices of sources sought for teaming partners and subcontractors on future contracts. Small business can review this web site to identify opportunities in their area of expertise. You may access the SBA PRONet database through the SBA Website at www.sba.gov.

Included in your proposal submission, offerors are required to substantiate Delivered Prices for all items in the Schedule of Items, with invoices / quotes for all groups offered **when requested**.

CONTRACTOR CODE OF BUSINESS ETHICS (Nov 2021)

FAR Part 3.1002(a) requires all government contractors to conduct themselves with the highest degree of integrity and honesty. Contractors should have a written code of business ethics and conduct within thirty days of award. To promote compliance with such code of business ethics and conduct, contractors should have an employee business ethics and compliance training program that facilitates timely discovery and disclosure of improper conduct in connection with government contracts and ensures corrective measures are promptly instituted and carried out. A contractor may be suspended and/or debarred for knowing failure by a principal to timely disclose to the government, in connection with the award, performance, or closeout of a government contract performed by the contractor or a subcontract awarded there under, credible evidence of a violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in title 18 of the United States Code or a violation of the False Claims Act. (31 U.S.C. 3729-3733).

If this solicitation or contract includes FAR clause 52.203-13 - CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT; the contractor

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shall comply with the terms of the clause and have a written code of business ethics and conduct; exercise due diligence to prevent and detect criminal conduct; promote ethical conduct and a commitment to compliance with the law within their organization; and timely report any violations of federal criminal law involving fraud, conflict of interest, bribery or gratuity violations found in title 18 of the United States Code or any violations of the False Claims Act. (31 U.S.C. 3729-3733). When FAR 52.203-13 is included in the contract, contractors must provide a copy of its written code of business ethics and conduct to the contracting officer upon request by the contracting officer.

RAPID GATE, DEFENSE BIOMETRIC IDENTIFICATION SYSTEM (DBIDS) REQUIREMENT and/or OTHER SECURITY PROGRAMS

Many bases may require enrollment in a particular system for base security such as RapidGate, the Defense Biometric Identification System (DBIDS), or other similar system(s). Such systems manage access to Department of Defense (DoD) installations, and will not allow entry without clearance. During the contract start-up/ implementation period, the Contractor must contact all customer locations to determine whether enrollment in RapidGate, DBIDS, or another security program is required for access to each location. If RapidGate, DBIDS, or other security enrollment is required, the Contractor must take all necessary steps to obtain this in time for the start of performance under this contract. Failure to have clearance may result in a vendor being turned away from the base and being unable to complete delivery. The Contractor is responsible for any costs associated with RapidGate, DBIDS, and/or other security program enrollment and must ensure that a properly enrolled driver is available for all deliveries. We currently estimate that RapidGate or DBIDS enrollment will cost about \$250 per company and \$200 per enrolled employee for 1 year of access to multiple locations, but the cost of RapidGate, DBIDS or other security enrollment may vary, so the Contractor should contact the specific security system contractor to determine its own costs. If more than one driver is required, enrollment must be obtained for each driver. Note that enrollment can take several weeks, so an awardee that is not already enrolled must begin enrollment at the time of award notification at the latest. If difficulty or delay in enrollment is encountered during the start-up/implementation period, the Contractor MUST contact the specific security system contractor and/or the Security Officer at the applicable customer locations to resolve any issues with processing enrollment so that the Contractor will be able to deliver as required.

For additional information on current base security systems including RapidGate and DBIDS, including enrollment instructions, please visit their websites at <https://www.fortiorsolutions.com/products/rapidgate/> and <http://dbids.dmdc.mil/>.

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CHECKLIST - DID YOU REMEMBER TO:

- ☐ Fill in Block 17a, of 1449?
- ☐ Fill in Block 17A. Continued, on the bottom of page 3?
- ☐ Indicate remittance address and UEI Number block 17B. Continued, on the bottom of page 3, if different, in offer?
- ☐ **Sign** Block 30a, name in Block 30b, and date in Block 30c.?
- ☐ Sign and return any/all amendments?
- ☐ Return one (1) **COMPLETE & SIGNED** copy of the solicitation?
- ☐ Fill out all certifications and representations in solicitation or submit a copy of your firm's representations and certifications from System for Award Management ("SAM") website?
- ☐ Submit prices for **every item** listed in the Schedule of Items (Attachment 1)?
- ☐ Fill out Vendor Name & CAGE Code for Excel Spreadsheet cell "D2" in Attachment 1?
- ☐ Submit Distribution Prices for all Tiers in Attachment 1?
- ☐ Checked box stating you intend or do not intend to use one or more facilities as a place of performance under Federal Acquisition Regulation ("FAR") 52.215-6 Place of Performance?
- ☐ In accordance with the clause above, submit a separate list of places of performance, i.e., distribution centers / warehouse locations that will directly support the proposed customers? Warehouses that function as backups should be designated as such.
- ☐ Submit proof of a valid / current Perishable Agricultural Commodities Act (PACA) License?
- ☐ Submit a valid USDA Good Agricultural Practices ("GAP") and Good Manufacturing Practices ("GMP") or independent third-party certifying company audit inspection report(s) / certificate for each place of performance?
- ☐ Submit required information concerning financial arrangements under which you receive money from your Suppliers. I.e., manufacturer, grower, private label holder, or redistributor (when the Redistributor Exception applies)? Note: a negative response is required. For more information, see 52.212-1, "Proposal Submission Information", para G.
- ☐ Submit all documents electronically by emailing **Michael Juan; michael.juan@dla.mil and Jean Ross; jean.ross@dla.mil**

CAUTION: The above checklist is for convenience purposes only. This list is not intended to be all-inclusive. Offerors are responsible for carefully reviewing the entire Solicitation to ensure proper submission of all required information.

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STATEMENT OF WORK

I. INTRODUCTION

A. DLA TROOP SUPPORT INDO-PACIFIC intends to enter into an Indefinite Delivery, Indefinite Quantity (IDIQ) contract with a commercial firm to supply a full-line of USDA No.1 or better Fresh Fruit and Vegetable (FF&V) products to Non-DoD USDA ("Schools") customers on the Island of Oahu, in the State of Hawaii. Specific quality requirements per item are included in the Schedule of Items **Attachment 1**. Failure to propose the specified quality requirement per item as identified in Schedule of Items may render an offeror's proposal technically unacceptable. If the item's description in **Attachment 1 Schedule of Items** does not provide a specific quality grade, the minimum quality grade that is required to meet the terms of this Solicitation is USDA Grade Number 1.

A successful offeror(s) will be required to source, purchase, store, and deliver a variety of FF&V items to DLA TROOP SUPPORT INDO-PACIFIC customers on an ongoing basis, while at the same time maintaining acceptable fill rates, levels of customer service, and product quality. Therefore, an offeror must currently possess the physical, logistical, and financial resources to serve as a commercial distributor of a variety of FF&V items. It is neither sufficient nor acceptable for an offeror to be a third-party logistics ("3PL") company (i.e., a company that does not intend to serve as the FF&V supplier but instead intends to subcontract out the majority of aspects required by the contract, including but not limited to ordering, warehousing, distribution, etc.). By offering, an offeror affirms its status as a current and functioning commercial distributor of FF&V items. In order to determine whether an offeror meets the technical requirement of being a current and functioning commercial FF&V distributor, the Contracting Officer will require an offeror to provide its current, valid Perishable Agricultural Commodities Act ("PACA") license. In addition, the Contracting Officer will require an offeror to submit a valid Good Agricultural Practices ("GAP")/Good Handling Practices ("GHP") audit inspection report(s) / certificate for each place of performance identified in the offeror's proposal. The audit report(s) must demonstrate that a passing score(s) was/were received. Please note that a request for the aforementioned information by the Contracting Officer will be used to make a determination of whether or not the offeror meets the technical requirement of being a current and functioning commercial distributor of FF&V. This information is not being sought to determine an offeror's likelihood of success in performing the contract as would be the case in a responsibility analysis.

This acquisition is being solicited under the authority of FAR 13.5, "Simplified Procedures for Certain Commercial Items". The purpose of this program is to vest contracting officers with additional procedural discretion and flexibility, so that commercial item acquisitions greater than the simplified acquisition threshold but not exceeding \$7.5 million may be solicited, offered, evaluated, and awarded in a simplified manner that maximizes efficiency and economy and minimizes burden and administrative costs for both the Government and industry.

B. This solicitation is being issued as 100% small business set-aside under full and open competition procedures. NAICS is 311991 and size standard is 500 employees. A waiver of the Non-Manufacturer rule has not been requested for this acquisition because it is an acquisition for multiple items. In accordance with 13 CFR 121.406(e), if at least 50% of the estimated contract value of an acquisition for multiple items is composed of items that are manufactured by small business concerns, then a waiver of the Non-Manufacturer rule is not required. As such, for this acquisition, it is expected that items comprising at least 50% of the contract value will be manufactured by small business concerns. The contracting officer must be immediately notified if it appears as though this requirement will not be met.

C. This solicitation utilizes the Lowest Price Technically Acceptable (LPTA) Source Selection Process. The length of the contract is thirty-six (36) months (3 years) including all tiers. As part of this selection process, the Agency will incorporate a weighting factor in its evaluation. Said factor will only be applied for evaluation purposes to the Aggregate Distribution Price. Please refer to the Addendum to FAR 52.212-2

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contained in this Solicitation for additional information about how each offeror's price, and price components, will be evaluated

D. Any award resulting from this Solicitation will be an IDIQ that is fixed in price subject to the applicable Economic Price Adjustment ("EPA") provision. For additional information regarding the EPA, refer to Section VII of the scope. An IDIQ will provide for an indefinite delivery, indefinite quantity, within stated limits, of specific supplies or services to be furnished during a fixed period, with deliveries to be scheduled by placing orders with the contractor (reference FAR 16.504(a)).

E. For Schools: All Fresh Fruit and Vegetable products delivered under this Group shall be sourced domestically, no exceptions. Non-DoD USDA School Customers are allowed to utilize the resulting IDIQ only when they use Federal funding.

II. EFFECTIVE PERIOD OF CONTRACT / TIERS

A. The resultant IDIQ may be for a total of 3 years (three [12 month] tier periods) commencing on the effective date of the IDIQ contract. The first tier will include a start-up period, see paragraph IV. CONTRACT START-UP PERIOD for details

Performance Period: 03/06/2023 - 03/05/2026 (3 years total)

Tier 1 - 03/06/2023 - 03/05/2024 (12-month period)

Tier 2 - 03/06/2024 - 03/05/2025 (12-month period)

Tier 3 - 03/06/2025 - 03/05/2026 (12-month period)

B. For evaluation purposes only, Tier 1 of the resultant IDIQ (12 Months), and the term of any tier after (12 Months), if exercised under the IDIQ, will not exceed 24 months for the tier periods. The total length of the IDIQ will not exceed thirty-six (36) months.

C. Exercising of a tier is not automatic and depends upon such conditions as acceptable vendor performance in meeting contract specifications and verifying an ongoing demand for this requirement.

D. There are three (12 month) tier periods in this solicitation. Acceptance of these tiers is mandatory. Distribution Prices (see Economic Price Adjustment (EPA) Clause), must be submitted for each tier period. The Distribution Prices offered on each tier period will be calculated with the Delivered Price (see Economic Price Adjustment (EPA) Clause), proposed for each evaluated item. The Distribution Price for each tier period may be offered as a dollar value, increase or decrease, from the initial Tier 1 period. Changes expressed as a percentage will not be accepted.

E. Failure to propose an increase or decrease of distribution prices in the tier periods will be considered, and evaluated as, no change per tier period.

III. ESTIMATED DOLLAR VALUE / GUARANTEED MINIMUM/MAXIMUM

A. The following chart includes the 12-month estimated dollar value for Tier 1, and the overall 3-year period, along with the \$75,000 guaranteed minimum and contract maximum values, respectively. Though both figures are based on estimates, the guaranteed minimum and the contract maximum are both fixed firm dollar amounts, which are calculated as a percentage of the 12-month and 3-year estimated dollar values, respectively.

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B. **NOTE:** The guaranteed minimum, which is shown in the “Minimum” column below, constitutes the Agency’s full legal obligation as to its ordering requirements. Once this obligation is met, there is no further ordering obligation on the part of the Agency regardless of what period said obligation is met within performance period.

Customer:	Non-DoD Schools in Oahu, Hawaii
12 month Estimate (Tier 1):	\$2,500,000.00
Guaranteed Minimum:	\$75,000.00
Maximum Ceiling Amount:	\$7,500,000.00 for the entire 3-year period.

The term “estimate” refers to the Agency’s good faith estimate of the requirement for the specific period stated.

IV. CONTRACT START-UP PERIOD

After an award is made, the Contractor (also referred to as the Awardee) will be required to take steps to implement its new contract prior to initial ordering/delivery. Within 15 days after the award is made, the Contractor shall submit a proposed implementation schedule to the Contracting Officer that details all the necessary steps that are required to ensure proper contract performance. This may include but is not limited to catalog/ordering/invoice testing (FFAVORS), sourcing new items, finalize delivery schedule per customer location, etc. An additional 15 days will be granted for actual completion of the proposed schedule. No more than 30 calendar days after award, however, will be given to complete the schedule and have a fully functional distribution account in place for all customers covered under the contract(s). The timeline for the “start-up” period, as described above, is included in the first tier.

V. ELECTRONIC ORDERING CATALOGS

An offeror that receives an award will be required to maintain electronic catalogs that list all items available to the customers covered under this solicitation. These catalogs will be FFAVORS (for Schools catalog). Each item in the catalog shall contain the corresponding national or local stock number (as appropriate), Government item description, packaging characteristics, unit of issue, and unit price. FFAVORS manuals are available electronically.

A. Catalog Maintenance

1. New Items

(a) Prior to commencement of the first order, DLA TROOP SUPPORT INDO-PACIFIC, the customer and the contractor will collaborate to identify items not found in the Schedule of Items which are to be added to the ordering catalog. This effort is limited in its scope but necessary

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to update the catalog with items that were not required previously due to seasonality and other contingent circumstances unknown to the Contracting Officer at the time of solicitation. Neither the contractor nor customer is permitted to add a new item to the catalog without initiating a new item request to the Contracting Officer, which requires a separate fair and reasonable price analysis per item.

(b) After ordering commencement, if a customer desires to order a FF&V item that is not part of the ordering catalog, the contractor will be allowed a maximum of twenty (20) days to source the item, obtain a stock number from DLA TROOP SUPPORT INDO-PACIFIC (if required) and add the item to the ordering catalog via an 832 catalog transaction in FFAVORS. These items should then become a permanent part of the contractor's inventory, dependent upon availability, after the Contracting Officer's determination of fair and reasonable pricing. The contractor shall utilize the Contracting Officer provided form when requesting all item approvals (additions and/or changes). The "Request for New Item" form is mandatory and is **Attachment 3**.

(c) The successful awardee shall assume the responsibility of introducing new produce items to the customers, as well as showing cost effective alternatives to their current choices.

2. Catalog Pricing / Additions

(a) Schedule of Items Pricing: Items priced in the Schedule of Items will be included in the ordering catalog following award. The final proposed price for each item in the Schedule of Items will be the catalog price during the first two weeks of customer ordering. Pricing for the Schedule of Items will be determined fair and reasonable prior to award.

(i) Upward ceiling on economic price adjustment. The aggregate of Delivered Price increases for each item under this section during the entire contract period shall not exceed 110% for Non-DoD School Customers of the initial contract Delivered Price,

(b) Contractor-Requested Catalog Price Changes: Upon award, all items included in the Solicitation's Schedule of Items that ultimately are included in the ordering catalogs have been deemed "fair and reasonable" from a pricing standpoint by the Contracting Officer. No further analysis is necessary with regard to those prices until said prices are subject to change per a request by the Contractor under the terms of the Economic Price Adjustment (EPA) provision. In accordance with said provision, a Contractor is permitted to submit a **bi-weekly** adjustment request for any items found on the catalog when consistent with actual price changes of said items encountered by the Contractor as reflected in the commercial market. **EPA requests shall be submitted bi-weekly, no later than 9:00 AM Hawaii Standard Time (HST) on Tuesday to be effective in the following week's ordering catalog. The Contractor shall notify the Contracting Officer by email and update in the form of an electronic data interchange ("EDI") 832 transaction when using FFAVORS.** When such a request occurs, the Contracting Officer is required to make an entirely new "fair and reasonable" determination of that item's new requested price. Prices are to be adjusted downward or upward, as appropriate, according to "last receipt" price, as defined under the EPA terms of this solicitation. If the new requested price cannot be found "fair and reasonable" by the Contracting Officer, the last approved price will remain effective for purposes of the ordering catalog and the Contractor shall continue support of that item(s) for the following week and beyond until a new "fair and reasonable" price is approved. The Contracting Officer's failure to approve a Contractor's request for a **bi-weekly** adjustment of a price will NOT result in the automatic removal of the corresponding item from the following week's ordering catalog. In a circumstance where an item's price is "held over" from a prior week, having not been adjusted due to the Contracting Officer's rejection of a subsequent weekly price adjustment request (i.e., newly proposed price cannot be determined "fair and reasonable"), it is expected that the terms of the EPA provision continue to be strictly adhered to. It is unacceptable, and a breach of said terms, if a Contractor uses a "held over" price to overcharge the Government at a point when that price exceeds the item's true price as paid by the Contractor in its business, which reflects commercial market conditions for that item. Therefore, in the "held over" scenario as described above as well as all scenarios encountered during contract performance, price decreases are expected when and where applicable. Please note that the Contracting Officer has wide discretion in managing the above-described processes and resolving any resulting issues.

(c) Catalog Additions: Before an item is added to the catalog, contractors are required to submit to the contracting officer a request of proposed catalog additions (**See Attachment 3**). The request shall include the stock number, Government item description, proposed unit price and a corresponding supplier invoice or quote. **The request is due by 9:00 AM HST on the Monday prior to inclusion of the Wednesday catalog updates. Please note that meeting this deadline does not guarantee that the item's price will be approved as "fair and reasonable" nor does it mean that the Contracting Officer will have been able to complete his/her review of the request prior to the time necessary to incorporate it into the following week's ordering catalog.** The contracting officer will review the catalog addition request and upon determining the price fair and reasonable will contact the contractor to indicate acceptance. The contractor shall then include the item on Wednesday's catalog update. Should the proposed price fail to be determined fair and reasonable, the contracting

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officer will conduct negotiations with the contractor. If after negotiations the proposed pricing still cannot be determined fair and reasonable the item will not be added to the catalog.

(d) Pricing Requirements: The final negotiated contract fixed unit price for each item delivered to all customers shall be in effect for a minimum of all orders issued during the first two ordering weeks (from Sunday at 12:01 AM Hawaii Standard Time (HST) through the following Saturday until 11:59 PM) of the second week following (i.e., the 14th day)). The prices shall remain in effect for all subsequent ordering weeks except as otherwise adjusted IAW clause Economic Price Adjustment -Actual Material Costs for Subsistence Delivered Price Business Model (Nov 2011).

VI. ECONOMIC PRICE ADJUSTMENT ("EPA") - ACTUAL MATERIAL COSTS FOR SUBSISTENCE FF&V or "Produce"

A. Warranties. For any items covered by this EPA language, the Contractor warrants that:

1. Contract Unit Price and the components of the Contract Unit Price, i.e., Delivered Price and Distribution Price, shall not include allowances for any portion of the contingency covered by this language; and

2. Price adjustments requested during the performance of the contract shall be computed in accordance with the provisions of this language.

B. Definitions. As used throughout this language the term:

1. **"Contract Unit Price"** means the total price per unit of a particular item charged to the Government for a product delivered to customers under this contract. The Contract Unit Price consists of two separate and distinct components: 1) Delivered Price, less Rebates/Discounts, and 2) Distribution Price. The unit price sum of these two components shall be rounded up or down to the nearest cent, to determine the Contract Unit Price.

2. **"Delivered Price"**

(i) "Delivered Price" means the commercial manufacturer, grower, or private label holder price per unit charged to the Contractor, inclusive of standard freight to the Contractor's facility/facilities, for the purchase of a representative quantity of the item as compared to orders under this contract. Delivered Price is the manufacturer, grower, or private label holder price that is input into the Contractor's purchasing system as the starting basis for its pricing to customers prior to applying or deducting any additional costs or expenses, such as distribution, overhead, profit, rebates/discounts, or other costs/expenses stemming from separate financial arrangements. Delivered Price shall be substantiated with an actual invoice paid by the Contractor. In limited circumstances, quotations may be used to substantiate a Delivered Price, but only with specific approval of the Contracting Officer. The Delivered Price shall not include costs to be included in the Distribution Price.

(A) Redistributor Exception:

On a case by case basis, for a specific item or stock keeping unit ("SKU"), a contiguous United States (CONUS) redistributor's most recent commercial price per unit, inclusive of standard freight to the Contractor's facility/facilities to the Contractor of a representative quantity of product as compared to orders under the contract may be used to establish Delivered Price. A redistributor's commercial price may only be used to establish Delivered Price when the redistributor's price for the quantity ordered is equal to or lower than a manufacturer's, grower's, or private label holder's current market price for a representative quantity of product inclusive of rebates/discounts. The Contracting Officer must specifically approve the use this exception. When seeking approval for the use of this exception, at a minimum, the Contractor must supply invoices from the redistributor. Quotes from the redistributor are unacceptable. Additional supporting documentation (e.g., published price list, manufacturer letter, or similar proof of price comparison) may be required. The determination of whether the supporting documentation offered is sufficient to establish a manufacturer's, grower's, or private label holder's current market price, as well as the decision to permit the use of this exception, rests solely with the Contracting Officer.

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3. **"Distribution Price(s)"** means the firm-fixed price portion of the Contract Unit Price, offered as a dollar amount per unit of issue, rounded up or down to the nearest cent. The Distribution Price component includes all costs associated with the Contractor's performance that are not included in the Delivered Price, including, but not limited to: human resources, insurance, special packaging, overhead, profit, transportation from the Contractor's facility or other place of performance to the end customers, split-case fees, ancillary in-house processing fees, subcontractor costs, etc.
4. **"Grower"** means the business concern that raises produce for marketing.
5. **"Manufacturer"** mean the business concern that, with its own facilities, performs primary activities of processing or transforming agricultural products into the end item being acquired.
6. **"Ordering Catalog"** means the electronic listing of items and Contract unit prices available for ordering under this contract.
7. **"Ordering Period"** means from Sunday at 12:00 AM (Eastern Time (ET), standard or daylight as applicable) through 11:59 PM on the second Saturday following.(i.e., the 14th day).
8. **"Private Label Holder"** means:
 - (i) A manufacturer or grower with whom the Contractor holds an ownership and/or financial interest, or ownership and/or financial interest in a specific item(s) produced by a manufacturer or grower;
 - (ii) An entity holding an intellectual property interest, whether by ownership or license, in the label under which product is being sold in the commercial marketplace; or
 - (iii) An entity holding exclusive marketing and/or sales authority of a product, or one holding property rights in a proprietary product formula.
9. **"Rebates/Discounts"** means all rebates, discounts, product allowances, food show discounts, early payment discounts (other than qualifying early payment discounts as may be defined elsewhere in this contract), and any other rebates, discounts, economic incentives, or similar financial arrangements available at the manufacturer, grower, private label holder, or redistributor level that ultimately reduces the Contractor's price paid for a product supplied under the contract. In accordance with this language as well as other provisions of this contract, and subject to any applicable exceptions, all rebates/discounts shall be passed on to the Government via a reduced catalog price for the item to which the rebates/discounts pertain (i.e., "off invoice"). Any rebates/discounts that cannot be applied as an up-front price reduction must be submitted to the Contracting Officer via check payable to the U.S. Treasury, with an attached itemized listing of all customer purchases by line item, including contract number, call number, purchase order number and contract line item number ("CLIN").
10. **"Redistributor"** means an entity independent of the contractor that operates in the existing commercial marketplace and from which the contractor purchases product for purposes of consolidating quantities and/or obtaining lower delivered prices. Examples may include: brokers, dealers, distributors, and buying groups.
11. **"Standard Freight"** means the published list price or prevailing market rate for transportation of items ordered under this contract from the manufacturer, grower, private label holder, or redistributor (when the Redistributor Exception applies) to the Contractor's facility/facilities. Standard Freight must be documented in an invoice; however, quotes may be an acceptable form of substantiation in limited circumstances and if authorized by the Contracting Officer. Standard freight may include certain ancillary costs associated with transportation which are consistent with commercial practice in the produce industry, including, but are not limited to, pallets, temperature

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recording devices, Tectrol, etc.

- (i) In the event that the Contractor picks up its own product directly from a manufacturer, grower, private label holder, or redistributor (when the Redistributor Exception applies) on an F.O.B Origin basis, or arranges for delivery transportation from a third party source other than the manufacturer, grower, private label holder, or redistributor (when the Redistributor Exception applies), the standard freight cost shall be based on market tariffs/conditions and consistent with prevailing market rates. At no time shall that cost exceed the manufacturer's, grower's, private label holder's, or redistributor's, or such entity's carrier's freight price normally payable by the Contractor for inbound shipments of such products and quantities to the Contractor's facility(ies).

C. Price adjustments.

1. General.

- (i) All Contract Unit Prices shall be fixed and remain unchanged until changed pursuant to this language or other applicable provision of the contract. Only the Delivered Price component of the Contract Unit Price is subject to adjustment under this section. After the first ordering period, if the Contractor's Delivered Price changes for any or all Contract Unit Prices, the Contract Unit Price shall be changed in the next period's ordering catalog upon the Contracting Officer's approval of the Contractor's request, which must be submitted in accordance with paragraph (iii) below, by the same dollar amount of the change in the Delivered Price, subject to the limitations in paragraphs C.2 and D, below. Any price changes approved by the Contracting Officer shall become effective at the beginning of the next ordering period. All ordering catalog unit prices computed in accordance with this section and in effect when an order is placed shall remain in effect for that order through delivery. DLA Troop Support will be charged the Contract Unit Price in effect at the time the order is placed, regardless of any changes in the Contract Unit Price occurring before delivery or in any subsequent ordering period.
- (ii) Delivered Prices included in the catalog shall equal the Contractor's last receipt price for the item as reflected in an invoice (or quote in limited circumstances) for a representative quantity compared to typical Government purchases. For the purpose of the contract catalog, the "last receipt price" means the price of the product charged on the most recent invoice at the time the price change is requested. For example, if by Wednesday (i.e., the day price change requests are due to the Contracting Officer) the Contractor had recently received two invoices for the product in question, one on Monday and one on Tuesday, then the most recent invoice is the one from Tuesday (assuming it contains a representative quantity as described above). It is important to note that a Delivered Price must in almost all cases be justified using an invoice as described in this paragraph. Use of a quote is only permitted in extremely limited circumstances, such as when an item has not been purchased before by the Contractor or the price of the item is stale due to seasonality and other similar issues. Outside of those limited circumstances, which will be reviewed and approved by the Contracting Officer on a case-by-case basis, a Delivered Price will not be substantiated by using the price of an item that is the latest to arrive at the Contractor's facility but does not yet have an invoice to support it. Ultimately, the invoice (or quote in limited circumstances) justifying the Delivered Price request is subject to review by the Contracting Officer at the time the request is made.
- (iii) Updates to the Delivered Price: All notices and requests for new item Delivered Prices and price changes shall be submitted bi-weekly, no later than 9:00 a.m. HST on Tuesday to be effective in the following ordering period's ordering catalog. Invoices submitted to support price change requests shall also identify all rebates/discounts that will be subtracted from the requested delivered prices when calculating the revised contract unit prices that would go on the catalog. The Contractor shall notify the Contracting Officer of its notice/request in the form of an electronic data interchange ("EDI") 832 transaction set when using an update to FFAVORS web. The change notice shall include the Contractor's adjustment in the Delivered Price component of the applicable Contract Unit Price. Upon the Contracting Officer's acceptance of such EDI 832/FFAVORS Web price changes in accordance with paragraph (v) below, the price change transaction sets will post in the next ordering period's ordering catalog and each Contract Unit Price shall be changed by the same dollar amount of the change in the Delivered Price in the next ordering period's ordering catalog.

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- (iv) All price changes, and catalog contract prices, are subject to review by the Government. The Contracting Officer may, at any time, require the submission of supporting data to substantiate any requested price change or the requested continuation of the pre-existing price for any item, including prices applicable to prior ordering periods. Upon notice from the Contracting Officer that supporting data is required, the Contractor shall promptly furnish to the Government, all supporting data, including, but not limited to, invoices, quotes, price lists, documentation regarding rebates/discounts, and any other substantiating information from the Contractor and any and all of its suppliers in the supply chain, including the manufacturer, grower, private label holder, or redistributor.
- (v) Price change requests that the Contracting Officer questions or finds to be inconsistent with the requirements of this provision shall not be posted until the Contracting Officer specifically authorizes the posting. If the Contracting Officer does not notify the Contractor by 9:00 AM HST each Thursday that a price or a price change request is being questioned or has been found to be erroneous, the price change(s) will post to the ordering catalog effective the beginning of the following ordering period. The posting of updated prices in the ordering catalog, calculated in accordance with this section, constitutes a modification to this contract. No further contract modification is required to effect this change. Any changes that post to the ordering catalog do not constitute a waiver of any of the rights delineated elsewhere in the Solicitation, any resulting contract(s), or otherwise by law or regulation.
- (vi) Should the Contracting Officer determine that, or question whether, a price change request contained an erroneous Contract Unit Price or price change, or cannot otherwise determine the changed price(s) to be "fair and reasonable," such as when the changed price(s) is(are) higher than delivered prices for items of comparable quality which are reasonably available to the Government or Contractor from other sources, the Contracting Officer will so advise the Contractor, prior to 9:00 a.m. HST on Thursday. If the Contracting Officer cannot determine a price fair and reasonable, and the Contracting Officer and the Contractor cannot negotiate a fair and reasonable price, the Contracting Officer may reject any price change and direct, in writing, that the item in question be retained on the catalog at the most recent previously-approved price consistent with current market conditions. In the alternative, the Contracting Officer may authorize the removal of an item.
- (vii) In the event of a price change not posting or an ordering catalog Contract Unit Price not computed in accordance with this section, resulting in an incorrectly increased or decreased Contract Unit Price, upon discovery of such occurrence the Contractor shall immediately notify the Contracting Officer in writing and promptly thereafter correct its ordering catalog. In the event of an erroneous price increase in the ordering catalog, the Contractor shall submit a refund, including interest if applicable, for any amounts paid to the Contractor resulting from the erroneous price. In the event of an erroneous price decrease in the ordering catalog, the Contractor may submit a request for an equitable adjustment in the amount of the undercharge for consideration by the Contracting Officer. The request may be entertained if the Contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor. The Contractor will not be entitled to reimbursement if the undercharge was the fault or negligence of the Contractor.
2. Limitations. All adjustments under this section shall be limited to the effect on Contract Unit Prices of actual increases or decreases in the Delivered Prices for material. There shall be no upward adjustment for --
- (i) Supplies for which the Delivered Price is not affected by such changes;
- (ii) Changes in the quantities of materials; and
- (iii) Increases in Contract Unit Prices that the Contracting Officer determines are computed incorrectly (i.e., not adhering to the Contract Unit Price definition in this provision) and/or increases in Contract Unit Prices that the Contracting Officer determines are not fair and reasonable.

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D. Upward ceiling on economic price adjustment. The aggregate of Delivered Price increases for each item under this section during the entire contract period shall not exceed 110% for United States Department of Agriculture (USDA) School & Tribal Reservation customers, of the initial contract Delivered Price, except as provided below:

1. If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this language will be required that will exceed the Delivered Price ceiling for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. In the event that the latest actual market price for an item does result in a Delivered Price that exceeds the allowable ceiling price under the contract, the Contractor shall immediately notify the Contracting Officer in writing or via its EDI 832/ FFAVORS Web price change request no later than the time specified in paragraph C.1.(iii), above. With either such notification, the Contractor shall include a revised ceiling that the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.
2. The price change shall be posted for the following period's ordering catalog. If an actual increase in the Delivered Price would raise the price for an item above its current ceiling, and the Contracting Officer and Contractor cannot negotiate a fair and reasonable price below the ceiling or if the Contracting Officer does not issue a contract modification to raise the ceiling, the Contracting Officer may reject the price change and direct that the item be retained on the contract at the last approved price. If the Contracting Officer decides to retain the item, the contractor shall continue to perform with the item at the last approved price. In the alternative, the Contracting Officer may authorize the removal of an item. The decision regarding whether to modify the contract, retain the item, or remove the item rests solely with the Contracting Officer.

E. Downward limitation on economic price adjustments. There is no downward limitation on the aggregated percentage of decreases that may be made under this section.

F. Price Audit. The Contracting Officer may require the Contractor to submit invoices and other documentation from all subcontractors at all tiers and/or all suppliers or persons in the Delivered Price supply chain, up to and including the grower, manufacturer, and/or redistributor, for the purpose of confirming Delivered Prices charged to the Government, as well as to substantiate all rebate/discounts applicable to orders under the contract. In performing the price audit, the Government shall have the right to examine books, records, documents and other data, to include commercial sales data, that the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this section and any other terms and conditions of the contract. Such price audits may occur up to twice a year (except as provided for below) until the end of 3 years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation ("FAR"), whichever is earlier. In addition to price audits, the Government may conduct additional examinations of records, as required by the Contracting Officer to ensure contract compliance.

G. Final invoice. The Contractor shall include a statement on the final invoice for each order that the amounts invoiced hereunder have applied all decreases required or authorized by this section.

H. Disputes. Any dispute arising under this section shall be determined in accordance with the "Disputes" clause of the contract.

VII. REBATES/DISCOUNTS AND PRICE-RELATED PROVISIONS (COMPONENT PRICE MODEL FOR PRODUCE)

A. Terms used in this provision shall have the same definition as those included in Economic Price Adjustment (EPA) language, included herein.

B. Rebates/Discounts

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1. All NAPA discounts, food show discounts, early payment discounts (except Qualifying Early Payment discounts discussed herein), and other discounts, rebates, allowances, economic incentives, financial arrangements, or other benefits, which reduce the Contractor's price paid for products supplied under this contract or which are otherwise attributable to products sold under this contract, shall be passed to the Government via a reduced catalog price. Any Rebates/Discounts that cannot be applied as an up-front price reduction must be submitted via check payable to the U.S. Treasury, with an attached itemized listing of all customer purchases by line item, including contract number, call number, purchase order number and contract line item number ("CLIN"). Instructions for identifying discounts, rebates, allowances or other economic incentives or benefits that shall be provided to the Government or retained by the contractor are set forth in the submission requirements in the Business Proposal/Pricing and in the Reports section of the Statement of Work.
2. The contractor shall employ prevailing commercial methods in the pursuit of discounts, rebates, allowances or other economic incentives or benefits for the Government throughout the period of performance of this contract.
3. The contractor may retain Qualifying Early Payment discounts that meet the following conditions:
 - (i) The Early Payment discount is an incentive to encourage payment earlier than the normal payment due date;
 - (ii) The Early Payment discount is consistent with commercial practice;
 - (iii) The Early Payment discount is routinely given by the manufacturer, grower, private label holder, or redistributor to their customers, other than the Contractor, at the same discount rate and under the same conditions as provided to the Contractor;
 - (iv) The Early Payment Discount is not established, requested, or negotiated for the purpose of avoiding giving DLA Troop Support a lower cost or application of a rebate/discount resulting in a higher invoice price;
 - (v) The Early Payment discount is no more than 2 percent of the manufacturer's, grower's, private label holder's, or redistributor's invoice and the early payment is required within 10 days to obtain the discount; and
 - (vi) The contractor actually made the required payment within the time period required to receive the discount.
4. The Government may require the contractor to submit invoices and other documentation from all subcontractors (as defined in FAR Part 44.101) and/or any entity in the delivered price supply chain to substantiate or identify any Rebates/Discounts. If the Contracting Officer determines, after reviewing an invoice or other documentation, that a Rebate/Discount should have been, but was not, passed on to the Government, the Government shall be entitled to a refund in the amount of the overcharges, inclusive of interest. If the Contractor believes it erroneously credited a rebate/discount to the Government, Contractor may submit a request for an equitable adjustment for the amount of the undercharge. The request may be entertained if the Contractor can demonstrate to the satisfaction of the Contracting Officer that the error did not result from the fault or negligence of the Contractor. The Contractor will not be entitled to reimbursement if the undercharge was the fault or negligence of the Contractor.
5. The Contracting Officer, and/or authorized representative(s), shall have the right to examine and audit the Contractor's records relevant to pricing under the contract, including records related to the existence and proper accounting of rebates, discounts, etc. The Government may also review/audit the Contractor's electronic purchasing system to confirm that the Delivered Price of a product sold to the Government is accurate.
6. Failure on the part of the Contracting Officer to identify non-compliance with this provision or to challenge the Contractor's erroneous interpretation of this provision shall not constitute waiver or a defense against the Government's entitlement to any of Rebates/Discounts or any other remedies afforded by this section, the contract, or other applicable laws and regulations.

VIII. DOMESTIC NON-AVAILABILITY DETERMINATION - FRESH FRUITS AND VEGETABLES

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A. A Class Domestic Non-Availability Determination ("DNAD") for Federal Supply Class 8915, Fresh Fruits and Vegetables (FF&V), dated 16 May 2008 was approved and is in effect for the DLA Troop Support/DLA Produce Long-Term Contracts. This DNAD establishes a limited Berry Amendment waiver to the requirements of DFARS 252.225-7012, Preference for Certain Domestic Commodities, which is applicable to this Solicitation. As a result of the DNAD, non-domestic FF&V may be supplied under this contract when domestic FF&V of satisfactory quality and sufficient quantity cannot be procured as and when needed at U.S. market prices. This determination will remain in effect until these circumstances have changed and the DNAD is formally rescinded.

B. Notwithstanding this DNAD, the USDA requires that fresh produce supplied via its Federal Entitlement for the USDA School Lunch Program must be from a domestic source. Therefore, the aforementioned DNAD does not impact or negate the Government's requirement for domestic produce in its contracts supporting Non-Department of Defense customers (i.e., Schools).

VIX. ADDITION OF NEW CUSTOMERS

A. Adding Customers within the Oahu distribution zone.

1. Additional federal government and Schools customers that request DLA TROOP SUPPORT INDO-PACIFIC Produce Support be added, without any new acquisition or competition process, if the customer(s) is clearly within the Oahu Distribution Zone covered by this contract, shall be the sole decision of the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer. The contract maximum may not be exceeded, even with the addition of a new customer(s).

X. CUSTOMER SERVICE

A. The Troop, USDA, and other customers conduct periodic food menu boards, and other types of meetings which the contractor may be required to attend. At these meetings, the customers not only review their internal business practices, but the contractor can utilize this forum to show new products, demonstrate produce preparation, and provide nutritional information.

B. The contractor shall provide at least one (1) full time Customer Service representative to maintain continuous contact with all of the ordering activities. The name of the representative and the phone number, mobile phone number, beeper number, email address, or any other method of communicating with the representative, shall be furnished to the customer after award.

C. The contractor shall assume the responsibility of introducing new food items to the customers, as well as to show cost effective alternatives to their choices. However, the decision as to which items are ultimately included in the Ordering Catalog are at the discretion of the customer (s) and the Contracting Officer.

XI. VALUE ADDED SERVICES

Market Forecast: When supplies are anticipated to be in short supply, the contractor is required to provide the customer and the contracting officer with this information in advance. This may include regularly issued weekly produce market forecast bulletins which outlines for the following week's information regarding supply availability, product quality, associated growing areas, price trends, weather conditions, and handling tips and any industry news.

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XII. ORDERING SYSTEMS

A. Fresh Fruits and Vegetable Order Receipt System ("FFAVORS"): USDA customers (School customer) will utilize the FFAVORS Web catalog as applicable. The Contractor, upon award, will be provided a User ID and password to Log in and receive orders through FFAVORS Web, a web-based ordering system. The Contractor is responsible for establishing and maintaining the FFAVORS WEB catalog in accordance with the FFAVORS Web Manual.

1. Accessed via the Internet. FFAVORS WEB is the Government's ordering system for USDA Customers. It is capable of accepting orders from the schools.
2. Customers will be able to order all of their requirements through FFAVORS WEB. The system will transmit orders to the Contractor and DLA-Troop Support.
3. In the event that the FFAVORS WEB system is not operational, the Contractor must provide alternate ways for the customer to order (e.g., by fax, by phone, pick up orders). Be aware that even in this situation, however, it is mandatory that the Contractor subsequently place the same order through FFAVORS when it becomes operational again in order to effect obligation/receipt/payment.

B. Public Key Infrastructure (PKI)/ External Certificate Authorities (ECA) Certificates: The Department of Defense (DoD) Public Key Infrastructure (PKI) Certificate will be required for all DoD users. A DoD PKI certificate will be required for all contractors. The requirement for PKI certificates is implemented in accordance with DoD security policy promoting secure electronic transactions.

1. Obtaining a PKI certificate:

(a) Contractors who do not work on-site at a Department of Defense facility may purchase a DoD PKI certificate from one of three External Certificate Authorities (ECAs). The ECAs are companies that provide digital certificates to DoD's industry partners who are using their own equipment or working in non - Governmental facilities. Certificate prices range from \$99 - \$115 per certificate per year, with volume discounts at some ECAs.

(b) Each contractor must fully comply with the DoD requirement to implement PKI in order for our information systems to remain secure and viable.

XIII. ORDER PLACEMENT / CANCELLATION

A. Minimum order requirement for any resultant contract for Schools is \$75.00. The minimum order shall be based on the aggregate total of orders to all customers located within a particular school location. See **Attachment 2** for list of delivery addresses.

B. Customers shall place their orders to accommodate a "skip day" delivery. An order placed on March 1st would have a required delivery date of March 3rd. Orders may be placed with a longer lead-time; however, the minimum lead-time is "skip-day". Customers will be required to adhere to the specified cut-off time to place an order for skip day deliveries which will be negotiated and become part of the contract, upon award.

C. All invoice pricing will be based upon the unit price at time of order. For example, for any item ordered on a Friday to be delivered the

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following week, pricing will be based upon the Friday price, regardless of whether the unit price for that item changed as part of the weekly catalog update.

D. Cancellations: Once submitted through the applicable electronic ordering system (FFAVORS), an order may be cancelled by a customer up to 24 hours before scheduled delivery via written notification to the Contractor and the Contracting Officer. Within less than 24 hours from delivery, an order may be cancelled by mutual agreement between the customer and the Contractor. In the event of an act of God, such as extreme weather that officially closes Oahu schools, the specific situation regarding a cancelled delivery will be dealt with in an equitable manner by the Contracting Officer, who has the ultimate authority and discretion to resolve said issues.

XIV. ITEM AVAILABILITY

A. The contractor must have access to items in sufficient quantities to fill all ordering activity requirements. All supplies shall be furnished on a "fill or kill" basis. The order must be filled in its entirety or canceled (killed). Partial shipments are acceptable if the customer is notified in advance and agrees to the partial shipments; however, the unfilled quantity is to be reported as not-in-stock (NIS). Offerors are required to have procedures for handling NIS situations. The contractor is required to stipulate timeframes in which the NIS item will be identified to the customer prior to delivery, in order that a substitute item may be requisitioned via a new order.

B. The contractor shall notify the customer within 24 hours of order placement of the non-availability of any item. The contractor shall offer the customer a substitute of equal or higher quality and at an equal or lower cost, or advise them of the not-in-stock position of the item. Substituted product shall not be delivered without prior consent by the customer. Substituted items must be noted as such on the invoice.

XV. REPACKAGING & SPLITTING OF CASES

A. For some items, DLA customers, particularly Schools, may require smaller pack sizes than are commonly available in the commercial marketplace. Such items are included in the instant Schedule of Items and may be added at a later date during contract performance. It is incumbent on the Contractor to determine how it will supply these items in accordance with the required pack sizes. In so doing, the Contractor may decide to split cases and repackage product at its own facility.

B. Splitting cases and repackaging product, as described in the preceding paragraph, do not constitute processing, and, therefore, do not meet the conditions of a private label holder, as defined in Section VI. Accordingly, the Contractor is prohibited from including any costs associated with its own in-house splitting of cases and repackaging product in the Contractor's Delivered Price. Instead, the costs associated with in-house splitting cases and repackaging product must be included in the Contractor's Distribution Price.

XVI. PACKAGING, PACKING, LABELING AND MARKINGS

A. All packaging, labeling and packing shall be in accordance with good commercial practice. Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.

B. To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as "KEEP REFRIGERATED" shall be used on all cases when appropriate.

C. Protection during inclement weather is required. All products that are susceptible and sensitive to temperature must be protected by any

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means to prevent damage.

XVII. DELIVERY INSTRUCTIONS

NOTE: For deliveries to the military customer, contractor's employees (drivers, etc.) are required to pass a federal background check to gain access onto the military base.

A. The contractor shall ensure all products are delivered in sanitary trucks that are of a commercially acceptable standard. All delivery trucks must be equipped with a lift gate to expedite the offloading of products. Trucks shall maintain proper temperatures, as determined through standard commercial practices and in accordance with the USDA Handbook Number 669, "Protecting Perishable Foods During Transport by Truck" (<http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3021003&acct=atpub>). All trucks shall be equipped with locks to avoid tampering. Deliveries shall be F.O.B. destination to all ordering activities and delivery points. All items will be delivered to customer locations, free of damage, with all packaging and packing intact. The contractor shall remove all excess pallets used for delivery from the delivery point. A listing of all the delivery points (customer list) per zone can be found in the **Attachment 2**.

B. Products for individual customers must be segregated. All products shall be segregated by drop-off point and loaded into the delivery vehicle in reverse drop sequence. The intent is to provide expeditious off-loading and delivery to the customer.

C. The contractor shall also ensure that the personnel loading and delivering the product provide prompt and efficient service to the customer. Failure to adhere to these standards will be reported to the Customer Representative and the Contracting Officer by the affected customer(s) whereby appropriate corrective action will be coordinated with the Contractor.

D. Customers' delivery schedules (days and times), routes, and stop-off sequences may be coordinated and verified with the customers on a post-award basis by the Contractor immediately following award and on an annual basis as required. At a minimum, for Schools delivery times are up to daily, Monday thru Friday, per week during cafeteria manager hours receiving between 6 a.m. - 10:30 a.m.; excluding the following specified holidays addressed in XXIV - HOLIDAYS. However, these schedules may be revised as necessary on a case-by-case basis at the approval of the Contracting Officer.

E. Late deliveries will not be accepted, and Contractor shall arrange an alternate delivery time by initiating correspondence with ordering school's School Food Service Manager or Contracting Officer.

XVIII. INSPECTION AND ACCEPTANCE

A. Inspection and Acceptance of products will be performed at destination. The inspection is normally limited to identity, count and condition; however, this may be expanded if deemed necessary by either the military Veterinary Inspector, Dining Facility Manager, Food Service Advisor/Officer, or the Contracting Officer. Delivery vehicles may be required to stop at a central location for inspection before proceeding to the assigned delivery point(s). In addition, the delivery vehicles will be inspected for cleanliness and condition. Supplies transported in vehicles that are not sanitary, or which are not equipped to maintain prescribed temperatures, may be rejected without further inspection. Failure to identify latent defects or similar issues at time of acceptance will not absolve the Contractor of its liability or preclude the customer from obtaining appropriate remedy upon the timely discover of said defects or issues after-the-fact. In this circumstance, the customer shall notify the Customer Representative who will coordinate with the Contracting Officer in seeking an appropriate resolution.

B. The authorized Government receiving official at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket shall not be signed prior to the inspection of each product. All overages/ shortages/ returns are to be noted on

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the delivery ticket by the receiving official and truck driver. The authorized Government receiving official's signature and printed name on the delivery ticket is required for acceptance of the product. All signatures MUST be legible along with a printed name and title block. Failure to adhere to this requirement may result in disputes going against that party as its failure can severely limit the Contracting Officer's judgment.

C. Delivery Ticket and related information. No electronic invoice may be submitted for payment until acceptance is verified.

1. Schools: The Contractor shall provide two copies of the delivery ticket with the shipment. The first copy is provided to the receiving official (i.e., the customer) who will use the delivery ticket as the new receipt document. The second copy will be retained by the Contractor (or its agent) for invoicing.

XIX. AUTHORIZED RETURNS

A. The contractor shall accept returns under the following conditions:

1. Products shipped in error.
2. Products damaged in shipment.
3. Products with concealed or latent damage.
4. Products that are recalled.
5. Products that do not meet shelf life requirements.
6. Products that do not meet the minimum quality requirements as defined for the items listed in the schedule.
7. Products delivered in unsanitary delivery vehicles.
8. Products delivered that fail to meet the minimum/maximum specified temperature.
9. Quantity excess as a result of order input error and/or purchase ratio factor error.
10. Products that are not from a sanitarily approved source.
11. Products that do not comply with DFARS 252.225-7012 Preference for Certain Domestic Commodities (Berry Amendment), if no waiver to this clause has been granted.
12. Any other condition not specified above that is deemed by the customer to be valid reasons for return.

XX. REJECTION/RETURN PROCEDURES

A. In the event an item is returned, the delivery ticket/invoice shall be annotated as to the item (s) rejected. These items shall then be deducted from the delivery ticket/invoice. The invoice total must be adjusted to reflect the correct dollar value of the shipment. Replacements will be authorized based on the customer's needs. On an as-needed basis, same day re-delivery of items that were previously rejected shall be made, so that the customer's food service requirements do not go unfulfilled for that day. The re-delivered items will be delivered under a separate invoice utilizing the same call number, CLIN number, and purchase order number for the discrepant line. These re-deliveries will not constitute an emergency order requirement.

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B. In the event a product is rejected after initial delivery is made, the contractor will pick up the rejected product. Credit due to the ordering activity as a result of the rejected product being returned, will be handled through a receipts adjustment process. If the contractor has already been paid for the product, a claim will be issued through DLA TROOP SUPPORT INDO-PACIFIC's financial system. In all cases, one (1) copy of the credit memo is to be given to the customer and (1) copy of the credit memo is to be sent to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.

C. If a customer requires a one-to-one replacement, no additional paperwork is necessary; the contractor delivery ticket/invoice will show that product is a replacement for a rejected item. The invoice shall reference the call number, CLIN number, and Purchase Order Number of the originally ordered product. It is a requirement of this solicitation that product shall be inspected upon receipt as promptly as practicable. However, failure to promptly inspect or accept supplies shall not relieve the contractor from responsibility, nor impose liability on any of the customers, for nonconforming supplies. See clause 52.212-4, paragraph (o) and addendum to clause 52.212-4, paragraph 1.

XXI. INVOICING

A. Each delivery will be accompanied by the contractor's delivery ticket/invoice. Two (2) copies (an original plus one) shall accompany the shipment. The customer shall print their first and last name and sign all copies of the invoice/delivery ticket, keep one (1) copy and return the Original copy to the contractor. **Any changes must be made on the face of the delivery ticket/invoice; attachments are not acceptable.**

B. No paper invoices shall be submitted to DFAS for payment.

C. For all orders downloaded via USDA's customer ordering website FFAVORS web, invoicing for payment shall be done via invoice link from FFAVORS web homepage, <http://www.fns.usda.gov/fdd/ffavors.htm>.

D. All invoices submitted by the contractor must be "clean", i.e., all debits and/or credits must be reflected on the invoice prior to its submission. All contractors are required to ensure the accuracy of their invoices. The Invoicing Tool in FFAVORS Web provides the Contractor the ability to ensure said accuracy.

E. **All internal debit/credit transactions must be completed prior to the submission of the invoice.** Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The contractor will be responsible for correction and re-submission.

F. The same invoice cannot be submitted with different dollar amounts.

G. The 810 invoices do not go through a testing phase. The contractor immediately begin sending their invoices in once they have successfully sent their first 850 purchase order.

H. Any manually keyed, or emergency order, must contain the word "Emergency" in the Purchase Order field when the invoice is submitted for payment. In addition, the CALL number and CLIN numbers will be entered as "9999" on the invoice. Failure to follow this procedure may result in the rejection of your invoice.

I. **Note: Currently, no catch weight items apply to this solicitation. This does not preclude the possibility that catch weight items may**

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be added in the future for certain items. For catch weight items (products purchased in terms of price per weight unit of the actual known amount in the container/package), standard rounding methods must be observed i.e., <5, rounded down; > or =5, rounded up. All weights must be rounded to whole pounds using standard rounding methods. Any line submitted for other than whole numbers will be rejected and require correction and re-submission by the contractor.

J. Unit prices and extended prices must be formatted not more than two (2) places to the right of the decimal point. Standard rounding methods must be applied. For example, a price of \$2.215 or higher must be rounded up to \$2.22 and a price of \$2.214 or lower must be rounded down to \$2.21.

K. Although invoices must be submitted electronically via an 810 Electronic Invoice, the following address must appear in the "Bill To" or "Payment Will Be Made By" block of the contractor's invoice.

DFAS - Columbus Center (SL4701)

Attn: DFAS-BVDP

P. O. Box 369031

Columbus, OH 43236-9031

L. Each invoice shall contain sufficient data for billing purposes. This includes, but is not limited to:

Contract Number

Call or Delivery Order Number

Purchase Order Number;

DODAAC

Contract line listed in numeric sequence (also referred to as CLIN order);

Item nomenclature;

LSN or NSN;

Quantity purchased per item in DLA TROOP SUPPORT INDO-PACIFIC's unit of issue;

Total dollar value on each invoice (reflecting changes to the shipment, if applicable).

M. Invoice transactions may be submitted to DLA TROOP SUPPORT INDO-PACIFIC daily. All internal debit/credit transactions must be completed prior to the submission of the invoice. Invoice lines that do not contain the correct invoice data and/or contain incorrect quantities delivered or prices charged will be rejected. The contractor will be responsible for correction and re-submission.

1. For FFAVORS: **Invoicing Tool** - In an effort to improve the payment process, Contractors are required to view what the customer has or has not receipted via the USDA FFAVORS website: <http://www.fns.usda.gov/fdd/fresh-fruits-and-vegetables-order-receipt-system-ffavors>. The Contractor will have access to "un-reconciled" information, i.e., the invoice does not match the receipt because of the quantity and/or price discrepancy or because the customer has not posted a receipt. Both invoice information and receipt

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information will be available for review on the website by the Contractor. It is the Contractor's responsibility to ensure accurate invoices.

XXII. PRICE AUDITS

A. Price Verification Audits. Contractors are advised that the Government may conduct price verification analysis in the following manner:

1. Monthly, an internal Price Verification Team in conjunction with the Contracting Officer may require the contractor to provide copies of specific invoices from suppliers covering up to 100 items that were previously ordered.
2. The Price Verification Team will request the above documentation in writing and the contractor will have thirty (30) days after the request to furnish the documentation.
3. A report of overcharges and undercharges (if applicable) will be forwarded to the contractor, and the contractor will pay the Government for the net amount owed for overcharges. The Government reserves all rights and remedies provided by law or under the contract in addition to recovering any overcharges.
4. The Government may elect to expand the scope of the price verification analysis if overcharges are discovered. The Government may also elect to reduce the scope of the price verification analysis if no overcharges are discovered.

B. The Government reserves the right to conduct additional price audits to verify price accuracy and recoup overcharges. In such instances, contractors will be required to submit invoices and any other supporting price documentation.

C. The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention.

XXIII. FILL RATE

A. Order fill rates shall be calculated on an on-time, per order basis and tracked for monthly submission to the Contracting Officer/Account Manager. To ensure accuracy in the Contractor's reported fill rates, the Government will utilize its own internal data for comparison purposes. The fill rate shall be calculated as follows and shall not include substitutions, mis-picks, damaged cases or rejected product (No other method of calculating fill rate will be accepted):

Cases Accepted X 100 = Fill Rate %

Cases Ordered

B. Definitions:

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1. Cases Accepted: Product that the customer has received and receipted not including damaged cases or rejected product, mis-picks.

2. Cases Ordered: Product ordered by a customer through FFAVORS.

C. The Contractor is required to maintain at a minimum a **98.0%** fill-rate without substitutions.

D. The Contractor will submit a **monthly report**, by customer, to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer with the following information:

1. Fill Rate with and without Product Substitution

2. List of all items that were Not in Stock, Returned, Damaged, Mis-picks and Substitutions.

XXIV. HOLIDAYS

All orders are to be delivered on the specified delivery date, except for Federal holidays, as outlined below. When a scheduled delivery day falls on one of these days, delivery should occur on the next business day, unless otherwise agreed to by the customer.

New Year's Day

Labor Day

Martin Luther King's Birthday

Columbus Day

President's Day

Veteran's Day

Memorial Day

Thanksgiving Day [and the day after]

Independence Day

Christmas Day

Hawaii Department of Education Holidays Not Observed: Columbus Day

Hawaii Department of Education Holidays Observed:

Statehood Day The third Friday in August

Kuhio Day The twenty-sixth day in March

Good Friday The Friday preceding Easter Sunday

Election Day The first Tuesday in Nov. following the first Monday of even numbered years.

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King Kamehameha Day The eleventh day in June

Note: Saturday holidays are celebrated on the preceding Friday; Sunday holidays are celebrated on the following Monday.

XXV. EMERGENCY ORDERS

A. In the event of surge during wartime, civil emergencies, natural disasters, adverse weather or other conditions, the Contractor will provide up to one emergency order per month per customer at no additional cost to the Government. Therefore, last minute ordering may take place as necessary to fulfill customers' requirements. As specified by the customer, all emergency order(s) for supplies must be same day or next day. Expedient fulfillment of the emergency requirement is imperative. Unless otherwise noted by the Contractor, the Contracting Officer or Contract Specialist will be the point of contact for emergency orders, and will vet the appropriateness of such a request.

XXVI. FOOD DEFENSE

A. DLA TROOP SUPPORT INDO-PACIFIC Subsistence Directorate provides world-wide subsistence logistics support during peace time as well as during regional conflicts, contingency operations, national emergencies, and natural disasters. At any time, the United States Government, its personnel, resources and interests may be the target of enemy aggression to include espionage, sabotage, or terrorism. This increased risk requires DLA TROOP SUPPORT INDO-PACIFIC to take steps to ensure measures are taken to prevent the deliberate tampering and contamination of subsistence items. The offeror must ensure that products and/or packaging have not been tampered with or contaminated throughout the growing, storage, and delivery process. The offeror must immediately inform DLA TROOP SUPPORT INDO-PACIFIC Subsistence of any attempt or suspected attempt by any party or parties, known or unknown, to tamper with or contaminate subsistence supplies.

B. As the holder of a contract with the Department of Defense, the awardees should be aware of the vital role they play in supporting our customers. It is incumbent upon the awardees to take all necessary actions to secure product delivered to all military customers, as well as any applicable commercial destinations.

C. The Offeror will ensure that all products and/or packaging have not been tampered or contaminated throughout the manufacturing, storage and delivery process. The Offeror shall immediately notify the DLA TROOP SUPPORT INDO-PACIFIC Subsistence Contracting Officer of any attempt or suspected attempt by any party or parties, known or unknown, to tampering with or contaminate subsistence supplies.

D. The Contractor shall have a Food Defense Plan, in accordance with the Food Defense Checklist, Attch_6_DLA TROOP SUPPORT FOOD DEFENSE CHECKLIST, that describes what procedures are in place to prevent product tampering and contamination. After contract award, the Food Defense Plan may be reviewed / verified to ensure compliance of the Food Defense Checklist.

XXVII. PRODUCT QUALITY

A. Shelf-life: All products delivered shall be as fresh as possible and within the Growers/Packers' original shelf life (i.e., Best if Used- by-Date, Expiration Date, or other markings). Applicable products shall be identified with readable open code such as "Best-Used-by-Date", "Sell-by-Date", date of production, or similar marking indicating the end of the guaranteed freshness date.

1. For Annual Pack Processed Fruits and Vegetable Items (not Applicable to fresh fruits and vegetables): Products will be from the latest

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seasonal pack available, unless approved in advance by the Contracting Officer. Annual Pack items shall not be older than one year from Date of Pack/Production Date upon receipt at the Contractor's facility. Products must have at least 30 days shelf life remaining when delivered to the customer, unless otherwise approved by the Contracting Officer.

2. For Fresh-Cut Fresh Fruits and Vegetables/Ready-to-Eat Salads/Cole Slaw, etc.: Individual bags/containers must be marked with a 14-day shelf life from the date of production. All products must be received by the customer with at least 50% of recommended shelf life remaining. If the manufacturer recommended shelf life is less than 14 days, the Contracting Officer must be notified in advance and approve shelf life. Any deviation from these requirements must be approved prior to customer delivery, in writing, by the Contracting Officer.

B. Testing of Fresh-Cut Products:

1. Fresh-Sliced Apples: Each lot or daily production of finished bagged product must be tested for Total Aerobic (Standard) Plate Count (TPC), *E. coli.*, *Listeria*, *Salmonella*, and *Shigella*. The antioxidant solution used on apples slices must be tested for TPC, *E. coli.*, and *Listeria monocytogenes* daily.

2. Baby-Cut and Peeled Carrots: Each lot or daily production of finished bagged product must be tested for *E. coli.*, *Listeria monocytogenes*, *Salmonella*, and Coagulase-positive *Staphylococcus aureus*.

C. Commercial standards shall be used to maintain temperatures appropriate for individual produce items during storage and delivery to DLA TROOP SUPPORT INDO-PACIFIC customers.

1. Level of Product Quality:

(a) When designating an item as a match for the DOD item in the schedule of items listed in the solicitation, the item must be:

- (i) Identical in respect to packaging when the DOD unit of issue is not described by weights (e.g., pound or ounce).
- (ii) Equivalent in respect to grade or fabrication.

XXVIII. QUALITY PROGRAM

A. A Grower/Supplier selection or certification program shall be used to ensure standardized product quality for each item supplied and/or listed in the stock catalogs, regardless of grower/supplier. The product quality shall be equal to that described in the pertinent item specification and/or specified US Grade Standard.

B. The Contractor shall develop and maintain a quality program for the product acquisition, warehousing and distribution to assure the following:

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1. Standardized product quality.
2. Wholesome product by veterinary standards.
3. The usage of First-In, First-Out (FIFO) principles and/or First-Expired, First-Out (FEFO).
4. Product shelf life managed and monitored (by date of pack/production of the item).
5. Items are free of damage.
6. Items are segregated in OCONUS warehouses from commercial products, if applicable.
7. Correct items and quantities are selected and delivered.
8. Ensure requirements of the Berry Amendment are met, when applicable.
9. Customer satisfaction is monitored.
10. Product discrepancies and complaints are resolved, and corrective action is initiated.
11. Grower/manufacturer, FDA, or DOD initiated food recalls are promptly reported to customers and DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.
12. Compliance with EPA and OSHA requirements.
13. Distressed or salvaged items or products shall not be used.
14. Applicable food products delivered originate from a source listed as a Sanitarily Approved Food Establishment for Armed Forces Procurement and/or listed in the USDA-AMS Good Agricultural Practices (GAP) Verification Directory or the USDA-AMS Good Handling Practices (GHP) Verification Directory for fresh fruits and vegetables, as applicable. Bulk Fresh fruits and vegetables suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory.
15. Hazard Analysis and Critical Control Point (HAACP), if applicable.
16. Commercial standards are used to maintain temperatures appropriate for individual items.

XXIX. WAREHOUSING AND SANITATION PROGRAM/STORED PRODUCT PEST MANAGEMENT

The Contractor shall develop and maintain a sanitation program and a stored product pest management program for the food and other co-located non-food items that comply with industry standard programs such as the Code of Federal Regulations, Title 21, Part 117, Current Good Manufacturing Practice (cGMP), Hazard Analysis, and Risk-Based Preventive Controls for Human food, Food Safety Modernization Act (FSMA), the Federal Insecticide, Fungicide, and Rodenticide Act, the Food, Drug, and Cosmetic Act of 1938 as well as other pertinent US federal, state and local laws and regulations applicable to products and facility. Records of inspections performed by the firm, subcontractor, or recognized industry association shall be maintained and made available to the Government at the Contracting Officer's request. Any findings by the firm or its agent documenting a critical sanitation deficiency shall be reported immediately to the Contracting Officer with an attached report of corrective action.

XXX. PRODUCT SANITARILY APPROVED SOURCE REQUIREMENTS

A. Applicable food products (food products include bulk fresh fruits and vegetables), including pre-cut and packaged fruits, vegetables and salads, mushrooms, sprouts, etc., delivered to customers listed in this solicitation, as well as any customer added at a later date, shall originate either from an establishment (this includes suppliers/subcontractors or direct farm deliveries) listed in the "Directory of Sanitarily Approved Establishments for Armed Forces Procurements" or one which has been inspected under the guidance of the United States Department of Agriculture (USDA). The USDA Guidance for fresh fruits and vegetables is the USDA-AMS Good Agricultural Practices (GAP) Verification Directory or the USDA-AMS Good Handling Practices (GHP) Verification Directory for fresh fruits and vegetables, as applicable. Bulk Fresh

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fruits and vegetables suppliers must be inspected and listed under the USDA-AMS GAP and/or the GHP Directory. For detailed information see Clause 52.246.9044 "Sanitary Conditions" in this solicitation. It may also be found <https://sph.health.mil/>.

B. Processed Fresh Fruit and Vegetable products shall be purchased from, or performed by, companies with USDA Hazard Analysis & Critical Control Points (HACCP) certification. Additionally, these produce processing companies shall be approved by the US Army Public Health Center (USAPHC).

XXXI. QUALITY ASSURANCE VISITS, QUALITY SYSTEMS MANAGEMENT VISITS, & PRODUCE QUALITY AUDITS

A. Quality Assurance Visits

1. Quality Assurance Representatives (QAR) represent DLA Troop Support region commanders for wholesome storage and procurement procedures of subsistence in their applicable region. QARs advise Contracting Officers on the wholesomeness and quality of subsistence stored, procured, and distributed in the applicable area of responsibility. They make routine visits (surveys) of vendor's facilities to ensure they meet DLA Troop Support's basic requirements for quality and sanitation. QARs provide technical recommendations to Contracting Officers on the acceptance and rejection on non-conforming products and arranges and coordinates the appropriate government inspections to ensure subsistence is adequately protected.

2. QARs will perform Quality Assurance Visits (QAVs) to verify the reliability of the contractor's quality program/inspection system. QAVs are required to provide a meaningful evaluation of a contractor's performance and to assure an equitable administration of the overall contract. The QAR may initiate inspection based on a contractor furnished Notice of Award, Invitation for Bid/Request for Proposal, Subsistence Master Solicitation, or similar document containing adequate information as to contract requirements. It is imperative that the Contracting Officer be informed of all Nonconformances, therefore; QARs shall compile information on non-conforming supplies and submit results and findings through the Ordering Officer, to the applicable Contracting Officer and other applicable members of the procurement team.

B. Unannounced Quality Systems Managements Visits (QSMVs):

1. The DLA TROOP SUPPORT INDO-PACIFIC Quality Audit personnel may conduct unannounced Quality Systems Management Visits (QSMVs) to review the contractor's compliance with the terms of the contract. The visits will be scheduled as a result of unsatisfactory ratings received during Troop Support Produce Quality Audits, customers' complaints, requests from the Contracting Officer, or as deemed necessary by the Government. QSMVs may include visits to subcontractors, growers, and/or suppliers/food distributors used by the contractor. If DLA TROOP SUPPORT INDO-PACIFIC deems it necessary to conduct an on-site visit with a subcontractor, grower, produce supplier, and/or food distributor used by the contractor, the contractor shall make arrangements for these visits.

2. During the QSMV the Government will review/verify the contractor's implemented Quality Program and several or all of the following areas (this list is not inclusive) as deemed necessary: The methods and procedures used to comply with the terms of the contract; condition of storage facilities; product shelf-life management; inventory in-stock (age of product and condition, labeling, product rotation, etc.); product substitutions; control of material targeted for destruction/disposal as a result of DLA customers' returns including DLA TROOP SUPPORT INDO-PACIFIC's audit results and recalls; review of paperwork for product destroyed/condemned including but not limited to product rated Blue/Red during the last DLA TROOP SUPPORT INDO-PACIFIC audit, customer, returns, etc.; customer's notification on product recalls (product rated Blue/Red/other reason), etc.; contractor's response to customer returns/issues, and contractor's visits to customers. The QSMV may also include unannounced visits to DLA TROOP SUPPORT INDO-PACIFIC customers served by the contractor. When the Troop Support Produce Quality Audit Team arrives at the contractor's facility, the contractor must provide the

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following: A copy of the current Produce Catalog for DLA customers and an inventory list of all items intended for DLA customers (identifying quantities by item, label/brand/Grower name, items Not-in-Stock, etc.) by commodity and sorted by warehouse location.

3. The contractor's proposal will be incorporated by reference into the contract. The contractor will be responsible for complying with its proposal. Procedures and processes set forth in the contractor's proposal may be used as standards for a QSMV. If there is any conflict between the solicitation language and the contractor's proposal, the solicitation/contract/ language governs.

4. The Contractor must take corrective action to address any concerns identified as a result of the QSMV. Concerns identified during the QSMV, or contractor failure to take corrective action in response to QSMV findings, will be grounds for terminating the contract. The government may, at its discretion, take other action to correct the concerns identified during the QSMV such as but not limited to another QSMV or Special Produce Audit. Such action will not eliminate the government's right to terminate the contract should the identified concerns or contractor failure to take corrective action continue.

C. Produce Quality Audits:

1. Basic Audits:

(a) The DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit Program covers all produce items listed in the contractor's catalog (fresh, fruits and vegetables, fresh-cut products, etc.) and functions as a Service and Quality Assurance check for DLA TROOP SUPPORT INDO-PACIFIC customers to ensure customers are receiving safe produce of an optimum quality level. The audit objectives focus on the following:

1. Contractor's adherence to contractual requirements.
2. Compliance with the specified US Grade or higher.
3. The quality level of the products supplied is satisfactory and uniform.
4. There is no product misrepresentation or unapproved substitution.

(b) The Produce Quality Audit objectives are accomplished utilizing the expertise of the US. USDA Agricultural Marketing Service (AMS) Fresh Products Branch personnel and DLA TROOP SUPPORT INDO-PACIFIC Quality Auditors. Representatives from the above agencies form the DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit Team.

(c) Each contractor will undergo an initial audit once per contract period with the first audit occurring during the initial tier and other initial audits or QSMVs occurring once per option period. The Audits are conducted as a product cutting. The average cost of one Produce Quality Audit is approximately \$1,000.00 (product cost only). The contractor is expected to provide samples of the Government's choice of a cost of approximately \$1,000.00 per audit. The contractor is required to provide the following support to the DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit Team: Personnel and equipment to select separate/move/discard audit samples, control of samples while at the contractor facility and during the audit. Additional cost may be incurred by the contractor if additional produce samples are selected due to initial audit failure or customer complaint or if the contractor's facility does not have a facility/kitchen or the equipment needed to perform the audit and/or space to accommodate customers attending the audit. NOTE: The Government reserves the right to conduct an Unannounced QSMV in lieu of an initial audit or a follow-up audit during the initial tier and/or any option period if deemed in the best interest of the Government.

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2. Audit Process:

(a) The Contractor will be given advanced notice of sixty (60) calendar days of an impending audit. Notwithstanding this, the Government reserves the right to conduct unannounced Produce Quality Audits or QSMVs.

(b) The DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit is typically a two (2) day process. Day one is devoted to sample selection at the contractor's warehouse and performance of the USDA's Good Agricultural Practices (GAP) & Good Handling Practices (GHP) Audits. Day two encompass the performance of the actual Produce Quality audit.

(c) Upon arrival at the contractor's facility (Day One), the Lead Auditor will provide a list of items identified for evaluation and the samples will be selected by a USDA-AMS' Auditor. The Lead Auditor will accompany the USDA-AMS during the performance of the GAP/GHP Audits.

(d) Items selected for evaluation will be segregated from the contractor's regular inventory and appropriate procedures shall be used to maintain the integrity of the samples. Evidence that the contractor has replaced or tampered with samples, or otherwise interfered with the audit samples and/or audit process will result in the contractor failing the audit. One or more audit failures may be grounds for terminating the contract.

(e) During the Produce Quality Audit (Days Two), the DLA TROOP SUPPORT INDO-PACIFIC Lead Auditor will assign an item rating based on compliance with or departure from stated requirements in the DLA TROOP SUPPORT INDO-PACIFIC NSN catalog and the specified US Grade Standard. Items will also be audited to determine compliance with the Berry Amendment, as applicable, approved source requirements, FDA Retail Food Code, USDA Warehousing Standards, Good Manufacturing Practice, additional provisions of the Code of Federal Regulations and other applicable standards.

(f) Failure to meet the specified US Grade, deviations from the required contract or stock number requirements will be color coded and classified based on the severity of departure from requirements as follows:

1. Contractor Product Audit Ratings (Color Code Ratings Symbology):

a. ACCEPTABLE (GREEN) = Acceptable. No deviations from the contract or the item description stock number requirements.

b. MINOR NONCONFORMANCE (YELLOW) = Not fully acceptable. A Minor nonconformance is a deviation from the contract or the item description stock number requirements. This minor nonconformance is not likely to materially reduce the usability or serviceability of the item for its intended purpose and, depending on the defect, or affect is its condition and/or the continued storage of the item for further use. Products that meet the specified US Grade but exhibit product defects (decay, spoilage, skin breakdown, etc.) likely to continue affecting the condition of the product and continue deteriorating during storage and/or effecting good product if defective units are not removed from cases/containers. Examples of other minor nonconformance's: Cataloging issues; Minor or workmanship/fabrication violations (fresh pre-cut products); Minor weight violations; Minor deviations from packing, packaging, labeling and marking requirements that would not necessitate a regulatory market suspension or affect DLA TROOP SUPPORT INDO-PACIFIC's ability to recall the item. ACTION REQUIRED: Produce with defects (decay, spoilage, skin breakdown etc.) that will continue deteriorating or condition/defects that will affect the condition of good product during storage requires attention from the contractor such as reworking and removing defective product while in-storage or prior to delivering to customers. Minor nonconformance's that will not change or further deteriorate (scars, size, weight, etc.) while product is in-storage or when delivered to the customer may be tolerated by the customer for a short period of time (until the contractor receives a new product at OCONUS but for no more than 30 days at CONUS locations).

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c. MAJOR NONCONFORMANCE (BLUE) = A major nonconformance, other than critical, is a deviation from the contract, the item description stock number and/or failure to meet the specified US Grade requirements. This major nonconformance is a deviation that materially affects or is likely to have a major effect on the serviceability, usability, condition and/or continued storage of an item for further use. Examples of major nonconformance's: Grade failures; Domestic source/regulatory/approved source violations; Wrong item; Major workmanship/fabrication violations (pre-cut items); Major weight violations; Item shelf life/ expiration date violations; Not latest season pack/crop year violations; Items that exhibit temperature abuse, and/or other off condition that although not likely to result in hazardous or unsafe conditions, the defect and/or combination of defects materially affect the item serviceability for its intended purpose; and/or major deviations from packing, packaging, labeling and markings that would necessitate a regulatory market suspension or have a major effect on DLA TROOP SUPPORT INDO-PACIFIC 's ability to recall the product. ACTION REQUIRED: The contractor is required to STOP ISSUE of the item immediately, unless otherwise approved by the Contracting Officer.

d. CRITICAL NONCONFORMANCE (RED) = A critical nonconformance is a deviation that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. An item will receive a Red Rating if it contains a critical defect(s) that involve food safety issues such as wholesomeness, foreign material, contamination or adulteration issues that judgment and experience indicate consumption of the item is likely to result in hazardous or unsafe conditions for individuals. Examples of critical nonconformance's: Items with food safety concerns are those items that exhibit contamination, foreign material, and/or other conditions that render an item unfit for human consumption. ACTION REQUIRED: Contractors are required to immediately STOP ISSUE of the product and notify DLA TROOP SUPPORT INDO-PACIFIC customers to return or dispose of the product in question and notify grower/supplier/distributor of the product (if applicable).

2. Notes:

a. MAJOR NONCONFORMANCE (BLUE) = In OCONUS locations only, the Contracting Officer may approve continue issue of the product because of location extenuating circumstances and on a case-by-case basis.

This approval is depending on the type and severity of the deviation/defect, the DLA TROOP SUPPORT INDO-PACIFIC Quality Lead Auditor (lead Auditor that performed the audit) recommendation, customer approval, and if the substitute of equal/higher quality is Not-in-Stock at OCONUS location. Continued issue of the item may require and include contractor screening/rework of the nonconforming product (removal of defective product) and follow-up Government inspection/audit to verify action taken by the contractor (at no cost to the Government for inspection/travel costs). At CONUS/OCONUS locations, only the Contracting Officer, NOT the customer or the Lead Auditor, has the authority to accept wrong items (not meeting item description cited in DLA TROOP SUPPORT INDO-PACIFIC catalog or not meeting the specified US Grade cited in the contract, etc.). The Rating assigned to the item WILL NOT be changed by the Lead Auditor because of acceptance with a waiver/rework/repair of the product in question. The DLA TROOP SUPPORT INDO-PACIFIC Food Safety Office at the request of the Contracting Officer, may issue a restricted (to DLA TROOP SUPPORT INDO-PACIFIC customers only) a Hazardous Food Recall for all those items originating from an unapproved source and distributed to DLA TROOP SUPPORT INDO-PACIFIC customers.

b. CRITICAL NONCONFORMANCE (RED) = The DLA TROOP SUPPORT INDO-PACIFIC Food Safety Office will issue a Hazardous Food Recall for all critical nonconformance's involving items with food safety concerns that render an item unfit for human consumption or may present a health hazard for DLA TROOP SUPPORT INDO-PACIFIC customers . If applicable, the Contracting Officer should suggest growers/suppliers of the item to review shipping documents to ensure the same item was not delivered to other DOD customers.

3. Contractor Audit Preparation:

(a) The contractor is responsible and will bear all costs for the facility and the equipment/supplies used during the audit. Immediately upon receipt of the audit notification, the contractor shall make arrangements to use their normal product cutting room/kitchen (if adequate) or find another facility for the audit. If there is no space available at the contractor facility or the space is inadequate other arrangements must be made by the contractor. The room must be equipped with running water. To ensure accurate weight of audited items, it is highly

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recommended that scales used during the audit are calibrated within the 60-day notification period and an applicable set of test weights are available to verify scale accuracy. A digital scale capable of weighing small items and a scale capable of weighing full cases are required. Cleanup of the cutting area/room and continuous cleanup of equipment will be the contractor's responsibility. The contractor must contact the Lead Auditor to discuss the location, adequacy of the facility, and equipment available as soon as possible but no later than 45 Calendar days prior to the audit. The following is the list of equipment/supplies needed:

1. Storage area to store samples selected. (Approximately 2 pallets).
2. Chill storage area for samples that require refrigeration (Approximately 2 pallets).
3. Tables for conducting the audit and demonstration.
4. Sinks/wash area equipped with sanitizing soap for cleaning knives and equipment.
5. Water jet spray attachment for the sink.
6. Calibrated Scales/Test Weights: One small digital scale able to record product weights in both ounces and grams and capable of measuring down to the nearest hundredth is preferable and a set of test weights with a recommended weight range of 1.0 ounce to 1 pound; and, one scale able to record product weights for full cases with an approximate weight range of 0 -100 lb and capable of measuring down to the nearest tenth is preferable and a 25 lbs test weight.
7. Cart to move samples around.
8. Cutting boards (two or three).
9. Large trash cans with bags.
10. Power hook-up for 2 computers.
11. Access to a copy machine.
12. Miscellaneous supplies: Paper towels; large heavy-duty plastic trash bags; one box of large latex gloves; paper flip chart/easel with markers (RED, BLUE, ORANGE, GREEN, BLACK); cellophane tape; binder clips; and a stapler.
13. Optional but considered highly desirable: Cloth towels and floor covering to maintain clean and sanitary floor areas.

4. Sample List / Selection of Samples:

(a) Sample List/Selection of Samples the DLA TROOP SUPPORT INDO-PACIFIC Lead Auditor will provide a list of sample items upon arrival at the contractor's facility. Two-case sample for each item will be selected. An on-hand inventory quantity report (i.e., number of cases on hand) should be developed for each item after receipt of the list. Warehousing assistance will be required to pull and prepare samples for the audit. Assistance with moving samples from the storage areas to the audit area and also continuous removal of items after review will be required on audit days. Some samples may require refrigeration; an area will need to be provided for sample storage. All samples must be stored in a controlled environment to protect from temperature abuse or tampering. Fruit and Vegetable commodities will consist of 8 - 13 samples (2-case/ shipping container per item) randomly selected per each commodity depending on last audit acceptability rating for each commodity. The entire contents of the two-case samples will be examined during the audit. Additional samples may be selected at the request of the Contracting Officer due to customer complaints.

Note: Certification/Documentation - To avoid delays/questions during the audit, the contractor should ensure that ALL products intended for DLA TROOP SUPPORT INDO-PACIFIC's customers are derived from Approved Sources and meet the Berry Amendment requirements (unless otherwise is excluded in the contract/FAR/DFAR or authorized by the Contracting Officer). The contractor should obtain and have

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certification/documentation available during the sample selection (preferable) and/or during the audit should the Lead Auditor need to review documentation to verify compliance.

5. Audit Results:

(a) The audit results are performance indicators that will be used in conjunction with a contractor's past performance. DLA TROOP SUPPORT INDO-PACIFIC considers 85% acceptability for each commodity (fresh fruits and vegetables) as the minimum standard for acceptable performance. Contractors will be given a detailed report on each product reviewed. It will be the Contractor's responsibility to take immediate action to correct any deficiency uncovered during the audit. Corrective action must include action to address the deficiency and the system which allowed the deficiency to occur. Audit failures and/or failure to take corrective action will be grounds for terminating the contract.

6. Follow-Up Audits:

(a) Follow up audits may be scheduled within a one-year period of the initial audit or sooner as deemed necessary by the Government. Grounds for follow-up audits include but are not limited to failure to obtain an acceptable rating (<85%) in the Fresh Fruit & Vegetable Commodity, repetitive failures, and customer complaints. All samples, audit facility, and equipment/supplies needed for the follow-up, same as indicated above for the initial audit, are to be at the expense of the Contractor. During a follow-up audit only the commodity that failed the initial audit (scored <85%) will be audited. Also, a commodity that had an unreasonable number of items not-in-stock (more than 50% of items listed in the contractor's catalog were NIS) during the initial audit, may also be audited during a follow-up. If the follow-up audit is for failure of the USDA-AMS' GAP or GHP Audits or other non-product issue, no product will be audited during the follow-up audit.

7. Audit Failures:

(a) As noted herein, audit failures and/or failure to take corrective action will be grounds for terminating the contract. The government may, at its discretion, take other action to address the audit failure such as, but not limited to unannounced QSMVs and/or follow-up audits. Such action will not eliminate the government's right to terminate the contract should the deficiency or system which allowed the deficiency to occur remain uncorrected.

C. Markings:**1. Code Dates:**

(a) Products, as applicable, shall be identified with readable open code dates clearly showing the Use by Date, Date of Pack (DOP), Expiration Date, Manufacturer Sell-by-Date, and/or similar marking. The contractor/packer's product label shall clearly identify the item(s) shelf-life information (using an open code date on the exterior of each case, if required or applicable). Fresh-cut products bags must be marked with the appropriate shelf life from the Date of Production (DOP).

2. Traceability Requirements for Contractors, Contractor's Suppliers Re-Packaging and Re-Labeling Products:

(a) All fresh fruits and vegetables must be able to be traced back to the grower/supplier of the product. If the contractor or the contractor's

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distributor/supplier removes the produce from the grower/packer's original packaging/shipping container and re-packages/re-labels an item, documentation must be maintained to trace back to the grower/packer to verify domestic origin, approved source as applicable, and/or in case of a hazardous food recall or an item is rated Red/Critical during a DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit. The contractor shall maintain or request from their suppliers/distributors documentation/certificates containing the following information: Item nomenclature, name of establishment/Grower, location, country of origin, date of production/pack (DOP), lot number, etc. If packaging of the item occurred in more than one establishment, documentation for each item must also be maintained / provided. These records must maintain traceability of the item to the extent that an item can be traced back to the original grower/packer of a product. In addition, the contractor shall maintain records of quantities and when and where the re-packaged/re-labeled item(s) were shipped. The contractor must be able to show/provide DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit Team the documentation for samples selected during Produce Quality Audits or Unannounced QSMVs. It is the contractor's responsibility to notify and ensure their suppliers understand and comply with this requirement. The above requirements are necessary in the event of a Hazardous Food Recall (i.e., ALFOODACT) of potentially hazardous product when a recall is issued by a Regulatory Agency and for the contractor to isolate suspected items in order to notify customers in an expeditious manner whenever products are rated "Red/Critical" during a DLA TROOP SUPPORT INDO-PACIFIC Produce Quality Audit. The above requirements serve two main purposes:

1. To protect DLA TROOP SUPPORT INDO-PACIFIC's customers and expeditiously notify them in case of accidental or intentional tempering/contamination and/or to prevent consumption of unsafe/hazardous Produce and
2. To maintain traceability of re-packaged/re-labeled products in order to verify country of origin, approved source requirement during the shelf-life cycle of a pre-cut/packaged product in the contractor storage and during the customer's receipt/storage of the product and be able to expedite the recall process for all suspected products intended for DLA TROOP SUPPORT INDO-PACIFIC customers.

XXXII. RECALL PROCEDURES REQUIREMENTS

A. In the event that a product recall is initiated by the USDA, contractor, supplier or manufacturer, the contractor should follow the procedures as outlined below:

1. Immediately notify the following personnel:
 - (a) Customers that have received the recalled product.
 - (b) DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.
2. Provide the following information to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer:
 - (a) Reason for recall.
 - (b) Level of recall, i.e., Type I, II or III.
 - (c) Description of product.
 - (d) Amount of product.
 - (e) List of customers that have received product.
 - (f) Name and phone number of responsible person (Recall Coordinator).

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3. The contractor should provide a Final Status Report of Recall, when completed, to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.

4. At the discretion of the affected customers, the contractor shall either replace at no additional cost or adjust the invoice quantity for any recalled product. Delivery of replacement product shall occur at the discretion of the customer.

XXXIII. PERISHABLE AGRICULTURAL COMMODITIES ACT (PACA) LICENSE

All offerors must possess and maintain a valid PACA license throughout the life of contract. Failure to do so will make offeror ineligible for award and may result in termination of contract or non-renewal of an option.

XXXIV. NON-COMPETE PROVISION

The offeror warrants that it will not actively promote, encourage, or market any of the customers on this acquisition away from a resultant DLA TROOP SUPPORT INDO-PACIFIC contract and onto a contract of any other Government agency or commercial entity. This prohibition applies both on a pre-award and post-award basis. The Contracting Officer reserves the right not to exercise the option and to re-solicit the requirement should the contractor violate this provision.

XXXV. SEASONAL ACQUISITION

When seasonally available, USDA #1 or better quality and competitive price, the government's preference is for locally grown produce. The successful contractor shall utilize local produce to the maximum extent feasible. The contractor shall record and update local items on their catalog on a weekly basis. The contractor is responsible for defining local produce in their geographical area.

XXXVI. MANAGEMENT REPORTS

A. The contractor **shall** electronically transmit the following reports to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer on a monthly basis. All reports shall be cumulative for a one (1) month period and submitted no later than the seventh day of the following month (e.g., reporting period of January 1 through January 31, the reports must be received by February 7).

1. Fill Rate Report: The fill-rate is calculated by dividing the number of cases accepted by the customer by the number of cases ordered. No other method of calculating fill rates should be included. Mis-picks and damaged cases or rejected product should not be included in this calculation. This report should reflect the fill-rates with and without substitutions. The report should specify fill rates per customer and an overall average fill-rate for all customers under the contract for the month being reported.

2. Customer Service Report: The Contractor shall develop and provide a report summarizing all discrepancies, complaints and all positive feedback from ordering activities and the respective resolutions by providing details of each customer service incident, including any customer service visits.

The rest of these reports are by Contracting Officer's Request:

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1. Upon Request Product Line Grower/Supplier Listing: This report shall list all items purchased along with quantity and dollar value. It shall be sorted by Grower/Supplier and annotate whether the grower/supplier is a large business or small business and whether the grower/supplier is local or non-local.
2. Upon Request, Rebate Reports: All rebates that have been passed along to the customer or that are due to the customers shall be summarized by listing each customer and the rebate amount. Also include the grower/supplier offering the rebate and the product usage. The total should be per customer and per order.
3. Upon Request, Financial Status Reports: In order to track timely payments, an accounts receivable and/or a "day of outstanding sales" shall be submitted on a monthly basis, at a minimum. Many contractors elect to submit this report, in the form of a spreadsheet, on a weekly basis. The report should contain information on: customer, invoice number, call number, and invoice amount, amount paid, credit adjustments and balance due. It is suggested that this report contain as much information as possible to alleviate problems immediately.
4. Upon Request, Descending Dollar Value Report: Sorted by line item; each line is to contain, at a minimum: DLA TROOP SUPPORT INDO-PACIFIC stock number, Item Description, pack or size, brand description, quantity, and total dollar value of units shipped. Dollar amounts will be totaled. This report shall be submitted by individual customer accounts and also by the total customer base in each zone.

XXXVII. CONTRACT ADMINISTRATION INFORMATION

A. Contract Authority: The DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer is the only person authorized to approve changes or modify any requirement of the contract. Notwithstanding any provisions contained elsewhere in the contract, said authority remains solely with the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.

1. In the event the contractor effects any change at the direction of any person other than the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made. The Contracting Officer must authorize any modification or costs associated with a change.
2. Requests for information on matters related to this contract, such as an explanation of terms or contract interpretation, shall be submitted to the DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer.

B. Payments: DFAS Columbus Center is the payment office for this acquisition.

1. Payment of delivery orders will be made in accordance with the terms and conditions of Paragraph (i) of Clause 52.212-4 "Contract Terms and Conditions - Commercial Items" that is incorporated by reference into this solicitation.
2. Payment will be made in ten (10) days after the receipt of a proper invoice, however, is still subject to the terms and conditions of the Prompt Payment Act (31 U.S.C. 3903). All 810 electronic invoices must be submitted with accurate, sufficient, clean data before any payment can be made.
3. The contractor is responsible to make arrangements with their financial institution to obtain data, if information by the contractor is

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required. DFAS Columbus will no longer forward a detailed summary of payment(s); this information will only be available from your bank.

4. The Government intends to make payments under the resultant contract by electronic funds transfer (EFT) based on the information contained in the System for Award Management Registration (SAM). Reference Clause 52.232-33, "Payment by Electronic Funds Transfer-System for Award Management" is incorporated by reference. However, the election as to whether to make payment by check or electronic funds transfer is at the option of the Government.

C. Administration:

1. The DLA TROOP SUPPORT INDO-PACIFIC will perform administration of the contract.

2. A designated representative at the ordering activity will perform administration of the individual delivery order. This includes approving product substitutions and delivery changes.

3. The DLA TROOP SUPPORT INDO-PACIFIC Contracting Officer must approve any changes to the resultant contract.

XXXVIII. PROPOSAL SUBMISSION INFORMATION**A. Pricing**

1. An offeror's price proposal shall consist of prices submitted for each of the items found in the Schedule of Items (Attachment 1). The Schedule of Items is a grouping of items expected to be ordered by the customers along with the estimated quantities. The items found in the Schedule of Items represent 100% of the estimated dollar value for that particular group. Offerors are required to submit their Contract Unit Price for each item, broken down into the corresponding Delivered Price and Distribution Price components. Pricing will be based on the following formula:

Contract Unit Price = (Delivered Price - Rebates/Discounts) + Distribution Price

See Economic Price Adjustment section of this solicitation for price component definitions.

2. Formatting of Prices: Prices shall be formatted to no more than two places to the right of the decimal point, for example, \$2.50. In the event that the offeror submits a price that exceeds this limitation, the price will be rounded up or down using standard rounding methods. For example, a price of \$2.215 or higher will be rounded up to \$2.22 and a price of \$2.214 or lower will be rounded down to \$2.21.

3. Distribution Prices Per Pound - Multiple Tiers:

- a. Multiple Tiers: Only one Distribution Price shall be offered for all items in each Tier Period. Offerors may propose a different Distribution Price per Tier Period. In the event that an offeror includes a Distribution Price for only one Tier but through its proposal submission indicates that it had intended to submit a proposal for multiple Tiers covered by the Solicitation, the Contracting Officer will interpret the offeror's omission of a separate Distribution Price for the other Tiers as its willingness to retain the same Distribution Price as the Tier 1 was provided for and apply it to all Tiers. Per this provision, this interpretation by the Contracting Officer is reasonable and acceptable by the offeror.

B. Schedule of Items: Pricing

1. The Schedule of Items in Attachment 2 represents 100% of the estimated dollar value of this procurement. Offerors must submit pricing for all items in the Schedule of Items. The unit prices of all items found in the Schedule of Items will be comparatively assessed to identify any unusually high or low priced items. This assessment includes, but is not limited to, comparison amongst offerors' prices as well as comparison against USDA market report prices and internal Government databases that are applicable.

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2. Estimated quantities for each 18-month period are indicated next to each item and are for information and evaluation purposes only. The Offeror's proposed Contract Unit Prices found in the Schedule of Items will be multiplied by the estimated quantities by period in order to calculate the Offeror's overall aggregate total price, which will be compared against the other offerors in order to identify the lowest overall price proposal.

3. Offerors are to submit proposed prices in accordance with the definitions of the separate price components identified earlier in this **December 12, 2022 through December 23, 2022** timeframe. Upon request from the Contracting Officer, an offeror may be required to substantiate the aforementioned proposed Delivered Prices with a product invoice (quotes may be accepted in very limited circumstances per Contracting Officer discretion) and accompanying freight invoice. The offeror's proposed Contract Unit Prices must be in a format that identifies the Delivered Price, minus any applicable Rebates/Discounts, and the Distribution Price as separate entries, then totaled together as one lump sum (i.e. the Contract Unit Price). For example, if the Delivered Price is \$20.00, the applicable Rebates/Discounts equal \$0.25, and the Distribution Price is \$3.00 an offeror's proposed Contract Unit Price for that item should be indicated as follows:

$(\$20.00 - \$0.25) + \$3.00 = \22.75
(Prices used for illustrative purposes only)

- (a) An offeror shall NOT submit only the Contract Unit Price. All three components, as demonstrated above, shall be provided for each item.
- (b) Delivered Prices, applicable Rebates/Discounts, and Distribution Prices for all items are to be submitted according to the Government's Unit of Issue. There are NO exceptions to this requirement. Failure to do so may result in an offeror's proposal being deemed technically unacceptable and therefore eliminated from further consideration for award. Please note that all items listed in the Solicitation's Schedule of Items will ultimately become part of the Contractor's catalog.
- (c) It is important to note that the Rebates/Discounts reported by an offeror during the proposal and subsequent evaluation stage will be relied upon by the Contracting Officer in demonstrating the favorable business relationships and resulting pricing terms that the offeror has with its suppliers. These favorable pricing terms, as well as any other terms represented in its proposal, should be available and utilized during the performance of the contract if the offeror is selected as the awardee. Therefore, it is required that the offeror be realistic and accurate in its reporting of said Rebates/Discounts. **TO BE CLEAR:** All offerors are on notice that the Contracting Officer expects each's proposal to accurately reflect the way in which that offeror intends to perform the contract if it is selected as the awardee. It is unacceptable to propose favorable terms that are inaccurate, false, or unrealistic for the purpose of misleading the Contracting Officer and tainting the evaluation process so that the offending offeror receives an award. Such behavior, when discovered, will result in immediate adverse action against the offeror or contractor as permitted by the terms of this Solicitation, applicable regulations, laws, or otherwise.

C. Distribution Prices Per Pound

- 1. The offeror shall provide Distribution Prices for Schools and for each period, as discussed in paragraph A.3. of this section. Also, each period may have a different Distribution Price, but each period's Distribution Price shall apply to all items during the entire period.
 - a. Unlike Delivered Prices (as discussed further below), Distribution Prices shall remain constant for the entirety of each period. As such, the Distribution Price for first Tier Period does not have to be equal to the Distribution Prices for all Tier Periods. These prices can differ or remain the same as the Tier Period price; but ultimately will remain constant for the duration of each period.

D. Delivered Prices

- 1. The offeror is required to submit pricing on all items within the Schedule of Items. For evaluation purposes, an offeror's proposed prices on the Schedule of Items shall reflect the offeror's Delivered Prices, as previously defined, that were effective from **December 12, 2022 through December 23, 2022**.
- 2. As part of the evaluation process and requirement for proposal submission, the Government requires offerors to substantiate all of its proposed Delivered Prices with an invoice / quote from the manufacturer, grower, private label holder, or redistributor (collectively referred to as "Supplier") along with the corresponding freight invoice. The line item number must be clearly marked on each invoice (product and freight) to identify the invoice's corresponding item. The preferred documentation is the manufacturer, grower, or private label holder invoice. If a particular line item was not stocked during that time period, a written quote from a manufacturer, grower or private label holder may be accepted. However, please note that anything other than an invoice, such as quotes, are the exception to the rule and may not be satisfactory to the Contracting Officer in substantiating an offeror's Delivered Price. If unsatisfactory to the Contracting Officer, said price will be unacceptable and treated as though the offeror did not submit a price at all. This situation may result in the offeror's proposal being deemed technically unacceptable and removed from further consideration for award. If an offeror does not have an

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invoice, the offeror needs to explain why, e.g. not in season, do not carry, etc. As stated, the Government has a strong preference for invoices over market quotes or other documentation. All invoices, quotes, or other documentation must be from sources that the offeror currently uses or plans to use to support the resultant contract. All invoices (and other documentation as permitted) must contain realistic quantities for which the price paid was based upon. For example, an invoice for a quantity of 1 will not be accepted when the Government routinely purchases quantities well in excess of that quantity. Conversely, an invoice (and other documentation as permitted) based upon an unrealistically large quantity will not be accepted. Quotes shall not be used for the purpose of submitting a price lower than an existing invoice price within the offeror's possession for the particular time period required by the Solicitation. This type of gamesmanship (i.e. lowballing) threatens the integrity of the procurement process and runs afoul of the clear intention of this Solicitation. As such, it will not be tolerated. By submitting a quote, the offeror is certifying that it did not purchase, nor have in stock, the item for the time period being evaluated. Information that is later obtained by the Contracting Officer that casts doubt on the veracity of this certification will be handled as appropriate per the terms of this Solicitation, applicable regulations, laws, or otherwise. The Contracting Officer has the sole authority and ultimate discretion in addressing the above-identified situations and scenarios and ultimately deciding on what information is acceptable and substantiates an offeror's proposed Delivered Prices.

(i) Any quote must be presented in the following manner:

- (a) Detailed on Manufacturer, Grower, or Private Label Holder letterhead;
- (b) Date price quote was supplied;
- (c) Time period price quote is effective; to include expiration date;
- (d) Quantity covered by price quote;
- (e) Manufacturer, Grower, or Private Label Holder part number; and
- (f) Manufacturer, Grower, or Private Label Holder's point of contact: including name, title, address, and phone numbers.

E. Contract Unit Prices

- Prices must not extend more than two places to the right of the decimal point. Standard rounding methods must be observed. For example, a delivered price of \$2.215 or higher must be rounded up to \$2.22 and a price of \$2.214 or lower must be rounded down to \$2.21.
- If an offeror carries a variety of brands for the same item, the price submitted shall be for the lowest priced, technically acceptable, item that meets the Government's minimum requirements.
- All items procured under the resultant contract are subject to all contractual clauses and regulations, including, but not limited to, DFARS 252.225-7012, Preference for Certain Domestic Commodities, and the requirement that items be procured from a sanitarly approved source. All invoices and quotes must contain sufficient information to clearly reflect compliance with solicitation/contract terms and conditions.

F. Instructions for Proposal Spreadsheet - **Attachment 1**

- Please complete the attached schedule of items. The Government has provided you with the customers' requirements and auto calculations as follows:

The Schedule of Items is an excel spreadsheet. Please be sure to complete all Tiers. Please fill in the white boxes only. There is a white box on Row 3 Column C for the vendor name, white boxes across Row 3 for the distribution price per pound for Tier 1, Tier 2 and Tier 3. On Column B, white boxes add in your product code, Column C your source information from which state is supplying each item. Complete Column H for each per case delivered price.

The spreadsheet will automatically per line item calculate and extend the case delivered, case distribution prices, and totals for each tier and aggregate total price. All prices must be rounded to two places to the right of the decimal point using standard rounding methods (see paragraph A.2. above). **Distribution Prices Per Pound per Tier Period are to be expressed in dollars and cents only.** An offeror may elect to offer no change in the Distribution Prices over the life of the contract, even if this is the case enter a distribution price. As a reminder, all offerors must submit **ONE DISTRIBUTION PRICE PER POUND** per Tier Period that will apply to every item in the Schedule of Items. Multiple Distribution Prices within the same Tier period will not be accepted. When preparing the spreadsheet, case prices must appear in each item.

THIS SPREADSHEET MUST BE USED TO INSERT THE REQUIRED PRICING DATA. ALL FIELDS IN THE SPREADSHEET MUST BE COMPLETED AND MUST BE INCLUDED ALONG WITH THE EMAILED DELIVERED OFFER.

FAILURE TO CORRECTLY AND COMPLETELY PROVIDE THE INFORMATION ABOVE COULD LEAD TO YOUR COMPANY'S BID BEING CONSIDERED NON-RESPONSIVE AND WILL NOT BE EVALUATED FOR AWARD. PROVIDING

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THIS INFORMATION IS NOT OPTIONAL, IT IS REQUIRED.

G. Financial Arrangements: As part of a proposal, an offeror must submit, on signed letterhead, a list identifying any and all financial arrangements under which the offeror:

- (i) receives money from any of the offeror's suppliers, and
- (ii) asserts that such money is not a rebate, discount, or other economic incentive that would be owed to the Government under the terms of this solicitation and the resulting contract.

The offeror must provide the name of each supplier with whom the contractor has such a financial arrangement(s), provide a brief description of each financial arrangement, provide written agreement, and explain why the offeror believes that each financial arrangement should not be considered a rebate, discount, or other incentive that would be owed to the Government under the terms of this solicitation and the resulting contract.

Note: A negative response is required.

H. Proposal Submission: See Addendum to FAR 52.212-1, Instructions to Offerors -- Commercial Items

INSTRUCTIONS TO OFFERORS

52.212-1 Instructions to Offerors - Commercial Products and Commercial Services (Nov 2021)

Addendum to 52.212-1 Instructions to Offerors - Commercial Products and Commercial Services

Proposal Submission: Each offeror must submit:

- (1) A signed copy of cover letter
- (2) Attachment 1 with proposed prices (Excel Spreadsheet - Schedule Items)

A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

Questions pertaining to this solicitation shall be submitted in writing, no later than 8:00 a.m. Hawaii Standard Time (HST) January 17, 2023. PROPOSALS ARE DUE NO LATER THAN 08:00 AM HST January 31, 2023. Please email proposal to michael.juan@dla.mil and jean.ross@dla.mil. It is the offeror's responsibility to confirm receipt of proposal.

Points of Contact:

- Michael Juan - email: michael.juan@dla.mil

- Jean Ross - email: jean.ross@dla.mil

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Limit the file size of any individual email attachment to 5MB, and the total size of any email to 10MB. Multiple email submissions may be required. If submitting multiple emails as a proposal submission, label each email with a number (e.g., 1 of 3, accordingly. After transmitting an email submission, offerors should confirm receipt of all emails with the intended recipients.

Facsimile is not an acceptable form of transmission for submission of initial proposals or revisions to initial proposals submitted in response to this solicitation. As directed by the Contracting Officer, facsimile may be used during discussions/ negotiations, if discussions/ negotiations are held, for proposal revisions, including Final Proposal Revisions.

52.212-2 Evaluation - Commercial Products and Commercial Services (Nov 2021)

ADDENDUM to FAR 52.212-2, Evaluation of Commercial Items

(a) The Government will award contract(s) resulting from this solicitation to the responsible offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the Government, price and other factors considered. **Lowest Price Technically Acceptable (LPTA) source selection procedures will be used as the source selection method in this procurement.** The following factors shall be used to evaluate offers:

1. Technical Acceptability - A technically acceptable offer is an offer that takes no exceptions to the terms and conditions in the solicitation and complies fully with all submission requirements. A proposal that takes exception to solicitation terms and conditions or that fails to comply with all submission requirements may be deemed technically unacceptable and, thus, may be found ineligible, and removed from further consideration, for the awards. By submitting a proposal with no exceptions, an offeror is confirming it possesses the necessary facilities, equipment, technical skills and capacity to successfully provide all items required by this solicitation.

A. Perishable Agricultural Commodities Act (PACA) License - The offeror shall possess and submit proof of a valid current PACA license.

B. Good Agricultural Practice (GAP) and Good Handling Practices (GHP) Audit - The offeror shall submit a valid, current USDA GAP/GHP audit report / certificate covering a full range of fresh fruits and vegetables for each place of performance identified in the offeror's proposal. The audit report must demonstrate a passing score, and specifically passing in the following sections: General (Section 1), Wholesale Distribution (Section 6) and Preventive Food Defense (Section 7). In lieu of a USDA GAP/GHP audit report / certificate, the offeror may submit an audit report / certificate conducted by a recognized private independent third-party certifying company certifying to an industry recognized food safety standard that exceeds all aspects of the USDA GAP/GHP audit report / certificate requirements. The audit report(s) must demonstrate that a passing score (s) was/were received. **NOTE: Offerors relying on a non-USDA GAP/GHP audit report / certificate must agree to have a USA GAP/GHP audit report / certificate for each place of performance by the start of contract performance.**

2. Pricing - Pricing is required for all items found in the Schedule of Items. Failure to offer pricing for all items and for all tiers may result in a proposal being removed from consideration for award as technically unacceptable. The Government will perform an aggregate price analysis for all items found in the Schedule of Items. To determine an offeror's evaluated aggregate price, the estimated quantities in the Schedule of Items will be multiplied by the unit prices to determine the lowest aggregate price to the Government. Offered prices, on an individual line item basis, will be evaluated to determine fair and reasonableness. The award will be made on the basis of the lowest Evaluated Aggregate Price of proposals meeting or exceeding the acceptability standards for non-price factors.

The Government reserves the right to remove item(s) from the Schedule of Items or do a common item comparison if offerors do not submit pricing for all items. Prior to award, the offered prices of the presumptive awardee(s) will be evaluated on an individual line-item basis to determine whether each price is fair and reasonable using analytical techniques

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Form (CONTINUED)

deemed appropriate by the Contracting Officer in her/his complete discretion.

Past Performance will not be used as an evaluation factor for this solicitation because other technical evaluation factors are sufficient to ensure performance for the commercial items being procured. Past performance will be considered in a determination of responsibility for the successful offeror prior to award.

(b) Options are not included in this solicitation.

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

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

Part 12 Clauses

52.202-1 DEFINITIONS (JUN 2020) FAR

52.203-3 GRATUITIES (APR 1984) FAR

52.203-5 COVENANT AGAINST CONTINGENT FEES (MAY 2014) FAR

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUN 2020) FAR

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT - ALTERNATE I (NOV 2021) FAR

52.203-7 ANTI-KICKBACK PROCEDURES (JUN 2020) FAR

52.203-8 CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014) FAR

52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014) FAR

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2020) FAR

52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JUN 2020) FAR

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (DEC 2008) DFARS

52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011) FAR

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

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Part 12 Clauses (CONTINUED)

CLAUSES ADDED TO PART 12 BY ADDENDUM

52.203-14 DISPLAY OF HOTLINE POSTER (NOV 2021) FAR

As prescribed in [3.1004](#)(b), insert the following clause:

(a) Definition.

“United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c).

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites.

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

Poster(s) **Obtain from**

(Contracting Officer shall insert ---

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

(1) Is for the acquisition of a commercial product or commercial service; or

(2) Is performed entirely outside the United States.

(End of clause)

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

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

52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014) FAR

52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (NOV 2021) FAR

As prescribed in [4.2004](#), insert the following clause:

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

Covered article means any hardware, software, or service that --

(1) Is developed or provided by a covered entity;

(2) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or

(3) Contains components using any hardware or software developed in whole or in part by a covered entity.

Covered entity means --

(1) Kaspersky Lab;

(2) Any successor entity to Kaspersky Lab;

(3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use of any covered article. The Contractor is prohibited from --

(1) Providing any covered article that the Government will use on or after October 1, 2018; and

(2) Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.* (1) In the event the Contractor identifies a covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor shall report, in writing, to the Contracting Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:

(i) Within 1 business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: Any further available information about mitigation actions

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Part 12 Clauses (CONTINUED)

undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.

(d) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (d), including in all subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (NOV 2021) FAR

252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) DFARS

52.210-1 MARKET RESEARCH (NOV 2021) FAR

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

252.204-7004 LEVEL I ANTITERRORISM AWARENESS TRAINING FOR CONTRACTORS (FEB 2019) DFARS

252.204-7009 LIMITATIONS ON THE USE OR DISCLOSURE OF THIRD-PARTY CONTRACTOR REPORTED CYBER INCIDENT INFORMATION (OCT 2016) DFARS

252.204-7012 SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEC 2019) DFARS

52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010) FAR

52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020) FAR

52.222-26 EQUAL OPPORTUNITY (SEP 2016) FAR

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015) FAR

52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (MAY 2022) FAR

252.225-7006 ACQUISITION OF THE AMERICAN FLAG (AUG 2015) DFARS

(a) *Definition*. "United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) If the Contractor is required to deliver under this contract one or more American flags (Product or Service Code 8345), such flag(s), including the materials and components thereof, shall be manufactured in the United States, consistent with the requirements at 10 U.S.C. 2533a (commonly known as the "Berry Amendment").

(c) This clause does not apply to the acquisition of any end items or components related to flying or displaying the flag (e.g., flagpoles and accessories).

(End of clause)

52.226-6 PROMOTING EXCESS FOOD DONATION TO NONPROFIT ORGANIZATIONS (JUN 2020) FAR

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

52.232-17 INTEREST (MAY 2014) FAR

52.232-23 ASSIGNMENT OF CLAIMS (MAY 2014) FAR

52.242-13 BANKRUPTCY (JUL 1995) FAR

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Part 12 Clauses (CONTINUED)

52.233-2 SERVICE OF PROTEST (SEP 2006) FAR

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from . [Contracting Officer designate the official or location where a protest may be served on the Contracting Officer.]

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Clause)

52.211-17 DELIVERY OF EXCESS QUANTITIES (SEP 1989) FAR

52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS --- COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCT 2022) FAR

As prescribed in [12.301](#)(b)(4), insert the following clause:

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

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1) (A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(5) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(6) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

[Contracting Officer check as appropriate.]

☒ 52.203-6, Restrictions on Subcontractor Sales to the Government (JUN 2020), with Alternate I (NOV 2021) (41 U.S.C. 4704 and 10 U.S.C. 2402).

☒ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).

(5) [Reserved]

(6) 52.204-14, Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

(7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

☒ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) (31 U.S.C. 6101 note).

(9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) (41 U.S.C. 2313).

(10) [Reserved]

(11) 52.219-3, Notice of HUBZone Set-Aside or Sole Source Award (OCT 2022) (15 U.S.C. 657a).

(12) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

(13) [Reserved]

☒ (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2020) (15 U.S.C. 644).

(ii) Alternate I (MAR 2020) of 52.219-6.

(15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (NOV 2020) (15 U.S.C. 644).

(ii) Alternate I (MAR 2020) of 52.219-7.

(16) 52.219-8, Utilization of Small Business Concerns (OCT 2022) (15 U.S.C. 637(d)(2) and (3)).

(17)(i) 52.219-9, Small Business Subcontracting Plan (OCT 2022 (15 U.S.C. 637(d)(4)).

(ii) Alternate I (NOV 2016) of 52.219-9.

(iii) Alternate II (NOV 2016) of 52.219-9.

(iv) Alternate III (JUN 2020) of 52.219-9.

(v) Alternate IV (SEP 2021) of 52.219-9.

(18)(i) 52.219-13, Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

(ii) Alternate I (MAR 2020) of 52.219-13.

(19) 52.219-14, Limitations on Subcontracting (OCT 2022) (15 U.S.C. 657s).

(20) 52.219-16, Liquidated Damages --Subcontracting Plan (SEP 2021) (15 U.S.C. 637(d)(4)(F)(i)).

(21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (OCT 2022) (15 U.S.C. 657f).

(22)(i) 52.219-28, Post-Award Small Business Program Rerepresentation (OCT 2022) (15 U.S.C. 632(a)(2)).

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(ii) Alternate I (MAR 2020) of 52.219-28.
(23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022) (15 U.S.C. 637(m)).
(24) 52.219-30, Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (OCT 2022) (15 U.S.C. 637(m)).
(25) 52.219-32, Orders Issued Directly Under Small Business Reserves (MAR 2020) (15 U.S.C. 644(r)).
(26) 52.219-33, Nonmanufacturer Rule (SEP 2021) (15 U.S.C. 657s).
X (27) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).
X (28) 52.222-19, Child Labor --Cooperation with Authorities and Remedies (JAN 2020) (E.O. 13126).
X (29) 52.222-21, Prohibition of Segregated Facilities (APR 2015).
X (30)(i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).
X (ii) Alternate I (Feb 1999) of 52.222-26.
X (31)(i) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).
X (ii) Alternate I (July 2014) of 52.222-35.
X (32)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).
X (ii) Alternate I (July 2014) of 52.222-36.
X (33) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).
X (34) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
X (35)(i) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).
X (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
X ((36) 52.222-54, Employment Eligibility Verification (MAY 2022). (E. O. 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.)
(37)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
(ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
(38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).
(39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).
(40)(i) 52.223-13, Acquisition of EPEAT[®]-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).
(ii) Alternate I (OCT 2015) of 52.223-13.
(41)(i) 52.223-14, Acquisition of EPEAT[®]-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
(ii) Alternate I (Jun 2014) of 52.223-14.
(42) 52.223-15, Energy Efficiency in Energy-Consuming Products (MAY 2020) (42 U.S.C. 8259b).
(43)(i) 52.223-16, Acquisition of EPEAT[®]-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).
(ii) Alternate I (Jun 2014) of 52.223-16.
(44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).
(45) 52.223-20, Aerosols (JUN 2016) (E.O. 13693).
(46) 52.223-21, Foams (JUN 2016) (E.O. 13693).
(47)(i) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).
(ii) Alternate I (JAN 2017) of 52.224-3.
X (48) 52.225-1, Buy American - Supplies (NOV 2021)) (41 U.S.C. chapter 83).
(49)(i) 52.225-3, Buy American - Free Trade Agreements - Israeli Trade Act (NOV 2021) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
(ii) Alternate I (JAN 2021) of 52.225-3.
(iii) Alternate II (JAN 2021) of 52.225-3.
(iv) Alternate III (JAN 2021) of 52.225-3.
(50) 52.225-5, Trade Agreements (OCT 2019) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
X (51) 52.225-13, Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
(52) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
(53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007) (42 U.S.C. 5150).
(54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) (42 U.S.C. 5150).
(55) 52.229-12, Tax on Certain Foreign Procurements (FEB 2021).
(56) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (NOV 2021) (41 U.S.C.4505, 10 U.S.C. 2307(f)).
(57) 52.232-30, Installment Payments for Commercial Products and Commercial Services (NOV 2021) (41 U.S.C. 4505, 10 U.S.C. 2307(f)).
X (58) 52.232-33, Payment by Electronic Funds Transfer --System for Award Management (OCT 2018) (31 U.S.C. 3332).
(59) 52.232-34, Payment by Electronic Funds Transfer --Other than System for Award Management (JUL 2013) (31 U.S.C. 3332).
(60) 52.232-36, Payment by Third Party (MAY 2014) (31 U.S.C. 3332).
(61) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).
(62) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).
(63)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631).
(ii) Alternate I (Apr 2003) of 52.247-64.

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(iii) Alternate II (NOV 2021) of 52.247-64.

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

(1) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards --Price Adjustment (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

(5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment --Requirements (MAY 2014) (41 U.S.C. chapter 67).

(6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services --Requirements (MAY 2014) (41 U.S.C. chapter 67).

(7) 52.222-55, Minimum Wages Under Executive Order 13658 (JAN 2022).

(8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR 2.101, on the date of award of this contract, and does not contain the clause at 52.215-2, Audit and Records - Negotiation.

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

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

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

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (NOV 2021) (41 U.S.C. 3509).

(ii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1) (A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (OCT 2022) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities..

(vi) 52.222-21, Prohibition of Segregated Facilities (APR 2015).

(vii) 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).

(viii) 52.222-35, Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

(ix) 52.222-36, Equal Opportunity for Workers with Disabilities (JUN 2020) (29 U.S.C. 793).

(x) 52.222-37, Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212).

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

(xii) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).

(xiii) (A) 52.222-50, Combating Trafficking in Persons (NOV 2021) (22 U.S.C. chapter 78 and E.O. 13627).

(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

(xiv) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment --Requirements (MAY 2014) (41 U.S.C. chapter 67).

(xv) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services --Requirements (MAY 2014) (41 U.S.C. chapter 67).

(xvi) 52.222-54, Employment Eligibility Verification (MAY 2022) (E. O. 12989).

(xvii) 52.222-55, Minimum Wages Under Executive Order 13658 (JAN 2022)

(xviii) 52.222-62 Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(xix)(A) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(B) Alternate I (JAN 2017) of 52.224-3.

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

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Part 12 Clauses (CONTINUED)

(xxi) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(End of clause)

52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (OCT 2018) FAR

(a) Definitions. As used in this provision -

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means -

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [] has [] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in -

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the Central Contractor Registration database via <https://www.acquisition.gov> (see 52.204-7).

(End of provision)

C03 CONTRACTOR RETENTION OF SUPPLY CHAIN TRACEABILITY DOCUMENTATION (JUN 2020)

52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997) FAR

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2022) FAR

52.222-62 PAID SICK LEAVE UNDER EXECUTIVE ORDER 13706 (JAN 2022) FAR

252.223-7008 PROHIBITION OF HEXAVALENT CHROMIUM (JUN 2013) DFARS

52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008) FAR

252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM - BASIC (JUN 2022) DFARS

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<p>Part 12 Clauses (CONTINUED)</p> <p>252.225-7001 BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM — ALTERNATE I (JUN 2022) DFARS</p> <p>252.225-7002 QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (MAR 2022) DFARS</p> <p>252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (APR 2022) DFARS</p> <p>(a) <i>Definitions.</i> As used in this clause --</p> <p>“Component” means any item supplied to the Government as part of an end product or of another component.</p> <p>“End product” means supplies delivered under a line item of this contract.</p> <p>"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:</p> <ul style="list-style-type: none"> Australia Austria Belgium Canada Czech Republic Denmark Egypt Estonia Finland France Germany Greece Israel Italy Japan Latvia Lithuania Luxembourg Netherlands Norway Poland Portugal Slovenia Spain Sweden Switzerland Turkey United Kingdom of Great Britain and Northern Ireland. <p>“Structural component of a tent” --</p> <ul style="list-style-type: none"> (1) Means a component that contributes to the form and stability of the tent (e.g., poles, frames, flooring, guy ropes, pegs); and (2) Does not include equipment such as heating, cooling, or lighting. <p>“United States” means the 50 States, the District of Columbia, and outlying areas.</p> <p>“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.</p> <p>(b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been</p>		
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Part 12 Clauses (CONTINUED)

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 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, 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 threshold at Defense Federal Acquisition Regulation Supplement [225.7002-2\(a\)](#);
 - (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 $\frac{3}{4}$
 - (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)

252.225-7052 RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALUM, AND TUNGSTEN (OCT 2020) DFARS

252.225-7056 PROHIBITION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022) DFARS

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252.225-7058 POSTAWARD DISCLOSURE OF EMPLOYMENT OF INDIVIDUALS WHO WORK IN THE PEOPLE'S REPUBLIC OF CHINA (AUG 2022) DFARS

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991) DFARS

52.232-1 PAYMENTS (APR 1984) FAR

52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002) FAR

52.232-11 EXTRAS (APR 1984) FAR

52.232-25 PROMPT PAYMENT (JAN 2017) FAR

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (NOV 2021) FAR

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

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

As prescribed in [232.7004](#) (b), use the following clause:

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

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

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

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

(b) *Electronic invoicing.* The WAWF system is the method to electronically process vendor payment requests and receiving reports, as authorized by DFARS [252.232-7003](#), Electronic Submission of Payment Requests and Receiving Reports.

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

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

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

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

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

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

(1) *Document type.* The Contractor shall use the following document type(s).

(Contracting Officer: Insert applicable document type(s).)

Note: If a “Combo” document type is identified but not supportable by the Contractor's business systems, an “Invoice” (stand-alone) and “Receiving Report” (stand-alone) document type may be used instead.)

(2) *Inspection/acceptance location.* The Contractor shall select the following inspection/acceptance location(s) in WAWF, as specified by the contracting officer.

(Contracting Officer: Insert inspection and acceptance locations or “Not applicable.”)

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

Routing Data Table*

Field Name in WAWF	Data to be entered in WAWF
Pay Official DoDAAC	SL4701
Issue By DoDAAC	SPE302
Admin DoDAAC	SPE302
Inspect By DoDAAC	
Ship To Code	
Ship From Code	
Mark For Code	
Service Approver (DoDAAC)	

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Part 12 Clauses (CONTINUED)

Field Name in WAWF	Data to be entered in WAWF
Service Acceptor (DoDAAC)	
Accept at Other DoDAAC	
LPO DoDAAC	
DCAA Auditor DoDAAC	
Other DoDAAC(s)	

*(*Contracting Officer: Insert applicable DoDAAC information or "See schedule" if multiple ship to/acceptance locations apply, or "Not applicable.")*

(4) *Payment request and supporting documentation.* The Contractor shall ensure a payment request includes appropriate contract line item and subline item descriptions of the work performed or supplies delivered, unit price/cost per unit, fee (if applicable), and all relevant back-up documentation, as defined in DFARS Appendix F, (e.g. timesheets) in support of each payment request.

(5) *WAWF email notifications.* The Contractor shall enter the e-mail address identified below in the "Send Additional Email Notifications" field of WAWF once a document is submitted in the system.

(Contracting Officer: Insert applicable email addresses or "Not applicable.")

(g) *WAWF point of contact.*

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

(Contracting Officer: Insert applicable information or "Not applicable.")

(2) For technical WAWF help, contact the WAWF helpdesk at 866-618-5988.

(End of clause)

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

52.233-1 DISPUTES (MAY 2014) FAR

52.233-3 PROTEST AFTER AWARD (AUG 1996) FAR

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

52.242-15 STOP-WORK ORDER (AUG 1989) FAR

52.242-17 GOVERNMENT DELAY OF WORK (APR 1984) FAR

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

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

52.244-6 SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCT 2022) FAR

252.244-7000 SUBCONTRACTS FOR COMMERCIAL ITEMS (JAN 2021) DFARS

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

52.246-23 LIMITATION OF LIABILITY (FEB 1997) FAR

252.246-7007 CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (AUG 2016) DFARS

252.246-7008 SOURCES OF ELECTRONIC PARTS (MAY 2018) DFARS

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

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Part 12 Clauses (CONTINUED)

52.247-60 GUARANTEED SHIPPING CHARACTERISTICS (JAN 2017) FAR

(a) The offeror is requested to complete paragraph (a)(1) of this clause, for each part or component which is packed or packaged separately. This information will be used to determine transportation costs for evaluation purposes. If the offeror does not furnish sufficient data in paragraph (a)(1) of this clause, to permit determination by the Government of the item shipping costs, evaluation will be based on the shipping characteristics submitted by the offeror whose offer produces the highest transportation costs or in the absence thereof, by the Contracting Officer's best estimate of the actual transportation costs. If the item shipping costs, based on the actual shipping characteristics, exceed the item shipping costs used for evaluation purposes, the Contractor agrees that the contract price shall be reduced by an amount equal to the difference between the transportation costs actually incurred, and the costs which would have been incurred if the evaluated shipping characteristics had been accurate.

(1) To be completed by the offeror:

- (i) Type of container: Wood Box [] Fiber Box [], Barrel [], Reel [], Drum [], Other (Specify) ;
- (ii) Shipping configuration: Knocked-down [], Set-up [], Nested [], Other (specify) ;
- (iii) Size of container: " (Length), × " (Width), × " (Height) = Cubic Ft;
- (iv) Number of items per container each;
- (v) Gross weight of container and contents Lbs;
- (vi) Palletized/skidded [] Yes [] No;
- (vii) Number of containers per pallet/skid ;
- (viii) Weight of empty pallet bottom/skid and sides Lbs;
- (ix) Size of pallet/skid and contents Lbs Cube ;
- (x) Number of containers or pallets/skids per railcar *
 - (A) Size of railcar
 - (B) Type of railcar
- (xi) Number of containers or pallets/skids per trailer *
 - (A) Size of trailer Ft
 - (B) Type of trailer

* Number of complete units (line item) to be shipped in carrier's equipment.

(2) To be completed by the Government after evaluation but before contract award:

- (i) Rate used in evaluation ;
- (ii) Tender/Tariff ;
- (iii) Item .

(b) The guaranteed shipping characteristics requested in paragraph (a)(1) of this clause do not establish actual transportation requirements, which are specified elsewhere in this solicitation. The guaranteed shipping characteristics will be used only for the purpose of evaluating offers and establishing any liability of the successful offeror for increased transportation costs resulting from actual shipping characteristics which differ from those used for evaluation in accordance with paragraph (a) of this clause.

(End of clause)

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

Basic. As prescribed in [247.574](#) (b) and (b)(1), use the following clause:

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

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

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

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

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

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

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

- (i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.
- (ii) “Supplies” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

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

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

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Part 12 Clauses (CONTINUED)

- (2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if --
- (i) This contract is a construction contract; or
 - (ii) The supplies being transported are --
 - (A) Noncommercial items; or
 - (B) Commercial items that --
- (1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);
- (2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or
- (3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.
- (c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --
- (1) U.S.-flag vessels are not available for timely shipment;
 - (2) The freight charges are inordinately excessive or unreasonable; or
 - (3) Freight charges are higher than charges to private persons for transportation of like goods.
- (d) The Contractor must submit any request for use of foreign-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --
- (1) Type, weight, and cube of cargo;
 - (2) Required shipping date;
 - (3) Special handling and discharge requirements;
 - (4) Loading and discharge points;
 - (5) Name of shipper and consignee;
 - (6) Prime contract number; and
 - (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.
- (e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW, Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:
- (1) Prime contract number;
 - (2) Name of vessel;
 - (3) Vessel flag of registry;
 - (4) Date of loading;
 - (5) Port of loading;
 - (6) Port of final discharge;
 - (7) Description of commodity;
 - (8) Gross weight in pounds and cubic feet if available;
 - (9) Total ocean freight in U.S. dollars; and
 - (10) Name of steamship company.
- (f) If this contract exceeds the simplified acquisition threshold, the Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief --
- (1) No ocean transportation was used in the performance of this contract;
 - (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;
 - (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all foreign-flag ocean transportation; or
 - (4) Ocean transportation was used and some or all of the shipments were made on foreign-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

*	ITEM DESCRIPTION	CONTRACT LINE ITEMS	QUANTITY
TOTAL			

- (g) If this contract exceeds the simplified acquisition threshold and 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 foreign-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized

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Part 12 Clauses (CONTINUED)

use.

(h) If the Contractor indicated in response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies; however, after the award of this contract, the Contractor learns that supplies will be transported by sea, the Contractor shall

--

(1) Notify the Contracting Officer of that fact; and

(2) Comply with all the terms and conditions of this clause.

(i) 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 (i), 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 (i), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) FAR

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

As prescribed in 52.107(b), insert the following clause:

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

FAR: <https://www.acquisition.gov/?q=browsefar>

DFARS: <https://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html>

DLAD: <http://www.dla.mil/HQ/Acquisition/Offers/DLAD.aspx>

(End of clause)

52.253-1 COMPUTER GENERATED FORMS (JAN 1991) FAR

252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (JAN 2021) DFARS

252.225-7048 EXPORT CONTROLLED ITEMS (JUN 2013) DFARS

252.225-7051 PROHIBITION ON ACQUISITION OF CERTAIN FOREIGN COMMERCIAL SATELLITE SERVICES (SEP 2021) DFARS

52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021) FAR

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

Attachments

List of Attachments

Description	File Name
ATTACH_Schedule_of_Items	Attch_1_Schedule_of_Items.xlsx
ATTACH_Customer_List	Attch_2_Customer_List.xlsx
ATTACH_NewItemsRequestForm	Attch_3_NewItemsRequestForm.pdf
ATTACH_FFAVORS	Attch_4_FFAVORS.pdf
ATTACH_QSMV	Attch_5_QSMV.pdf
ATTACH_ATTACH_DLA_T S_FOOD_DEFENSE_CHE CKLIST	Attch_6_DLA TROOP SUPPORT FOOD DEFENSE CHECKLIST.pdf

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Attachments (CONTINUED)

Part 12 Provisions

PROVISIONS ADDED TO PART 12 BY ADDENDUM

52.203-18 PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS-REPRESENTATION (JAN 2017) FAR

252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (NOV 2011) DFARS

252.204-7008 COMPLIANCE WITH SAFEGUARDING COVERED DEFENSE INFORMATION CONTROLS (OCT 2016) DFARS

52.207-4 ECONOMIC PURCHASE QUANTITY---SUPPLIES (AUG 1987) FAR

As prescribed in [7.203](#) , insert the following provision:

(a) Offerors are invited to state an opinion on whether the quantity(ies) of supplies on which bids, proposals or quotes are requested in this solicitation is (are) economically advantageous to the Government.

(b) Each offeror who believes that acquisitions in different quantities would be more advantageous is invited to recommend an economic purchase quantity. If different quantities are recommended, a total and a unit price must be quoted for applicable items. An economic purchase quantity is that quantity at which a significant price break occurs. If there are significant price breaks at different quantity points, this information is desired as well.

OFFEROR RECOMMENDATIONS

ITEM	QUANTITY	PRICE QUOTATION	TOTAL

(c) The information requested in this provision is being solicited to avoid acquisitions in disadvantageous quantities and to assist the Government in developing a data base for future acquisitions of these items. However, the Government reserves the right to amend or cancel the solicitation and resolicit with respect to any individual item in the event quotations received and the Government's requirements indicate that different quantities should be acquired.

(End of provision)

52.216-1 TYPE OF CONTRACT (APR 1984) FAR

As prescribed in [16.105](#) , complete and insert the following provision:

The Government contemplates award of a contract resulting from this solicitation.

(End of provision)

52.225-18 PLACE OF MANUFACTURE (AUG 2018) FAR

As prescribed in 25.1101(f), insert the following solicitation provision:

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

“Manufactured end product” means any end product in Federal Supply Classes (FSC) 1000-9999, except --

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

(b) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly --

- (1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

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Part 12 Provisions (CONTINUED)

(2) [] Outside the United States.

(End of provision)

252.225-7000 BUY AMERICAN STATUTE - BALANCE OF PAYMENTS PROGRAM CERTIFICATE (NOV 2014) DFARS

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” and “United States,” as used in this provision, have the meanings given in the Buy American and Balance of Payments Program --Basic clause of this solicitation.

(b) *Evaluation.* The Government --

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program --Basic clause of this solicitation, the offeror certifies that --

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

Line Item Number Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:

Line Item Number Country of Origin (If known)

(End of provision)

252.225-7000 BUY AMERICAN STATUTE---BALANCE OF PAYMENTS PROGRAM CERTIFICATE)---ALTERNATE I (NOV 2014) DFARS

Alternate I. As prescribed in [225.1101](#) (1) and (1)(ii), use the following provision, which adds “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” in paragraph (a), and replaces “qualifying country end products” in paragraphs (b)(2) and (c)(2) with “qualifying country end products or SC/CASA state end products”:

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” “South Caucasus/Central and South Asian (SC/CASA) state,” “South Caucasus/Central and South Asian (SC/CASA) state end product,” and “United States,” as used in this provision, have the meanings given in the Buy American and Balance of Payments Program --Alternate I clause of this solicitation.

(b) *Evaluation.* The Government --

(1) Will evaluate offers in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products or SC/CASA state end products without regard to the restrictions of the Buy American statute or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American and Balance of Payments Program --Alternate I clause of this solicitation, the offeror certifies that --

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products or SC/CASA state end products:

Line Item Number Country of Origin

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (ii) of the definition of “domestic end product”:

Line Item Number Country of Origin (If known)

(End of provision)

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Part 12 Provisions (CONTINUED)

252.225-7055 REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022) DFARS

252.225-7057 PREAWARD DISCLOSURE OF EMPLOYMENT OF INDIVIDUALS WHO WORK IN THE PEOPLE'S REPUBLIC OF CHINA (AUG 2022) DFARS

L06 AGENCY PROTESTS (DEC 2016)

252.204-7016 COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES---REPRESENTATION (DEC 2019) DFARS

As prescribed in [204.2105](#) (a), use the following provision:

(a) *Definitions*. As used in this provision, "covered defense telecommunications equipment or services" has the meaning provided in the clause 252.204-7018, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

(b) *Procedures*. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered defense telecommunications equipment or services".

(c) *Representation*. The Offeror represents that it [] does, [] does not provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(End of provision)

252.239-7098 PROHIBITION ON CONTRACTING TO MAINTAIN OR ESTABLISH A COMPUTER NETWORK UNLESS SUCH NETWORK IS DESIGNED TO BLOCK ACCESS TO CERTAIN WEBSITES---REPRESENTATION (DEVIATION 2021-O0003) (APR 2021)

(a) In accordance with section 8116 of Division C of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), or any other Act that extends to fiscal year 2021 funds the same prohibitions, none of the funds appropriated (or otherwise made available) by this or any other Act for DoD may be used to enter into a contract to maintain or establish a computer network unless such network is designed to block access to pornography websites. This prohibition does not limit the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities, or for any activity necessary for the national defense, including intelligence activities.

(b) *Representation*. By submission of its offer, the Offeror represents that it is not providing as part of its offer a proposal to maintain or establish a computer network unless such network is designed to block access to pornography websites.

(End of provision)

52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021) FAR

As prescribed in [4.2105](#)(a), insert the following provision:

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services --Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Products and Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

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

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition*. (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to --

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to --

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures*. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services."

(d) *Representations*. The Offeror represents that --

(1) It [] will, [] will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of

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Part 12 Provisions (CONTINUED)

this section if the Offeror responds “will” in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that --

It ☐ does, ☐ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds “does” in paragraph (d)(2) of this section.

(e) *Disclosures.* (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded “will” in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment --

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services --

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded “does” in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment --

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services --

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

52.204-26 COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES---REPRESENTATION (OCT 2020) FAR

As prescribed in 4.2105(c), insert the following provision:

(a) *Definitions.* As used in this provision, “covered telecommunications equipment or services” has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for “covered telecommunications equipment or services”.

(c) *Representation.* The Offeror represents that it ☐ does, ☐ does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it ☐ does, ☐ does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)