

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			1. CONTRACT ID CODE J	PAGE OF PAGES 1   88
2. AMENDMENT/MODIFICATION NO. 0001	3. EFFECTIVE DATE 09-Feb-2023	4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO.(If applicable)
6. ISSUED BY MILITARY SEALIFT COMMAND NORFOLK 471 EAST C STREET, BLDG SP-48 NORFOLK VA 23511	CODE N32205	7. ADMINISTERED BY (If other than item 6)  <b>See Item 6</b>		
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)		X	9A. AMENDMENT OF SOLICITATION NO. N3220523R4012	
		X	9B. DATED (SEE ITEM 11) 25-Jan-2023	
			10A. MOD. OF CONTRACT/ORDER NO.	
			10B. DATED (SEE ITEM 13)	
CODE	FACILITY CODE			
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>				
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.				
12. ACCOUNTING AND APPROPRIATION DATA (If required)				
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>				
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.				
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).				
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:				
D. OTHER (Specify type of modification and authority)				
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.				
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  See amendment details below.				
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.				
15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)		
		TEL:	EMAIL:	
15B. CONTRACTOR/OFFEROR  _____ (Signature of person authorized to sign)	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA  BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED  09-Feb-2023

## SECTION SF 30 BLOCK 14 CONTINUATION PAGE

**SUMMARY OF CHANGES**

## SECTION SF 30 - BLOCK 14 CONTINUATION PAGE

The following have been added by full text:

A0001

The purpose of this amendment is as follows:

1. Incorporate the following provisions by full text:
  - a. FAR 52.209-5 Certification Regarding Responsibility Matters
  - b. FAR 52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law
2. Update the TUGTIME PROFORMA PART VI to include the following:
  - a. DFARS 252.203-7000 Requirements Relating to Compensation of Former DoD Officials
  - b. DFARS 252.203-7005 Representation Relating to Compensation of Former DoD Officials
3. All other terms and conditions remain unchanged.

## SECTION SF 1449 - CONTINUATION SHEET

The following have been added by full text:

## 52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (AUG 2020)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are ( ) are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ( ) have not ( ), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation); and

(C) Are ( ) are not ( ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and

(D) Have , have not , within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at 9.104-5(a)(2) for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has ( ) has not ( ), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) Principal, for the purposes of this certification, 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 shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

**52.209-11 REPRESENTATION BY CORPORATIONS REGARDING DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (FEB 2016)**

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that--

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that--

(1) It is [ ] is not [ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(2) It is [ ] is not [ ] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(End of provision)

The following have been modified:

TUGTIME PROFORMA



## **MSC TUGTIME 2023**

### PREAMBLE

#### **Preamble**

- A. The charter, when awarded, will consist of the completed Standard Form (SF) 1449, this Preamble, and completed PARTS I through IX.
- B. The signature of the Contracting Officer on SF 1449 signifies acceptance of the contractor's proposal, as amended, and award of the charter. The offeror's proposal, as revised, is hereby incorporated into the

contract as an attachment as defined by the Order of Precedence section, the SF 1449, and PARTS I through IX contain in full all of the amendments, references, responses, deletions, additions and interlineations made by both parties to the RFP and the proposal as of the charter party date. In the event that there is any inconsistency between the terms and conditions of this contract and those in an offeror's proposal, this contract shall control. All references to sections in PARTS II through IX shall be to PART I sections unless otherwise stated.

- C. Each of the parts or any portion thereof of this charter party shall be deemed severable, and should any part or any portion thereof be held invalid, illegal, or unenforceable, the remaining parts and portions thereof shall continue in full force and effect. The headings herein are for the sake of convenience and reference only, and shall not affect the interpretation of this charter party.
- D. Offeror fill-in clauses 52.203-2, 52.209-7 and 52.212-3, Alternate I, required for this solicitation are provided for the convenience of Offerors in PART XII, Submission Package. It also provides a Crew Compliment form, Attachment B; Offered Rate Sheet and Vessel Fuel Consumption Table, Attachment C; Disclosure of Lobbying Activities (SF LLL), Attachment F; a form for Offeror's Vessel Casualty and Strike Contingency Plans, Attachment G; Request for Clarification/Question Form, Attachment I; and a blank Offered Vessel Characteristics Sheet for Offerors to fill in characteristics of their offered vessels, Attachment A.
- E. The following tables will be filled in by the government at award:
  - a. Rate Schedule
  - b. CLIN price and quantity data (for pass-through reimbursable items)
  - c. Vessels Under Charter

Both a., Rate Schedule; and c., Vessels Under Charter, will be filled in with the data offered in the awardee's proposal.

(End of Preamble)

## PART I

### **PART I** **PERFORMANCE WORK STATEMENT**

1. **SCOPE OF WORK:** MSC requests two (2) time-chartered, U.S. flag tugs to provide harbor support services and ship handling at Naval Submarine Base New London, Groton, CT. The following list, is not all-inclusive in neither scope nor description, is illustrative of the services to be performed:
  - (a) Towing, twisting, mooring, berthing, docking, streaming, shifting, assisting, pulling, and escorting various vessel types, barges, submarines, crafts, hulls, sleds, derricks, lighters, and objects of whatsoever nature including anything carried thereon. Government reserves the right to use government-owned, controlled, or chartered tugs or vessels separately or jointly with owner's tugs in the performance of any services listed in this contract.
    - a. The following is a list of vessel classes that are likely to be supported during the term of any contract resulting from this RFP. The list is for demonstration purposes only and is not a guarantee of vessel types to be supported and is not all-inclusive: AE, AFDM, AFT, AGOS, AGDS, AGS, AH, AKE, AKR, AO, AOE, ARS, AS, ASR, ATF, CG, CGN, CVN, DD, DDG, FFG, IX, JHSV, LCS, LHA, LHD, LPD, LSD, LST, MCM, MHC, PC, SS, SSBN, SSGN, SSN, TAKE, TAO, YC, YD, YO, YON, YP, or foreign military vessels equivalent to any of the above.
  - (b) Transfers of pilots and government personnel by tug.
  - (c) Tug emergency support services, including responses to weather conditions, threatening vessels, piers, dry-

docks, or shore facilities; shipboard fires; vessels aground; vessel equipment failures; downed aircraft; oil spills; missions of mercy; collisions; ammunition mishaps; search-and-rescue operations; shipboard casualty; and National Defense Emergency.

- (d) Line handling.
- (e) Providing personnel (other than a riding crew) to go aboard a tow.
- (f) Owner's Representative shall provide adequate staff and communications to promptly respond to government's requests for services under this contract on a 24-hour-day basis.

2. **AREA OF OPERATIONS:** The place of performance shall be in the geographical region(s) of New London, CT and the surrounding navigable waters, including a distance out to the continental shelf. Within this geographical region, the tug may be ordered to any berth, dock, anchorage, wharf, place, open roadstead, submarine line, or alongside any vessel, barge, lighter, submarine, craft, hull, derrick, or object of whatsoever nature that the government may direct, provided the vessel can lie always afloat except in harbors or waters where it is customary and safe in the port to work aground. The tug will be home berthed in the geographical region noted above. The Government may reassign the vessel to a different berth within the geographical region on a temporary or permanent basis to meet emergent requirements. The tug shall remain on site at the base assigned 24 hours a day, 7 days a week when not on mission, undergoing refueling or required at a shipyard.

3. **CONTRACT STYLE:** Firm Fixed Price with reimbursable elements.

4. **PERIOD OF PERFORMANCE:**

- a) One firm period and four option periods for a total of 59 months.

PERIOD NAME	DURATION	COMMENCEMENT DATE	END DATE
Firm Period	366 days	01 July 2023	30 June 2024
Option One	365 days	01 July 2024	30 June 2025
Option Two	365 days	01 July 2025	30 June 2026
Option Three	365 days	01 July 2026	30 June 2027
Option Four	336 days	01 July 2027	31 May 2028

5. **AVAILABILITY:** The tug(s) shall be available 24 hours a day, 7 days a week. After receiving a request for service from an authorized government official (see "Requests for Services" below), tug(s) shall be fully crewed and ready for service in accordance with the response times in the table below.

6. **NOTIFICATION:** When tug service is requested, service shall be provided within the time specified in the "Required Response" boxes below.

TIME	REQUIRED RESPONSE
Straight Time – An 12-hour period starting between 0600-0900 hours (Monday -Friday, except weekends and Federal Holidays) with flexibility to start straight time outside of 0600-0900 to accommodate unusual vessel arrival and departures times. The start of the straight time will be set on daily basis by the COR.	<b>15 minutes</b>

After-hours – All hours not covered in straight time, and all weekends and Federal Holidays.	<b>1 hour</b>
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7. **SCHEDULE OF ESTIMATES:** The following estimates are not a guarantee of work. This information is provided for estimation purposes only. Any difference in the actual numbers or workload experienced shall not form the basis for any claim or equitable adjustment.

PERIOD	ESTIMATED AFTER-HOURS USE (HOURS PER YEAR PER TUG)
Firm Period	100
Option 1	100
Option 2	100
Option 3	100
Option 4	100

8. **DELIVERY/REDELIVERY LOCATION:**

DELIVERY/REDELIVERY PORT	EARLIEST DELIVERY DATE	CANCELING DATE <small>SEE FAR 52.212-2(f)</small>
Naval Submarine Base New London, Groton, CT	01 July 2023	01 July 2023

9. **TUG CHARACTERISTICS:** The tug(s) chartered under this charter party contract shall have the minimum characteristics as described in the chart Tug Characteristics. Specifications and characteristics exceeding the minimum, if offered and accepted by the government, are incorporated by reference upon contract award.

CHARACTERISTIC	MINIMUM	CHARACTERISTIC	MINIMUM
FLAG	USA	CLASSIFICATION	IACS Member
PROPULSION TYPE	Tractor or tractor like	MAXIMUM LENGTH OVER ALL	105 feet
BOLLARD PULL	Forward 65,000 lbs. All other directions 50,000 lbs.	FENDERING AND CONFIGURATION	Surface: Configured with cleans non-marking fendering to prevent metal-to-hull contact with surface vessels under all conditions of pitch and roll. Fendering shall be firmly secured to vessel along the entire length. Fendering includes propeller guards, if applicable.

			Sub-Surface: : Configured with cleans non-marking fendering to prevent metal-to-hull contact with sub-surface vessels under all conditions of pitch and roll. Fendering shall be firmly secured to vessel along the entire length. Fendering includes propeller guards, if applicable.
TRANSIT SPEED	10 knots minimum at 80% rated horsepower in “moderate weather” per the Douglas Sea Scale	MAXIMUM DRAFT	15 feet (salt water), fully laden.
PASSENGER CAPACITY	12 people maximum in addition to master and crew, without provisions for victualing and berthing.	ENDURANCE	N/A
COMMUNICATION EQUIPMENT	Required by the U.S.C.G. and FCC for inland and international waters. Transceiver capability of 2-30 MHZ at 100-Watt output.	FIREFIGHTING EQUIPMENT	Each tug shall have monitors to provide 360-degree coverage at 2,000 gpm, 120 psi. The system shall be capable of AFFF injection.
CAPSTANS/WINCHES	Sufficient fore and aft capstans or winches to perform services under this contract. Each shall have a minimum safe working load of 7,000 lbs.	PILOT TRANSFER CAPABILITY	Tug shall have sufficient handholds and/or platform to safely transfer pilots to and from vessels under normal sea conditions.
NAVIGATION EQUIPMENT	Minimum required by the U.S.C.G for inland and international waters to include a radar, fathometer, GPS, loudhailer, and two sets of fixed VHF radios.	SEWAGE CAPACITY	Minimum of 24 hrs.
LINES	Tug shall be equipped with 7-inch KEVLAR and/or sufficient synthetic lines and associated equipment to perform services in the contract safely and efficiently. Contractor will identify the type of line(s) and its intended use. Will log the date each line was put into service. Keep on hand the load tests and specifications of the line. Log will be kept in the pilot house for review by the COR.	OTHER REQUIREMENTS	Each tug shall be capable of performing work in winds equivalent to Beaufort force 10 (wind speed) and sea state 5.

BROW	One brow to allow for the safe transfer of two passengers at a time. The brow shall be a minimum of two feet in width for the entire length. Such brow shall be of sufficient length to assure safe passage of personnel from the tug to the deck of a TRIDENT or SEAWOLF Submarine. The end of the brow shall be fitted with rubber-coated rollers to prevent metal-to-hull contact between brow and submarine deck; each side shall have handrails and midrails. Transfer to other submarine classes will be required.	VETTING	N/A
MAXIMUM FIXED AIR DRAFT	30 feet. (Due to the Thames River Drawbridge)		

10. **PRICING SHEET:** Daily Rate: The daily rate shall be inclusive of weekends, holidays and after-hours, based on the required availability above. Daily rate is exclusive of fuel, which shall be supplied/pass-through reimbursed by the government.

	FIRM PERIOD	OPTION PERIOD 1	OPTION PERIOD 2	OPTION PERIOD 3	OPTION PERIOD 4
Tug #1 Daily Rate					
Tug #2 Daily Rate					
Tug #1 Delivery/Redelivery Fees					
Tug #2 Delivery/Redelivery Fees					
AFTER-HOURS RATE					

11. **FUEL CONSUMPTION RATES:**

KNOTS (NM)	NET BBLs PER DAY	OPERATING RANGE
01>		
02>		
03>		
04>		
05>		
06>		
07>		

08>
09>
10>
11>
12>
13>
14>
15>

12. **WAGE DETERMINATION.** **Wage Determination (2015-0213 Rev 30)** is incorporated into this contract and is available upon request or at [www.msc.navy.mil](http://www.msc.navy.mil) click on Contracts/Library of Common Documents.
13. **FUNDING.** Funding will be added for each period. Expenditures may not exceed the funding on any CLIN for that purpose.
14. **DAILY HIRE RATE STRUCTURE**
- (a) **Daily Hire:** Except as otherwise provided herein, the daily hire rate shall be considered payment in full for all services of the vessel and associated equipment and all other requirements under this charter party contract, including, but not limited to penalty time, bonuses, payments, and emoluments payable to Master, Officers and crew for services under this charter, irrespective of the geographic scope of said service and the nominal carriage of ammunition and hazardous cargoes. The daily hire rate shall also be considered payment in full for all overtime, including but not limited to crew overtime or penalty time required for the making up or breaking of tows. This rate does not include port charges or the price that the contractor pays for fuel.
- (b) **After-Hours:** The After-Hours rate is the hourly differential to be added to the daily hire rate and shall cover all additional costs for operating the vessel during all hour other than straight time hours identified in this charter, prorated to the nearest quarter-hour.
- (c) The rates to be paid under this charter party contract, as offered and accepted at the time of award, are provided in the table, Price Sheet, which shall be filled-in by the government at the time of award.
15. **CHARTER PERIOD.** This Charter shall be for the periods designated in the table of periods of performance shown above, commencing upon the date shown or the charterer's acceptance of the vessel(s), whichever occurs later, and continuing until either the date of completion or the completion of the voyage then current, at charterer's sole option. Each vessel shall be considered to have separate performance periods. Any optional periods shall be stated in the contract; in addition, the government shall have the time lost options as specified under this contract and an option to extend services as specified in this contract. All optional periods shall be in direct continuation. Options shall be exercised pursuant to PART III Additional Contract Requirements FAR 52.217-9, Option to Extend the Term of the Contract.
16. **TIME LOST.**

- (a) **Tacking to the End of Charter Period.** Any time lost by the vessel during the term of this charter (including during any option period) due to breakdown of machinery, interference by authority, collision, stranding, fire or other accidents or damage to the vessel; or repairs, inspections, overhaul and alterations, preventing the work of the vessel, shall be added to the charter period at charterer's sole option, declarable at least thirty (30) calendar days prior to the termination of the charter period. Hire for such additional declarable period shall be at the same rate as in effect as of the date said declaration was made.
- (b) **Excessive Time Lost.** The government may by written notice cancel this charter or contract at no cost to the government whenever, in any given contract period, for any reason whatsoever, more than thirty days are lost except for time lost as a result of the causes set forth in the "War" section of this contract. See clause 52.212-4. Failure to cancel this charter after thirty days are lost shall be without prejudice to any other rights of the charterer, or any later right of the charterer to cancel this charter party.
- (c) **Relationship to Other Remedies.** No remedy conferred by this paragraph upon the charterer is intended to be exclusive of any other remedy, but every such remedy shall be cumulative and shall be in addition to every other remedy already conferred by this charter party now or hereafter existing at law or in equity or by statute.

#### 17. DELIVERY.

- (a) The vessel(s) and all associated equipment shall be delivered in the condition described below to the charterer at a port or place indicated in the "Delivery/Redelivery Location" section, not later than 1600 hours local time (place of delivery) on the canceling date stated. The contractor shall give written Notice of Readiness (NOR) during office hours to the appropriate government representative at the port or place of delivery on a working day (Saturdays, Sundays, or other recognized weekly days of rest, U.S. Government holidays, and holidays observed at the delivery port, whether national or local, shall not be considered working days). Government inspection of the vessel shall be completed within a reasonable amount of time thereafter, not exceeding twenty-four (24) hours after proper tender of the notice of readiness (Saturdays, Sundays, or other recognized weekly days of rest, U.S. Government holidays, and holidays observed at the delivery port, whether national or local, excepted in the computation of said twenty-four hour period). Hire shall commence upon acceptance of the vessel(s) by the charterer but not before the commencing date stated in the solicitation, unless approved in writing in advance by the Contracting Officer. Charterer shall have the liberty to cancel this charter at no cost to the government should the vessel(s) or associated equipment not be ready in accordance with the provisions hereof by the canceling date. Said cancellation is to be declared not later than twenty-four (24) hours after 1600 hours local time (place of delivery) on the stated canceling date. Nothing in this paragraph shall limit any remedy of the government otherwise available at law, in equity or under this charter party contract.
- (b) **Condition.** The vessel(s) and all associated equipment shall be seaworthy, properly and efficiently manned and trained, equipped, supplied, and in every way suitable and adequately fitted for and in all respects ready for the service contemplated under this charter party. Any associated equipment shall upon delivery be as described in this charter party and all equipment shall be operable. The owner shall exercise due diligence to maintain the vessel(s) and associated equipment in such state during the period of the charter party.

18. **REDELIVERY.** Unless lost, the vessel(s) shall be redelivered at a port or place indicated in the above table. Charterer shall notify contractor of the place and date of redelivery no later than the time shown in the performance work statement.

#### 19. AUTHORIZED TUGS.

- (a) The tugs used for performance of this contract shall be only those identified in the table below (to be filled in upon contract award), or any authorized substitutes provided in accordance with the Substitution of Tugs section of this Contract.

Name	Bollard Pull

- (b) Substituted vessel(s) chartered under this charter party contract shall have the minimum characteristics as described in the PART I Tug Characteristics. Specifications and characteristics exceeding the minimum, if offered and accepted by the government, are incorporated by reference upon contract award and become the minimum requirement.

## 20. SUBSTITUTION OF TUGS.

- (a) Substitution of tugs is authorized, but only for good cause shown and upon proper notice to the government and approval of the Contracting Officer. Notice of intent to substitute by the contractor shall identify the tug being substituted and the tug for which substitution is being made and shall provide the Contracting Officer with sufficient information on which to base a determination regarding good cause for substitution and the acceptability of the nominated substitute vessel. Notice shall be submitted in writing and shall be submitted sufficiently in advance to permit the Contracting Officer to make a reasoned determination regarding good cause and substitute tug suitability. If circumstances require oral notification, said notice shall provide all of the above required information and shall include a statement of circumstances that preclude a written notice prior to substitution. Confirmation of the information given in an oral notice shall be submitted to the Contracting Officer in writing within forty-eight (48) hours of the giving of oral notification.
- (b) Notwithstanding the above, the COR(s) identified for this contract are authorized to approve tug substitutions of tugs listed in the section titled "Authorized Tugs" in PART I, which will be filled in by the government at contract award. The contractor shall notify the Contracting Officer upon receiving approval for such a substitution by the COR(s).
- (c) The contractor shall fix and deploy a substitute tug within a period of six (6) hours of submission of notice of substitution or within six (6) hours of the commencement of any off-hire whichever occurs first. (See "Off-hire and Loss of Vessel" sections.)
- (d) Any tug offered as a substitute shall meet the minimum characteristics as described in the section titled "Tug Characteristics." Any tug substituted under this section shall result in no increase to the price of this charter party and substitution shall result in no operation delay for charterer except as provided above. It shall not otherwise excuse any other performance required under this charter party.
- (e) Contracting Officer's notice of acceptance or rejection of the substitute tug shall be made within reasonable time following owner's nomination thereof, provided that the Contracting Officer is furnished sufficient information on which to base such a determination. Silence of the Contracting Officer shall not be construed as acceptance of any nominated tug.
- (f) Notwithstanding charterer's prior acceptance of any substitute tug under this paragraph, charterer may at any time reject any previously accepted substitute vessel if it is determined that the characteristics of that substitute tug were misrepresented by the contractor or are otherwise unsuited to the requirements of this contract.

**21. TUG COMPLEMENT AND CREW.**

- (a) The Master(s), Officers and entire crew shall speak English fluently and possess valid and current certificates, licenses, and documents. The Master, Officers and crew of the tug(s) shall be appointed or hired by the contractor and shall be deemed to be the servants and agents of the contractor at all times except as otherwise expressly specified in this contract. The Master(s) of the tug(s) shall be under the direction of the government as regards the employment of the tug(s) under a given order, but shall not be under government's orders as regards navigation, care, and custody of the tug(s).
- (b) Physical security equipment required to meet port security plans shall be contractor-furnished.
- (c) All contractor employees shall wear a contractor-furnished uniform with contractor and individual identification clearly and permanently marked. Individual employee names shall be visible on front of outer clothing. Contractor name shall be visible on the upper back of uniforms.
- (d) All contractor employees shall have in their possession photo identification at all times when working under this charter party contract.
- (e) If the charterer shall have reason to be dissatisfied with the conduct or performance of the Master, Officers, or crew, the contractor shall, on receiving particulars of the complaint, investigate the matter and, if necessary to alleviate the cause of the complaint, make a change in personnel.
- (f) Each Vessel Master of vessel(s) shall possess U.S. Coast Guard 100 Ton Master License.

**22. SECURITY CLEARANCES.** Reserved.**23. DRY-DOCKING.**

- (a) Contractor, at its expense, shall dry-dock, clean and maintain the vessel's bottom and propeller, and properly make all overhaul and other necessary repairs to maintain the vessel in class, maintain the vessel in compliance with this contract and its warranties above, and otherwise to keep the vessel tight, staunch, and strong, and in thoroughly efficient order and condition. All towage, pilotage, fuel, gas-freeing if required, water, and other expenses incurred during dry-dock, and while proceeding to and from dry-dock shall be for owner's account.
- (b) All dry-dockings under this clause shall be scheduled with the charterer and shall be subject to the Off-Hire section.

**24. EMERGENCY SITUATIONS AND TRAINING.** This paragraph shall be incorporated into this contract ONLY if the following is checked .

- (a) **General.** In the event that the owner is unwilling or unable to perform those duties as directed, or to timely respond to emergency situations, and upon determination by the Atlantic Fleet Commander (COMUSFLTFORCOM) or his designated representative that the emergency so requires, the owner agrees to relinquish custody and control of the tug(s) to the government in order to allow the government to respond to the emergency situation using the owner's tug(s)/equipment augmented in whole or in part by a government crew. Such determination shall be provided to the Tug Master or designated representative by the Contracting Officer or the Contracting Officer's Representative (COR). The period of government operation and control shall not exceed that time required to respond to the emergency and properly return the tug(s) to owner's control.
- (b) **Mitigation.** Owner's release of the tug(s) for emergency operation by the government shall serve to mitigate owner's liability, if any, under the Termination for Cause section of this contract. (See FAR 52.212-4.) The value of the release of tug(s) to the government shall be offset against the contractor's liability under the Termination for Cause section. During a period of partial or complete augmentation of crew by the government, as a result of default, the owner shall not be entitled to charter hire.

- (c) **Owner Responsibility.** The owner shall cooperate and provide assistance in reactivation of the tug(s) from cold iron and provide any other assistance directed by the authorized government representative(s).
  - (d) **Government Responsibility.** The government shall be responsible for loss or damage to the tug(s) during periods of complete crew augmentation by the government. During periods of partial crew augmentation, the government shall be liable for damages resulting from government action in accordance with the Federal Tort Claims Act.
  - (e) **Condition of Default.** Any failure, untimely response, or refusal to perform any of the services outlined in this contract may be considered a condition of default under this charter, unless otherwise excepted.
  - (f) **Training.** The owner shall provide the use of the tug(s) and master(s) and crew(s) to train government personnel in the operation of the tug(s) as directed in writing by the Contracting Officer or COR; said writing to be provided at least 24 hours in advance of the training. The training shall not be "crew augmentation" for purposes of subsection (f)(i) of this section. The owner shall not be relieved of responsibilities under the section titled "CHARTER NOT A DEMISE" of this charter during training. See clause 52.212-4.
    - i) Such training shall include, but not be limited to, the full operation of the tug(s) (e.g., reactivating from cold iron; underway operation; and towage of vessels/submarines). Training shall include hands-on exercises and shall be conducted to ensure that government personnel are able to properly, effectively and safely augment or replace the owner's crew. Training shall be of sufficient quality to allow for partial or complete augmentation of the contractor's crew.
    - ii) Training shall take place during normal operating hours.
    - iii) Training shall be conducted to ensure that government personnel are able to operate the tug(s) properly, effectively and safely in the event of an emergency.
25. **SHIP PHYSICAL SECURITY.** The owner will comply with and implement the Navy Force Protection and Security requirements for the port in which it is docked or berthed (e.g. DBIDS Gate Program). All costs shall be included in the basic hire, except for COR or Contracting Officer directed material purchases over \$100 in total value, which shall be subject to the Pass Through Reimbursable Expenses section of the contract.
26. **OFF-HIRE – GENERAL.** In the event of the loss of time resulting from deficiency and/or default of men including but not limited to misconduct, illness, injury, strikes, labor disruptions, lockouts; deficiency of stores; fire; breakdown of or damage to hull, machinery, or equipment; collision; stranding; grounding; detention by authorities; average accidents to vessel or cargo unless resulting from inherent vice, quality, or defect of the cargo; repairs; inspections; all dry-dockings including those for the purpose of examination/inspection or painting bottom but not for those dry-dockings under the Alterations section in PART II or deviation for the purpose of landing any ill or injured person on board other than any passenger, supercargo, or military personnel who may be carried at charterer's request; or by any other cause whatsoever preventing the full working of the vessel, the payment of hire shall cease for all time lost until the vessel is again, at a position not less favorable to the charterer than that at which such loss of time commenced, ready and in a fully efficient state to resume her service. Should the vessel deviate or put back during a voyage contrary to the orders or directions of the charterer for any reason, the hire is to be suspended from the time of her deviating or putting back until she is again, at a position not less favorable to the charterer than that at which such loss of time commenced, ready and in a fully efficient state to resume her service. When the period of time lost to the charterer on any one occasion is less than two (2) consecutive hours, the hire shall not be reduced for such period, provided no missions were missed during that period of time. Off-hire is on a per tug basis. Offeror may be allowed to substitute a vessel in accordance with the Substitution of Tugs section.
- (a) All port charges, pilotages, and other expenses incurred during such period and consequent upon the putting in to any port or place other than that to which the vessel is bound, shall be borne by the owner. All fuel used by the vessel are for owner's account as per the fuel section below; to include fuel from being

driven into port or to shallow harbors or to rivers or ports with bars, the delay of the vessel and/or expenses resulting there.

27. **LOSS OF VESSEL.** Should a tug be either lost or missing, or become a constructive total loss, the portion of the charter for such tug shall terminate or hire shall cease to be payable at the time of the loss or, if said time is unknown, at the time of the tug's last received communication. If the tug should be off-hire or missing when a payment of hire would otherwise be due, such payment shall be postponed until the off-hire period ceases or the safety of the tug is ascertained, as the case may be.
28. **DELAYS/ EXCESSIVE FUEL CONSUMPTION.** If upon any passage the vessel fails to make the warranted speed or if her warranted fuel consumption exceeds that offered due to defect in or breakdown of any part of her hull, machinery, or equipment; casualty; or inefficiency of Master, Officers, or crew or their failure to proceed with utmost dispatch, and if the vessel is delayed more than two (2) hours, provided no missions were missed during that period of time, the hire for the time lost and any cost of extra fuel consumed, if any, shall be borne by the owner.
29. **REQUESTS FOR SERVICES** within the scope of this Charter Party contract may be issued by:
- (a) Contracting Officer; or
  - (b) Port Operations Officer, or his /her designee; or
  - (c) Contracting Officer's Representative (COR).
31. **PASS THROUGH REIMBURSABLE EXPENSES**
- (a) The government will reimburse the contractor only for the actual price paid for those supplies and services that are expressly identified as pass-through reimbursable items by this contract. "Actual price" paid by the contractor for such supplies and services, includes tax paid, if any, and reduced by any and all credits and rebates, whether accrued or realized, associated with the supplies and services provided. "Actual price" does not include material handling charges, overhead, general and administrative costs, profit, or any other indirect cost that is in any way associated with the contractor's purchase or provision of such supplies and services. The parties expressly agree that the offered and accepted daily rate includes all costs incurred or paid by the contractor, including but not limited to material handling charges, overhead, general and administrative costs, or profit, that are in any way associated with the contractor's purchase or provision of such supplies and services.
  - (b) To be eligible to receive reimbursement for services and supplies identified in this contract as pass-through reimbursable items and obtained in support of this contract, the contractor must obtain at least three quotes for each transaction in excess of \$3,000 to ensure that adequate price competition was sought or the contractor must provide an acceptable justification as to why it was impracticable to do so. In the case of fuel purchases, unless directed otherwise by the Contracting Officer, the contractor shall provide the documentation listed in subparagraphs (i) through (iii) below to the Contracting Officer for approval prior to purchasing fuel. For purchases of services and supplies other than fuel, the contractor need provide the aforementioned documentation only when requested by the Contracting Officer. The contractor shall maintain documentation of all pass-through reimbursable purchases until three years after the contract is completed and shall provide access to and copies of such documentation when requested by the Contracting Officer.
    - (i) A description of the supplies or services to be subcontracted.
    - (ii) Identification of the proposed subcontractor and price.
    - (iii) Suppliers contacted and price quotes. Include other pertinent data such as price lists used if suppliers were not contacted and information regarding the selection if other than price-related factors were considered.
  - (c) The contractor shall maintain the above listed documentation for three years after the contract performance is completed. Contractor shall provide access to and copies of the documentation when requested by the Contracting Officer.

- (d) The Contracting Officer may reduce the pass-through reimbursement by any amount above that which the Contracting Officer finds, in his/her sole discretion, is greater than that which is fair and reasonable for the supplies or services provided, giving due consideration to the facts and circumstances prevailing at the time that the Contractor procured the supplies and services. Disputes as to the amount by which any pass-through reimbursement is reduced shall be resolved in accordance with the "Disputes" section of the contract. It shall be the contractor's burden to demonstrate that the price it paid for pass-through reimbursable supplies and services was fair and reasonable.
- (e) When the contractor expects total funding expended for pass-through reimbursable items to reach 85 percent of the total funds available on each Pass-Through Reimbursable Supplies and Services CLIN, the Contractor shall notify the Contracting Officer and the COR and any other government official identified by the Contracting Officer. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the schedule. The contractor shall not exceed or incur costs that exceed the amount of funding stated on each Pass-Through Reimbursable Supplies and Services CLIN at the time a pass-through reimbursable item is ordered.
- (f) The government is not obligated to reimburse the contractor for otherwise pass-through reimbursable supplies and services in excess of the funded amount stated in the Schedule under each Pass-Through Reimbursable CLIN.
- (g) The contractor is not obligated to continue performance of any pass-through reimbursable work under this contract or otherwise incur costs for pass-through reimbursable supplies or services in excess of the funded amount stated in the Schedule under each Pass-Through Reimbursable CLIN unless the Contracting Officer notifies the contractor that the funded amount stated in the schedule under the applicable Pass-Through Reimbursable CLIN has been increased. Notification shall be in writing. In the event notification is made orally, such notification shall be followed up in writing within two working days.
- (h) No notice, communication, or representation from any person other than the Contracting Officer shall affect the government's obligation to reimburse the contractor.
- (i) Change orders shall not be considered an authorization to exceed the funded amount stated in the schedule under the Pass-Through Reimbursable CLIN unless they contain a statement expressly increasing the funded amount of the Pass-Through Reimbursable CLIN by a sufficient amount to cover the change order.

### 32. FUEL.

- (a) **Delivery Bunkers.** Upon delivery of the vessel, the owner shall present to the Contracting Officer a statement certified by the owner or its authorized agent showing the amount and grade of fuel on board at the time of delivery with such additional verification as the Contracting Officer may require. The charterer shall pay for the on-hire bunker survey if performed by an independent surveyor and required by the Contracting Officer.
- (b) **Provision of Fuel.** The charterer shall ordinarily supply or cause to be supplied any or all of the DFM (F76) grade fuels required by the vessel during the period of this Charter. For charters six months or more, the government shall be responsible for any fuel testing. For charters less than six months, the owner shall be responsible for any fuel testing. Testing laboratory confirmation of compatibility and specifications of newly on-board delivered fuel shall constitute acceptance by owner. The vessel shall not be off-hire in the event of delay resulting from the supply of fuel found to be off specification, unless for want of due diligence by owner. If the owner loads such fuel on the vessel at his own expense, the charterer shall reimburse the owner the reasonable expenses of such loading.
- (c) **Owner's Purchase of Fuel.** The owner shall, if directed by the charterer, purchase fuel for the vessel, in which case the charterer shall, in accordance with the Pass Through Reimbursables section of this PWS, reimburse the owner the price paid for all fuel (excluding lube oils) procured by the owner and loaded in the vessel during the period of this charter. Such direction of the charterer shall be limited to individual fuel purchases and the total amount reimbursable by the charterer for purchase of fuel and any reasonable

expenses paid for loading the fuel aboard the vessel(s) shall not exceed the funding obligated and available under the fuel CLIN or subCLIN at the time the fuel is purchased. Pass-through reimbursement shall be paid only upon presentation of properly certified vouchers, supporting receipts, and other documentation, which justify the charges as fair and reasonable. The owner shall in no event be reimbursed any amount in excess of the current market price of such fuel and reasonable expenses. The title to all fuel of which the owner is entitled to be pass-through reimbursed hereunder shall automatically pass to and vest in the charterer upon delivery to the owner or upon the happening of any other event by which title passes from the vendor or supplier thereof to the owner. The charterer shall be afforded all benefits of owner's contracts for its fuel requirements, including but not limited to any savings addressed in contract section titled Savings.

- (d) **Off-Hire – Fuel.** If the vessel should go off-hire during the period of this charter, the owner shall present to the Contracting Officer a statement certified by it or its authorized agent showing the amount of fuel on board at the time the off-hire period commenced and the amount of fuel on board when the off-hire period ended. The charterer shall be credited for the cost of the fuel consumed during the off-hire period and also reasonable expenses incurred in loading such fuel, with such costs based upon costs at the previous refueling point.
- (e) **Redelivery.** Upon redelivery of the vessel, the charterer shall ensure that the amount of fuel on board the tug is equal to the amount on board at delivery. The owner shall present to the Contracting Officer a statement certified by the owner or its authorized agent showing the amount of fuel on board at the time of redelivery. A bunker survey conducted by an independent bunker surveyor approved by the charterer shall be performed at the port of redelivery or such other place, as the charterer shall direct, at the owner's time and expense. Should the amount of fuel on board at redelivery exceed the amount of fuel on board delivery, the charterer shall reduce final charter hire or redelivery fee by the value of the excess fuel based on the DLA fuel rate in effect at the time of redelivery.
- (f) **Reasonable Expenses.** The term "reasonable expenses" as used in this paragraph, shall mean all reasonable direct expenses paid, excluding crew overtime, which are necessarily incurred in loading said fuel on board the vessel such as: expenses incurred at tanker terminal; loading fuel from lighters, barges, or other craft used as lighters, including lighter age, lighter demurrage, or detention incurred; shifting lighters for the convenience of the vessel; handling lighter lines; and such similar expenses which the charterer shall find were necessary to pay for the loading of fuel on the vessel(s) during the period of this charter.
- (g) **Substitute Tug Fuel.** If the charterer accepts a substitute vessel, in accordance with the Substitution of Tugs section of this PART, any fuel consumed by the substitute tug in excess of the fuel that would have been consumed by the tug for which substitution is made shall be borne by the owner. Excess fuel consumption shall be determined by comparing the data for net barrels per day consumed (located in Attachment C, Offered Rate Sheet) for the substitute tug, and the number of excess barrels will then be priced using the current DLA rate for the grade of fuel consumed. Then the excess price per barrel will be multiplied by the number of days of the substitution. No credit shall be granted to the owner if the substitute vessel is more fuel-efficient.

33. **EXPENSES FOR CHARTER.** Except as otherwise provided herein, the charterer shall pay expenses of loading and unloading cargo and all wharfage, dockage, canal tolls, dues, taxes, and similar port charges imposed by public authority including consular charges (except those pertaining to the Master, Officers, and crew) incurred by the vessel in ports visited pursuant to charterer's direction. Agency fees, provided not incurred for the convenience of the vessel or owner shall also be for charterer's account. The charterer shall pay all pilotage charged to the vessel; however, in no case shall the Charterer reimburse the owner for pilotage paid to the Master or other members of the crew. Surveyors or consultants as mutually agreed may be retained under this charter in order to facilitate fact-finding in respect of actual or potential claim actions or for inspection or surveys generally; the costs shall be incurred only after prior written approval from the Contracting Officer.

34. **PASSENGERS, SUPERCARGO AND GOVERNMENT REPRESENTATIVES:**

- (a) **Charterer's Option.** The charterer shall have the option of carrying passengers, assigning officers and/or enlisted personnel aboard the vessel for duty purposes and appointing supercargo (supercargo as used herein is both plural and singular) as far as accommodations and inspection certification allow and in accordance with COMSC Instruction 3120.19 as amended. If supercargo remains onboard for over 24 hours, charterer shall, in accordance with the Pass through Reimbursables clause of this PWS, pay an amount of \$30.00 per day, per person, covering all expenses including accommodations and victualing. Owner shall victual all other U.S. Government representatives, pilots, and Customs Officers when authorized by charterer. Charterer shall pay \$7.00 per meal for all such authorized and approved victualing provided as a result thereof.
- (b) **Military Personnel.** In addition to the carriage of personnel noted in subparagraph above, charterer shall have the option to assign other military personnel aboard the vessel. Such personnel are not to require victualing or berthing facilities from the vessel unless requested by the military commander aboard, in which case the owner will, in accordance with the Pass through Reimbursables clause of this PWS, be reimbursed out-of-pocket expenses not to exceed the amount per person per day set forth in the subparagraph above. Charterer will supply life floats and jackets for the use of such military personnel carried aboard the vessel during the charter period. Such items are to be removed by charterer at termination of charter.
- (c) **Charterer's Liability.** The charterer shall be liable to the owner for any loss of the vessel's fittings or appurtenances or any damage to the vessel, her fittings, or appurtenances caused by the act of passengers, supercargoes, evacuees, or military personnel in the embarkation, carriage, or debarkation of passengers, supercargoes, evacuees, or military personnel to the extent such loss or damage is not payable under the vessel's insurance policies. However, the charterer shall not be liable for such damage unless written notice specifying such damage and, if obtainable, the name of the party or parties causing such damage shall have been given to the charterer or its authorized representative within a reasonable time. Payment for any such loss or damage shall be by agreement of the parties and failure to agree shall be resolved under the FAR clause 52.212-4 (d) Disputes.

### 35. STRIKE CONTINGENCY PLAN.

- (a) The contractor shall provide and maintain a strike contingency plan that describes how services will be provided if there is a labor strike or any other deficiency of Master or crewmembers. The plan must be practicable and must clearly state the means and method for vessel manning during a strike or labor action and for providing services in the face of disruptive measures typical of a strike situation. Award of the contract shall indicate the Contracting Officer's approval of the plan, whose approval shall not be unreasonably withheld.
- (b) The contractor shall update the plan as necessary but no less frequently as yearly and not later than 30 days before the last day for the exercise of each option to extend contract term. Exercise of an option to extend the term of the contract shall indicate the Contracting Officer's approval of the updated plan, whose approval shall not be unreasonably withheld.

### 36. VESSEL CASUALTY PLAN.

- (a) The contractor shall provide and maintain a vessel casualty plan that describes how services will be continued if there is a casualty to the vessel or to a system that makes the vessel inoperable or incapable of safely providing a required service. The plan must be practicable and must clearly state the means and method for timely acquisition and deployment of a substitute vessel in the event of a vessel casualty. Award of the contract shall indicate the Contracting Officer's approval of the plan, whose approval shall not be unreasonably withheld.
- (b) The contractor shall update the plan as necessary but no less frequently as yearly and not later than 30 days before the last day for the exercise of each option to extend contract term. Exercise of an option to extend the term of the contract shall indicate the Contracting Officer's approval of the updated plan, whose approval shall not be unreasonably withheld.

37. **EMERGENCY SITUATION TRAINING PLAN.** No more than 30 days prior to delivery, the contractor shall submit a proposed training plan to meet the requirements of the Emergency Situation and Training clause, if incorporated. A final plan shall be submitted no later than 30 days after receipt of the government comments on the proposed plan.
38. **FUEL REPORTS.** Monthly, no later than the fifth working day of each month, submit a written report to the Contracting Officer that states the amount of fuel consumed by each tug during the preceding month. In addition, if fuel was purchased from a commercial source as a pass-through reimbursable item under this charter party contract, with respect to each tug, separately state the total amount and the price-per-gallon paid for each time fuel was purchased.
39. **INCIDENT REPORTS.** In all instances in which any vessel being handled by owner's tugs(s) sustains damage or is involved in any incident resulting in damage to vessels or property, or in bodily injury or death, the owner shall secure a report from the tug Master or Officer acting as pilot, and from any licensed pilot aboard the vessel being handled. The owner shall verbally notify the Contracting Officer and/or the Program Office identified in Part I, Section 43 within four (4) hours and submit a written report to the Contracting Officer within twenty-four (24) hours following said incident, reporting the facts, listing deaths, reporting the extent of damages to property and any bodily injuries, and listing recommendations to prevent recurrence.
40. **COMPLIANCE.** All vessels shall be compliant with all applicable Federal and state laws and regulations and in particular, with all applicable U.S. Coast Guard regulations for tug vessels and their operation.
41. **GOVERNMENT PROVIDED SERVICES/ FACILITIES.** The Government shall provide the following to the contractor during period(s) of service:
- (a) Dockage and hotel services (electricity, water, and sewage);
  - (b) Parking space for seven (7) vehicles.
42. **TEMPORARY RELEASE FOR COMMERCIAL SERVICE**
- (a) Should the Owner request commercial employment for the movement of U.S. Naval vessels which are not covered under this contract, a written request shall be promptly submitted to the Contracting Officer's Representative (COR) for approval. The request shall specify proposed employment, including location and schedule. The decision to approve such temporary commercial service for the movement of these U.S. Naval vessels shall be at the sole discretion of the Government.
  - (b) If the Government approves, one to two tugs maybe released for commercial service, upon approval of the Port Operation Officer (PSO), to the Owner effective at the time of departure from Government berth, until the time of arrival at the Government berth. In the event of emergent Government requirements, the Owner shall return to Government service with utmost dispatch.
  - (c) In the event tugs are released for commercial service, deductions will be taken, which at a minimum, reflect a prorated portion of the charter hire in effect. In addition, the Government will deduct the value of bunkers used during the commercial service period, which will be determined by submission of deck/engine logs to the COR indicating the amount of fuel onboard at the time of release and upon return to Government service.
  - (d) During periods of release for commercial employment, the Owner shall bear the full risk of commercial employment and shall be solely liable to third parties for any damages arising from such service. The Owner hereby agrees to indemnify and hold harmless the Charterer and the U.S. Government from any and all third party claims relating to or arising under commercial employment.
  - (e) Commercial employment shall not interrupt the running of the charter period nor the Charterer's rights under PART I Time Lost or FAR 52.212-4 Contract Terms and Conditions-Commercial Products and Commercial Services (NOV 2021) and Addendum.
43. **POINTS OF CONTACT.**  
**CONTRACTING QUESTIONS:**

- a. Contracting Officer, F. Carley Orvin, COMSC N103B 757-341-4628
- b. Contract Specialist, Samantha Boyd, COMSC N103B 757-341-7250
- c. Contracting Officer's Representative, Clifford Unruh, COMSC N103B 806-694-2084

**OPERATIONAL QUESTIONS:**

- a. Project Manager, Timothy Vickers, COMSC PM41, 757-341-6824
- b. Technical Point of Contact, Iben Gantt, COMSC PM41, 757-443-2711

(End of PART I)

**PART II****PART II****52.212-4 CONTRACT TERMS AND CONDITIONS-- COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (NOV 2021)**

1. In accordance with FAR 12.302 (a) and (d), the specified paragraphs (identified by title) are tailored for this Contract. The tailored paragraphs, below, replace the corresponding paragraphs in FAR 52.212-4.
  - (a) **INSPECTION/ACCEPTANCE (Tailored).**
    - (1) The tug(s) and associated equipment shall, at the charterer's discretion, be subject to the charterer's inspection as to suitability of the required service prior to delivery (hereinafter, "delivery inspection") and at any subsequent time during the term of this contract to determine continued suitability for the required service, including but not limited to a determination as to whether the material condition of the tug(s) and/or associated equipment might prevent or impair effective operation during the basic and any exercised optional periods of this contract.
    - (2) Should actual performance or readiness condition of the tug(s) or associated equipment fail to fully comply with one or more warranty, expressed or implied, or fail to fully comply with any other contract specification or requirement not due to the fault of the charterer, the hire may be equitably decreased or the tug(s) may be placed off-hire at charterer's sole discretion.
    - (3) This contract may be terminated in whole or in part at no cost to the charterer upon contractor's failure to correct any discrepancy in the condition of the tug(s) or associated equipment, which discrepancy prevents or materially impairs the performance of any required service, within a reasonable time after receipt of notice of such discrepancy.
    - (4) The remedies provided by this paragraph shall not limit any other remedy available at Law or in Equity, or otherwise provided under for this contract.
  - (b) **ASSIGNMENT.** The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (*e.g.*, use of the Government wide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.
  - (c) **CHANGES (Tailored).** The Contracting Officer may order changes within the general scope of any of the terms and conditions of this contract. If any such change causes an increase or decrease in the cost of performance, such change will be the subject of a bilateral modification to the contract. Failure to agree as to the increase or decrease in the cost of performance shall be resolved under the "Disputes" paragraph of this contract.

- (d) **DISPUTES.** This contract is subject to 41 U.S.C. chapter 71, Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at Federal Acquisition Regulation (FAR) 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) **DEFINITIONS (Tailored).** FAR Clause 52.202-1, Definitions, is incorporated herein by reference. Additional definitions are provided at paragraph (2)(u), below
- (f) **EXCUSABLE DELAYS (Tailored).**
- (1) Neither the contractor nor the charterer shall unless otherwise in this charter party expressly provided, be liable to the other for any delay, loss, damage or failure in performing hereunder arising out of or resulting from an occurrence such as, acts of God; acts of the public enemy, pirates, or assailing thieves; arrest or restraint of princes, rulers, or peoples; seizure under legal process provided bond is promptly furnished to release the tug; flood; fire; blockade; riot, insurrection, or civil commotion; earthquake; storm; lightning; epidemic; or explosion.
  - (2) The tug shall have the liberty to sail with or without pilots, to tow and to be towed, to assist vessels in distress, and to deviate for the purpose of saving life or property, or to go into dry dock or into ways with or without cargo, passengers or other personnel, as applicable, onboard.
  - (3) *Notification.* The contractor shall make written notification to the Contracting Officer of any delay as soon as possible after commencement of the delay. The notification shall state the full particulars giving rise to the delay and all the surrounding circumstances in connection to it. The notification shall also state the plan for remedying the delay as soon as possible. Upon cessation of the delay, the contractor shall immediately notify the contracting officer in writing of the cessation.
  - (4) *Reservation.* The exceptions identified in subparagraph (1) above shall not be such as to affect the contractor's warranties respecting the condition of the tug nor the contractor's obligations respecting the services specified.
- (g) **INVOICE.**
- (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include-
    - (i) Name and address of the Contractor;
    - (ii) Invoice date and number;
    - (iii) Contract number, contract line item number and, if applicable, the order number;
    - (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
    - (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
    - (vi) Terms of any discount for prompt payment offered;
    - (vii) Name and address of official to whom payment is to be sent;
    - (viii) Name, title, and phone number of person to notify in event of defective invoice; and
    - (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
    - (x) Electronic funds transfer (EFT) banking information.
      - (A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.
      - (B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer-Other Than Central Contractor Registration), or applicable agency procedures.

- (C) EFT banking information is not required if the Government waived the requirement to pay by EFT.
- (2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.
- (h) **PATENT INDEMNITY.** The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) **PAYMENT.**
- (1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.
- (2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR Part 1315.
- (3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see 52.232-33, Payment by Electronic Funds Transfer.
- (4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.
- (5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor
- (i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the-
- (A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s), of overpayment);
- (B) Affected contract number and delivery order number, if applicable;
- (C) Affected line item or subline item, if applicable; and
- (D) Contractor point of contact.
- (ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.
- (6) *Interest.* (i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.
- (ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.
- (iii) Final decisions. The Contracting Officer will issue a final decision as required by 33.211 if-
- (A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;
- (B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or
- (C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).
- (iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.
- (v) Amounts shall be due at the earliest of the following dates:
- (A) The date fixed under this contract.
- (B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

- (vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on-
    - (A) The date on which the designated office receives payment from the Contractor;
    - (B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or
    - (C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor
  - (vii) The interest charge made under this clause may be reduced under the procedures prescribed in FAR 32.608-2 in effect on the date of this contract.
- (j) **RISK OF LOSS. (Tailored).** All costs associated with the following shall be at contractor's expense when caused by contractor's negligence; wrongful act; omission by contractor or its agents, servants, employees, or subcontractors; or any unseaworthiness, unfitness, or breakdown of the tug or gear/equipment furnished by contractor:
- (1) Injury or death of Master or crew of the tug, or of Captain, Officers, or crew of the tow;
  - (2) Injury or death of any other person aboard the tug or tow;
  - (3) Loss or damage of whatsoever nature sustained by the tug or tow, or any property aboard the tug or tow;
  - (4) Loss or damage of whatsoever nature caused to or suffered by third parties or their property by reason of contact with the tug or tow, or by any obstruction created by the presence of the tug or tow;
  - (5) Any liability in respect to wreck removal for the tug or tow, or in respect to the expense of moving or lightening or buoying the tug or tow, or in respect to preventing or abating pollution originating from the tug;
- All costs associated with the above contractor acts and resulting injuries shall be at contractor's expense without recourse against the charterer, whether injury is caused during preparation for or during the performance of services under this charter party.
- (k) **TAXES.** The contract price includes all applicable Federal, State, and local taxes and duties.
- (l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
- (m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.
- (n) **TITLE.** Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.
- (o) **WARRANTY (Tailored).**

- (1) Contractor warrants that the tug(s) shall be in full conformity with the requirements of this charter party contract from the time of delivery and thereafter. Should any specification of the tug(s) offered and accepted by award of the contract be in excess of a specification stated in the solicitation or elsewhere in this contract, the offered and accepted specification shall prevail over the required specification and the contractor warrants full conformity with the specification as offered and accepted.
  - (2) The contractor warrants that the tug(s) and all associated equipment shall be in full compliance with all applicable International Conventions and all applicable laws, regulations, and other requirements of the nation of registry and of the nation(s) and local jurisdictions to whose port(s) and/or place(s) it is contemplated that the tug(s) will be ordered hereunder. The tug(s) shall additionally operate in compliance with the International Maritime Dangerous Goods Code.
  - (3) The owner further warrants that the vessel shall have onboard all certificates, records, or other documents required by the aforesaid conventions, laws, regulations, and requirements, including a Certificate of Financial Responsibility meeting the requirements of the U.S. Coast Guard and promulgated pursuant to the U.S. Federal Water Pollution Control Act, as amended, and/or the Oil Pollution Act of 1990.
  - (4) *Complement.* The owner warrants that the vessel shall have an efficient and legally sufficient complement of Masters, Officers, and crew with adequate training and experience to safely and effectively operate the tug(s) and all associated equipment.
- (p) **RESERVED**
- (q) **OTHER COMPLIANCES.** The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
- (r) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 4701 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.
- (s) **ORDER OF PRECEDENCE (Tailored).** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) The Schedule of Supplies/Services; (2) The Assignment, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) PART V, FAR 52.212-5; (4) Addenda to this solicitation or contract, including any license agreements for computer software; (5) Solicitation provisions if this is a solicitation; (6) Other paragraphs of this clause; (7) The Standard Form 1449; (8) Other documents, exhibits, and attachments; and (9) Section 1 of PART I Performance Work Statement.
- (t) **[RESERVED]**
- (u) **UNAUTHORIZED OBLIGATIONS**
- (1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End Use License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:
    - (i) Any such clause is unenforceable against the Government.
    - (ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap")

- agreements), execution does not bind the Government or any Government authorized end user to such clause.
- (iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.
  - (2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.
- (v) **INCORPORATION BY REFERENCE.** The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.
2. In accordance with FAR 12.301(e) and FAR 12.302, the following paragraphs, stating additional terms and conditions consistent with customary commercial practice and necessary for performance of the contract, are added to FAR 52.212-4.
- (i) **ALTERATIONS.**
    - (1) The charterer shall be at liberty to make any additional alterations it may require beyond what is on board at the commencement of the charter and to install any equipment or defensive armament (including demagnetization by installed equipment or other process, e.g., degaussing, wiping, or deperming), to install any additional gear or equipment for loading, carrying or discharging cargoes, and to repaint the vessel. Such work shall be done at the charterer's expense and on its time and shall not be such as to be in contravention of any applicable law of the United States or regulation made pursuant thereto.
    - (2) Such equipment, armament, materials, and gear so fitted are to be considered "Government Property" under the terms of FAR clause 52.245-1, incorporated by reference. The charterer shall, during the period of the charter, remove the same together with any alterations and additions thereto at its expense and time and shall restore the vessel to her condition and color prior to such changes, ordinary wear and tear excepted. The government shall have the right to abandon in place any alteration or government furnished property, unless the Contracting Officer is notified in writing within 30 days of completion of any alteration that the contractor requests such restoration or removal.
  - (j) **BROKER.** The broker of this charter, if any, shall be the party identified in the offer. Brokers must obtain a power of attorney executed by the vessel owners prior to submitting offers under their own signatures, signing representations and certifications or executing finalized contracts and must submit same to government with the finalized contract. Any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this charter shall be for the owner's account.
  - (k) **NO COST CANCELLATION OF CONTRACT.** The government shall have the right to cancel the contract at no cost upon 30-days written notice by the Contracting Officer in any option period.
  - (l) **CHARTER NOT A DEMISE.** Nothing herein contained shall be construed as creating a demise of the vessel to the charterer, the owner under this charter retaining complete and exclusive possession and control of the vessel and her navigation.
  - (e) **INVOICE ADDRESS.** The contractor shall submit an original invoice and one copy (or electronic invoice, if authorized) to the following address: Military Sealift Command, Payment Certification Code N83, 471 East C Street, SP-64, Norfolk, VA 23511.
  - (f) **LAWS GOVERNING.** The laws of the United States shall govern this contract.
  - (g) **LIMITATIONS.** The owner shall have the benefit of all limitations of and exemptions from liability accorded to the owner or chartered owner of the vessel by any statute or rule of law for the time being in force except to the extent that contract terms entitle the government to compensation from the contractor for the contractor's failure to perform the requirements and obligations of this charter or such statute or rule

of law limiting the contractor's liability is subordinate to any statutorily mandated provision of this charter by operation of law. Nothing in this charter party shall operate to limit or deprive the owner of any statutory exceptions or limitation of liability on the theory of personal contract or otherwise.

- (h) **NEGLIGENCE OF PILOTS.** The government shall not be held responsible, liable, or accountable for: losses sustained by the contractor, vessel(s) being assisted by the contractor's tug(s), or other vessels damaged through the negligence of pilots even if the government engages the pilots.
- (i) **PORTS/PLACES.** The charterer shall not be deemed to warrant the safety of any berth or place and shall not be liable or accountable for any loss, damage, injury, or delay resulting from any unsafe condition at any berth or place unless caused by charterer's failure to exercise due diligence.
- (j) **OWNER'S OBLIGATION.** The owner shall, unless otherwise provided herein, provide and pay for all provisions; deck, engine room, and galley stores and fresh water; insurance on the vessel; wages of, transportation of, and services for Master, Officers, and crew and consular fees pertaining to them in accordance with the section Port Charges and Expenses. Owner will be responsible for all port charges associated with the foregoing.
- (k) **PORT CHARGES AND EXPENSES.**
  - (1) **Expenses for Charterer.** Except as otherwise provided herein, charterer shall pay expenses of loading and unloading cargo and all wharfage, dockage, canal tolls, dues, taxes, and similar port charges imposed by public authority including consular charges (except those pertaining to the Master, Officers, and crew incurred by the vessel in ports visited pursuant to charterer's direction. Agency fees, provided not incurred for the convenience of the vessel or owner shall also be at charterer's expense. The charterer shall pay all pilotage charged to the vessel; however, in no case shall the charterer reimburse the owner for pilotage paid to the Master or other members of the crew. Surveyors or consultants as mutually agreed may be retained under this charter in order to facilitate fact-finding in respect of actual or potential claim actions or for inspections or surveys generally; the costs shall be incurred only after prior written approval from the Contracting Officer.
  - (2) **Pass-Through Reimbursement.** The owner if so required by the charterer as noted in the subparagraph above, shall pay all of the charges incurred at charterer's expense. The charterer shall thereafter reimburse the owner for such charges in accordance with the PART I section titled "Pass Through Reimbursables."
- (l) **READINESS.** Readiness is a required service of the vessel. Readiness shall be defined as the ability of a vessel and associated equipment to perform the function for which designed, built, or chartered, including the ability to deploy without delays, whether or not so ordered to perform. If there is a degradation of this readiness, such that actual performance or condition of the vessel or associated equipment shows any failure to satisfy one or more of the owner's warranties or renders the vessel in less than a fully efficient state, the hire will be proportionately decreased so as to indemnify the charterer to the extent of such failure, and this charter party shall remain otherwise unaffected. Failure of the parties to agree upon the extent of the proportional decrease in hire shall be a dispute under the clause entitled "Disputes" incorporated herein by reference. Nothing in this clause shall limit the rights of the Charterer to place the vessel off-hire pursuant to PART I section titled "OFF-HIRE" of the contract.
- (m) **SALVAGE.**
  - (1) All salvage moneys earned by the vessel during the period of this charter shall be divided equally between the owner and the charterer after deducting Master's, Officers' and crew's shares, legal expense, vessel hire lost (if any) as a result of the salvage service, value of fuel consumed (which shall be paid in full to the charterer from the salvage award), repairs of damage, and other extraordinary loss or expense sustained as a result of the salvage service. Charter hire shall continue to be paid by the charterer during deviations for the purpose of performing salvage service.

- (2) When engaged in the carriage of government cargo and if requested by the charterer, the owner agrees to accept Navy salvage services. Such services may be provided using Navy personnel and resources or Navy contracted resources.
- (3) In providing such services, the Navy, through the charterer, agrees to waive all claims for “pure” or “bonus” salvage. Instead, the charterer shall be entitled to the following:
- (a) In those cases in which the salvage services are provided by Navy personnel and resources, the salvage claim shall be limited to a schedule of current per diem rates and allowable expenses as established by the Navy’s Supervisor of Salvage. In no event shall such amount exceed a maximum claim of \$25,000 per day.
  - (b) In those situations in which the Navy utilizes contracted resources to deliver assistance, the owner shall be liable for the actual daily rate charged to the Navy by the contractor(s).
- (4) It is understood that this limited Supervisor of Salvage claim is asserted against the vessel only, is solely for the vessel's account, and does not include any amounts for the salvage of the government's cargo. Notwithstanding any other provisions of this contract, this limited Supervisor of Salvage claim IS NOT directly or by way of setoff chargeable in whole or in part to the government by way of general average or otherwise.
- (n) **SAVINGS.** The owner agrees that any refunds, rebates, credits, discounts, insurance payments, or other amounts (including any interest thereon) accruing to or received by the owner under this charter shall be paid by the owner to the government to the extent that they are properly allocable to costs, expenses, or reimbursements for which the owner has been compensated by the government under the terms of this charter. The foregoing shall apply to any savings to the owner resulting from a fleet reduction, applied on a pro rata basis.
- (o) **STANDARDS OF APPEARANCE.** The vessel(s) operated under this contract will operate in direct support of the U.S. Government and the Department of Defense; they must therefore meet the highest possible standards of appearance and vessel smartness.
- (p) **SUBCHARTER.** The charterer shall have the right, without the prior written consent of the owner, to subcharter or agree to subcharter the vessel under any form of time or voyage charter. If charterer shall enter into any such charter, charterer shall nevertheless remain liable for the due performance of this charter. Any such subcharter shall include a provision that it is subject to the provisions of this charter party.
- (q) **VESSEL OWNER’S INSURANCE.**
- (1) During the full period of this Charter Party, Contractor shall maintain marine insurance coverage on the vessel, including:
    - i. Hull and Machinery,
    - ii. Protection and Indemnity (P&I) (including pollution liability),
    - iii. War Risk Hull and Machinery,
    - iv. War Risk Protection and Indemnity (P&I), and
    - v. Second Seaman’s War Risk. (the principal sum of which shall be \$200,000.00 per Master, Officer, or crew member (this is also the loss-of-life benefit)).

Except as otherwise expressly provided in Section (q)(3) below or as expressly provided in the section entitled “War” (r), all expenses for such insurance coverage (including but not limited to premiums, additional premiums, calls, commissions, overspill claims, advancements, assessments, deductibles, and all other insurance costs regardless of Charterer or Contractor fault, neglect, action or inaction, or cause of claim or cost whatsoever) shall be for Contractor’s account and shall be deemed to be included in the hire payable under this Charter Party. Contractor shall make insurance claims under applicable policies for all

damages, injuries, or claims arising from or related to this Charter when directed by Charterer regardless of Charterer's fault, neglect, action, inaction, or breach of clauses, obligations or warranties (express, implied or otherwise) of this Charter Contract.

1.1.1 At least 10 calendar days prior to delivery of the vessel, Contractor shall provide the Contracting Officer copies of policies or cover notes evidencing that required coverage has been obtained and demonstrating that the coverage is consistent with the requirements of this section. Contractor's failure to provide the required policies or cover notes may be considered material breach of this Contract.

- (2) Contractor agrees to indemnify and hold harmless the Charterer for all liability, costs, or expenses arising from or related to this contract and involving covered risks and losses under the terms of the insurance required in (q)(1) above. Contractor shall obtain an endorsement on all of Contractor's insurance policies listed in Section (q)(1) by which Contractor's Insurer "waives all rights of subrogation against the United States of America regardless of amount."
- (3) If Vessel is sent beyond the limits of American Institute Trade Warranties under this Charter Party, the Charterer agrees to reimburse the Contractor for the actual extra cost of additional premiums and/or increased deductible levels to the extent such extra cost is occasioned by the vessel's trading beyond such limits. Contractor shall immediately notify Charterer whenever any sailing orders will send the vessel beyond such limits, shall identify to Charterer any anticipated additional cost of insurance relating thereto, and shall obtain Charterer's approval to proceed beyond such limits prior to doing so. If Contractor fails to provide the notifications required or to obtain Charterer's informed prior approval, Charterer shall not be required to reimburse the Contractor for the costs described in this paragraph. The issuance of sailing orders, by itself, does not constitute approval in advance by Charterer.
- (4) All policies shall contain an endorsement stating that "in the event Insurer receives from vessel Owner any notice of cancellation or any notice of material change to the policy or its coverage, the cancellation or change shall not be effective until 30 days after written notice thereof is provided to Charterer's Contracting Officer by the Insurer (unless such change is directed by the Charterer's Contracting Officer)." Additionally, Contractor shall immediately notify Charterer of any change whatsoever in coverage.
- (5) Charterer Named Additional Assured on Owner's Hull Policy, War Risk Hull Policy, and Second Seaman's War Risk Policy. The United States of America (as Charterer) shall be named as an additional assured with waiver of subrogation under the Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and Second Seaman's War Risk policy.

5.1.1 At least 10 calendar days prior to delivery of vessel, Contractor shall provide the Contracting Officer copies of policies or cover notes evidencing that the required coverage has been obtained. Contractor's failure to provide the required policies or cover notes may be considered material breach of this contract.

- (6) "Other than owner" and "as owner" limitations. If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy contain(s) any provision limiting coverage under the policy only to liabilities arising as owner of the vessel, Contractor shall arrange for such limiting provision to be stricken from the policy.
  - (a) If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy contain(s) any provision designed to limit the effect of striking "other than owner" or "as owner" provisions

as required in Section (q)(6) such provisions shall also be amended to ensure Charterer is provided full benefit of the insurance for its acts as Charterer.

- (7) Limitations of Coverage to U.S. Limitation of Shipowners' Liability Act (or similar) limitation amounts. If Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and/or Second Seaman's War Risk policy contain(s) any provision(s) limiting maximum payment to Owner in any instance to the amount to which Owner is able to limit Owner's liability pursuant to the U.S. Limitation of Shipowners' Liability Act of 1851, the 1976 Convention on Limitation of Liability for Maritime Claims, or any similar law, Contractor shall arrange for such limiting language to be stricken or amended to ensure the policy or policies are not similarly limited in payment or coverage amount with respect to coverage afforded the United States of America as additional assured Charterer.
- (8) P&I Insurance for Charterer's Risks or Time Charterer Protection and Indemnity (P&I) with P&I War Risk Coverage. Contractor shall obtain P&I Insurance for Charterer's Risks or a Time Charterer Protection and Indemnity policy/entry with P&I War Risk coverage for the United States of America (as Charterer) covering all risks typically covered by P&I Insurance for Charterer's Risks or Time Charterer Protection and Indemnity entries with P&I War Risk coverages in Protection and Indemnity associations that are members of the International Group. Except as otherwise expressly provided in the section entitled "War," all expense of such policy/entry described in this section (including but not limited to premiums, additional premiums, calls, commissions, overspill claims, advancements, assessments, deductibles, and all other insurance costs regardless of Charterer or Contractor fault, neglect, action or inaction, or cause of claim or cost whatsoever) shall be for Contractor's account and shall be deemed to be included in the hire payable under this Charter Party. Contractor shall make insurance claims under the Time Charterer Protection and Indemnity policy/entry described in this section when directed by Charterer.
- 8.1.1 At least 10 calendar days prior to delivery of vessel, Contractor shall provide the Contracting Officer a copy of the policy. Contractor's failure to provide the required copy of the policy may be considered material breach of this Contract.
- 8.1.2 The Time Charterer Protection and Indemnity policy/entry with P&I War Risk coverage shall provide coverage of \$500,000,000.00.
- (9) Charterer shall not be obliged to declare to the insurer all ships chartered by it. Contractor will advise the insurer that the Charterer will not declare all ships chartered by it to the insurer, and shall obtain an endorsement on the policy stating, "the United States of America, as Charterer, is not required to declare to [insert insurer name] all ships chartered by it."
- (10) Contractor to Indemnify. If Contractor fails to name the United States as additional assured with waiver of subrogation on Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, or Second Seaman's War Risk policy as required by Section (q)(5); or fails to obtain for the United States the P&I Insurance for Charterer's Risks or Time Charterer P&I policy/entry with War Risks coverage required by Section (q)(8); the Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses involving covered risks and losses under the required insurance policies/coverage.
- (11) Contractor shall not, through action or inaction (including but not limited to failing to meet all conditions of a policy, causing through action or inaction cessation of a policy, or violating any warranty of a policy), vitiate or void the coverage afforded by the Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, Second Seaman's War Risk policy, or the coverage afforded by the Time Charterer

Protection and Indemnity policy/entry with P&I War Risk coverage. If any such policy is vitiated or voided by Contractor's action or inaction as described in this Section (q)(11), Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses which would have been covered by the policy had such policy or coverage remained in full force and effect.

- (12) In the event Contractor fails to strike "other than owner" or "as owner" provisions per Section (q)(6), fails to amend supplemental limiting provisions as described in Section (q)(6)(a), or fails to amend provisions limiting payment or coverage as described in Section (q)(7), Contractor shall indemnify and hold harmless the Charterer for all liability, costs, or expenses which would have been covered by Contractor's Hull and Machinery policy (and Increased Value policy if applicable), War Risk Hull and Machinery policy, and Second Seaman's War Risk policy had such provisions been stricken or amended as required

(r) **WAR.**

- (1) Voyage Instructions. Operating limits of the vessel subject to this Contract shall be worldwide. If the Vessel is ordered under this Charter Party to any port, place, zone, or route involved in a state of war, warlike operations or hostilities, civil strife, or piracy (whether there be a declaration of war or not) where it might be reasonably expected to be subject to capture, seizure, arrest, or hostile act by a belligerent power (whether de facto or de jure), pirate, or terrorist, it shall be unreasonable for the Contractor not to prosecute said voyage if insurance against said risks is then available commercially or under a Government program, or if the Government offers the Contractor indemnification against said risks pursuant to Public Law 85-804 (72 Stat. 972, August 28, 1958).
- (2) The Contractor shall immediately notify the Charterer: (i) whenever any sailing orders will result in the vessel subject to this Contract being sent beyond the limits of the War Risk Trading Warranties of insurance policies required under this contract (to include entry into a war risk exclusion zone or when the vessel will enter, sail for, or deviate towards the territorial waters of any of the Countries or places or any other waters described in the Lloyd's Joint War Committee's current Hull War, Strikes, Terrorism and Related Perils Listed Areas); (ii) if there are any changes to the War Risk Trading Warranties of insurance policies required under this contract (including changes to the exclusion zones or the Hull War, Strikes, Terrorism and Related Perils Listed Areas) or changes to War Risk premiums, charges, or deductibles; or (iii) whenever additional premium charges or costs will be incurred as a direct result of compliance with any sailing orders issued by the Charterer under this Contract. The Contractor shall ensure that the insurers provide it relevant information in a timely manner. If the Contractor has given this required notice to the Charterer, the Charterer will reimburse the Contractor for the increase in costs (if any) of insurance premiums, charges, or deductibles which arise from the vessel sailing beyond the applicable War Risk Trading Warranties (including changes to the war risk exclusion zones) when entry into any exclusion zone or Hull War, Strikes, Terrorism and Related Perils Listed Areas under such insurance has been approved in advance by the Charterer. The issuance of sailing orders, by itself, does not constitute approval in advance by the Charterer. The Charterer may give the Contractor notice and instructions concerning suspension of commercial War Risk insurance coverage and substitution of Government indemnity or Government War Risk insurance as detailed in the section entitled "Government War Risk Insurance/Indemnity" below.
- (3) Additional Wage Costs. The Charterer shall reimburse Contractor for the cost of provable additional master and crew wages (including all additional bonuses and payments required) to the extent that such additional costs arise directly from exposure of the vessel, and/or vessel's master and crew, to the risks described in the paragraph entitled "Voyage Instructions" above. However, any of said wages or payments shall not exceed in amount that which would be payable, under applicable laws and regulations, to U.S. civil service mariners in the employ of the Military Sealift Command in a similar port, place, zone, or route. Contractor shall notify Charterer of all anticipated additional wage costs prior to entering any location which would trigger such additional costs; and no such costs shall be reimbursable unless Charterer, after notification of such costs, provides approval to enter such location.

- (4) Government War Risk Insurance/Indemnity - General. Upon receipt of notice and instructions from the Contracting Officer, as specified in the last sentence of Section r-1.2 of the section entitled “War (r)” above, concerning suspension of commercial War Risk insurance coverage and substitution of Government indemnity or Government War Risk insurance, the Contractor shall, as soon as practicable, contact its insurance brokers or underwriters and arrange for the suspension of its commercial War Risk insurance upon entry of the vessel into, or extension of stay of the vessel in any area(s) excluded by the War Risk Trading Warranties, or when the vessel will enter, sail for, or deviate towards the territorial waters of any of the Countries or places, or any other waters described in the Lloyd’s Joint War Committee’s current Hull War, Strikes, Terrorism and Related Perils Listed Areas, as the case may be, subject to resumption of its commercial War Risk insurance upon exiting such area(s). In such instances, the Contractor shall accept the Government’s indemnity or Government War Risk insurance, whichever is applicable, in lieu of such commercial War Risk insurance. The Contractor shall ensure that the suspension of its commercial War Risk coverage is coincident with the time that any Government indemnity or Government War Risk insurance becomes effective, and shall likewise ensure that its commercial War Risk insurance is resumed at the time when any Government indemnity or Government War Risk insurance becomes ineffective. The Contractor shall retain the same risks, such as deductibles (if any), that it has under its commercial insurance.
- (5) Government War Risk Insurance. Under the authority of 46 U.S.C. § 53905, the United States Maritime Administration (MARAD), at the request of Commander, Military Sealift Command, may furnish the following war risk insurance coverage, which will be effective during the vessel’s transit under this Contract in areas which are in war risk exclusion zones, or waters described in the current Lloyd’s Joint War Committee Hull War, Strikes, Terrorism and Related Perils Listed Areas, or otherwise excluded under the Contractor’s commercial marine War Risk trading warranties, and which are designated by notice from the Contracting Officer to the Contractor:
- (a) War Risk Hull Coverage, insured at the hull value stated in vessel’s current commercial hull and increased-value policies effective on Charter Party date, a copy of which current hull policies shall be furnished to Charterer;
  - (b) War Risk Protection and Indemnity coverage, insured at a value of either (i) 150% of the hull value stated in Vessel's current commercial hull policy effective on Charter Party date or (ii) \$50,000,000.00, whichever is greater but in no event exceeding that amount of commercial P&I cover which was in effect for the Vessel on Charter Party date;
  - (c) War Risk Second Seaman’s coverage, the principal sum of which shall be \$200,000 per Master, Officer, or crew member (this is also the loss-of-life benefit);
  - (d) War Risk Loss-of-Hire coverage, if a commercial loss-of-hire policy was in effect on the vessel on Charter Party date. The sum insured by this policy, including the amount of lost time that is covered, will be equivalent to the levels insured by the vessel's commercial policy. However, the amount insured by this policy will in no event exceed the hire rate(s) (that would have been in effect under this Charter Party during the period of time that the vessel was off-hire because of a covered War Risk), over a maximum duration of 90 days lost. This maximum amount will be further subject to a deductible equivalent to that in place under the Vessel's commercial policy.
- (6) Government Indemnity. Under the authority of Public Law 85-804 (72 Stat. 972, August 28, 1958) and Executive Order 10789, as amended by Executive Order 11610, the Secretary of Defense or the Secretary of the Navy may authorize the Contracting Officer to indemnify the Owner against loss from risks that would be covered by MARAD war risk coverage as set forth in the paragraph entitled “Government War Risk Insurance” directly above.
- (s) **CONTRACTOR’S NOTICE REGARDING LITIGATION**. The contractor shall provide the Contracting Officer with immediate notice of any legal action, or claim against the government, the vessel,

the contractor, or the contractor's underwriters that arises from or is related to this contract. The contractor shall also provide the Contracting Officer with immediate notice of any legal action brought by the contractor that arises from or is related to this contract.

- (t) **WAIVER OF CLAIMS.** All requests for equitable adjustment to the contract price and any other claims whatsoever for monies due under this contract must be submitted to the Contracting Officer pursuant to the clause entitled "Disputes" within six (6) months of the redelivery of the vessel. All requests for equitable adjustment and any other claims whatsoever for monies due under this contract that are not submitted within the six (6) month limit, shall deemed to have been waived by the Owner.
- (u) **GENERAL DEFINITIONS.**
- (1) **"Assisting"** - Movement of a tow, which is making use of, or which has available for use, her own propulsion.
  - (2) **"Associated Equipment"** - Construed to include all Contractor-furnished or owned equipment necessary for performance under this Contract.
  - (3) **Charter Hire** – Daily rate paid for use of the vessel during the charter; interchangeable with Hire Rate and Per Diem.
  - (4) **Charterer** - The United States of America.
  - (5) **Charter Party** - This document when executed; interchangeable with "Contract" and "Charter".
  - (6) **"Crew"** – Members of the Vessel(s) identified in rate schedule.
  - (7) **"Dry-docking"** - For purposes of this Contract dry-docking shall mean any removal of the vessel from the water for any purpose.
  - (8) **"Line-handling"** - Movement or transportation of the tow's lines ashore by Tug's crew.
  - (9) **"Master"** – Master of the vessel identified in the rate schedule.
  - (10) **"Owner"** - That entity exercising commercial control of the Vessel(s) identified in the Rate Schedule; interchangeable with "contractor" and "offeror" and to include disponent owners and all the shipowner's and disponent owner's agents, employees, independent contractors, Master, Officers, and crew.
  - (11) **"Owner's Representative"** - See "Representative", below.
  - (12) **"Place"** - Any berth, dock, anchorage, submarine line, alongside any Vessel or lighter or any other place whatsoever to which Charterer is entitled to direct the Vessel hereunder.
  - (13) **"Representative"** - Foreman, superintendent, dispatcher, supervisor, or manager employed and designated by Owner to respond to Government requests for service under this Contract.
  - (14) **"Straight Time"** – As shown in PWS.
  - (15) **"Vessel/Vessels"** - Those Vessels identified in the Rate Schedule and any other Vessel(s) accepted by the Government for use under this Contract (the word "Vessel" as used in this Contract is both plural and singular).

(End of PART II)

### PART III

## **PART III**

### **Additional Contract Requirements (As Applicable) (Addendum to FAR 52.212-4)**

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)

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

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

*Critical technology* means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

*Substantial or essential component* means any component necessary for the proper function or performance of a piece of equipment, system, or service.

*(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. The Contractor is prohibited from providing to the Government 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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.

(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, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. 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.

*(c) Exceptions.* This clause does not prohibit contractors from providing—

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

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

*(d) Reporting requirement.* (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report 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 (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer 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 information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

*(e) Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

#### 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999) (Tailored)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the

Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor any time prior to redelivery of the vessel(s).

(End of clause)

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

(a) The Government may extend the term of this contract by written notice to the Contractor anytime prior to the end date of the contract; provided that the Government gives the Contractor a preliminary written notice of its intent to extend anytime prior to the end date of the contract. The preliminary notice does not commit the Government to an extension.

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

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 59 months.

(End of clause)

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

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

<http://acquisition.gov/far>

<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/>

(End of clause)

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

(a) Definitions. As used in this clause—

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

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

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

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

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

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

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

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

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

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

(f) WAWF payment instructions. The Contractor 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).

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

(ii) For fixed price line items—

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

Not Applicable

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

Invoice 2-in-1

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

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

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

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

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	N50082

Issue By DoDAAC	_____
Admin DoDAAC	N62387
Inspect By DoDAAC	N62387
Ship To Code	N62387
Ship From Code	_____
Mark For Code	_____
Service Approver (DoDAAC)	N62387
Service Acceptor (DoDAAC)	N62387
Accept at Other DoDAAC	_____
LPO DoDAAC	N62387
DCAA Auditor DoDAAC	_____
Other DoDAAC(s)	_____

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(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 email address identified below in the "Send Additional Email Notifications" field of WAWF once a document is submitted in the system.

To be provided at award

(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.

MSCHQ\_WAWF@navy.mil

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

(End of clause)

MSC SPECIFIC WIDE AREA WORKFLOW (WAWF) INSTRUCTIONS (AUG 2012)

The information contained in this instruction is supplemental to DFARS 252.232-7006.

The information contained in the table in DFARS 252.232-7006 is for WAWF purposes only. Information included in DFARS 252.232-7006 and this WAWF instruction apply only to WAWF Invoicing and WAWF Receiving Reports. Contradictory information elsewhere in this contract, e.g. Ship to DoDAAC, shall be followed per the terms and conditions of the contract.

When entering the invoice into WAWF, the Contractor shall fill in the DoDAAC fields or DoDAAC extensions exactly as shown in the table in DFARS 252.232-7006. Fields that should not be filled in when entering the invoice into WAWF will be indicated with the direction, "Leave Blank."

In some situations the WAWF system will pre-populate the "Pay DoDAAC," "Admin By DoDAAC" and "Issue By DoDAAC." The Contractor shall verify that those DoDAACs automatically entered by the WAWF system match the information in the table in DFARS 252.232-7006. If these DoDAACs do not match, then the Contractor shall correct the field(s).

If Receiving Reports are required, ensure that the "Inspection" and "Acceptance" defaults of "destination" for both fields are not changed in the WAWF online interface.

The CLINs on the WAWF invoice shall be entered exactly as set forth in the contract document including CLIN number (e.g. 0001), Quantity (may be adjusted for actual quantity or dollar value delivered and invoiced), and Unit Price (e.g. \$1.00). The dollar amounts on each CLIN or SubCLIN on the WAWF invoice shall reflect final performance values, but in no instance can the dollar amount for each CLIN or SubCLIN exceed what is specified in the contract document. The Contractor shall bill to the lowest level, e.g., the SubCLIN level. The Quantity and Unit of Measure fields must be filled out exactly as indicated in the CLINs and SubCLINs to reduce the possibility of the invoice being delayed or rejected during processing.

Before closing out of an invoice session in WAWF, but after submitting the document or documents, the Contractor will be given the option to send additional email notifications by clicking on the "Send More Email Notifications" link that appears on the page. The Contractor shall click on this link and add the Technical Point of Contact's (TPOC) or Contracting Officer's Representative's (COR) email address in the first email address block and add any other additional email addresses desired in the following blocks. This additional notification to the Government is important to ensure the acceptor/receiver is aware that the invoice documents have been submitted into the WAWF system.

(End of PART III)

#### PART IV

### **PART IV Time Charter Common Terms and Conditions (Addendum to FAR 52.212-4)**

1. **STAFFING AND COMMUNICATIONS.** Contractor shall provide adequate staff and communications to respond promptly to Government's requests for services under this contract on a 24-hour per day basis.

(End of PART IV)

#### PART V

### **PART V**

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

(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.]

(1) [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. 4655](#)).

(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. 637s](#)).

(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\(a\)\(2\)](#)).

(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. 637\(a\)\(17\)](#)).

(27) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

(28) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (DEC 2022) (E.O.13126).

- (29) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).
- (30)(i) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O.11246).
  - (ii) Alternate I (FEB 1999) of [52.222-26](#).
- (31)(i) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#) ).
  - (ii) Alternate I (JUL 2014) of [52.222-35](#).
- (32)(i) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#) ).
  - (ii) Alternate I (JUL 2014) of [52.222-36](#).
- (33) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#) ).
- (34) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- (35)(i) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O. 13627 ).
  - (ii) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627 ).
- (36) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 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. 552 a).
  - (ii) Alternate I (JAN 2017) of [52.224-3](#).
- (48) [52.225-1](#), Buy American-Supplies (OCT 2022) ([41 U.S.C. chapter 83](#)).
- (49)(i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (DEC 2022) ( [19 U.S.C. 3301 note](#), [19 U.S.C. 2112 note](#), [19 U.S.C. 3805 note](#), [19 U.S.C. 4001 note](#), 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 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 [RESERVED]
  - (iii) Alternate II (DEC 2022) of [52.225-3](#).
  - (iv) Alternate III (JAN 2021) of [52.225-3](#).
  - (v) Alternate IV (Oct 2022) of [52.225-3](#).
- (50) [52.225-5](#), Trade Agreements (DEC 2022) ( [19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301 note](#) ).
- (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).

X   (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. Subtitle A, Part V, Subpart G 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. 3805](#)).

       (57) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (NOV 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

       (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](#).

       (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.]

  X   (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](#)).

  X   (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 for Contractor Workers Under Executive Order 14026 (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) 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 for Contractor Workers Under Executive Order 14026 (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. Subtitle A, Part V, Subpart G Note).
  - (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 products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

(End of PART V)

PART VI**PART VI****FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE**

## (a) FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

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

<http://www.acquisition.gov/far/index.html>

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

## (b) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses, which, if checked, are incorporated in this Contract by reference.

- (1) FAR 52.204-2 Security Requirements (MAR 2021)
- (2) FAR 52.204-4 Printed or Copied Double-Side on Postconsumer Fiber Content Paper (MAY 2011)
- (3) FAR 52.204-13 System for Award Management Maintenance (OCT 2018)
- (4) FAR 52.204-16 Commercial and Government Entity Code Reporting (AUG 2020)
- (5) FAR 52.204-17 Ownership or Control of Offeror (AUG 2020)
- (6) FAR 52.204-18 Commercial and Government Entity Code Maintenance (AUG 2020)
- (7) FAR 52.204-19 Incorporation by Reference of Representations and Certifications (DEC 2014)
- (8) FAR 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (NOV 2021)
- (9) FAR 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)
- (10) FAR 52.211-2 Availability of Specifications, Standards, and Data Item Descriptions Listed in the Acquisition Streamlining and Standardization Information System (ASSIST) (JUL 2021)
- (11) FAR 52.212-4 Contract Terms and Conditions – Commercial Products and Commercial Services (DEC 2022)
- (12) FAR 52.217-5 Evaluation of Options (JULY 1990)
- (13) FAR 52.222-50 Combating Trafficking in Persons (NOV 2021)
- (14) FAR 52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States (MAY 2020)
- (15) FAR 52.228-3 Worker's Compensation Insurance (Defense Base Act) (JUL 2014)
- (16) FAR 52.232-18 Availability of Funds (APR 1984)
- (17) FAR 52.232-39 Unenforceability of Unauthorized Obligations (JUN 2013)
- (18) FAR 52.232-40 Providing Accelerated Payments to Small Business Subcontractors (NOV 2021)
- (19) FAR 52.242-15 Stop Work Order (AUG 1989)
- (20) FAR 52.245-1 Government Property (SEP 2021)
- (21) FAR 52.245-9 Use and Charges (APR 2012)
- (22) DFARS 252.201-7000 Contracting Officer's Representative (DEC 1991)
- (23) DFARS 252.203-7002 Requirement to Inform Employees of Whistleblower Rights (SEPT 2013)
- (24) DFARS 252.204-7000 Disclosure of Information (OCT 2016)
- (25) DFARS 252.204-7003 Control of Government Personnel Work Product (APR 1992)
- (26) DFARS 252.204-7008 Compliance with Safeguarding Covered Defense Information Controls (OCT 2016)
- (27) DFARS 252.204-7009 Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (OCT 2016)
- (28) DFARS 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (DEC 2019)

- (29) DFARS 252.204-7019 Notice of INST SP 800-171 DoD Assessment Requirements (MAR 2022)
- (30) DFARS 252.204-7020 NIST SP 800-171 DoD Assessment Requirements (MAR 2022)
- (31) DFARS 252.209-7004 Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism (MAY 2019)
- (32) DFARS 252.211-7006 RESERVED
- (33) DFARS 252.211-7007 Reporting of Government-Furnished Property (MAR 2022)
- (34) DFARS 252.215-7007 Notice of Intent to Resolicit (JUN 2012)
- (35) DFARS 252.215-7008 Only One Offer (JUL 2019)
- (36) DFARS 252.223-7003 Change in Place of Performance – Ammunition and Explosives (DEC 1991)
- (37) DFARS 252.225-7040 Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States (OCT 2015)
- (38) DFARS 252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside the United States (JUN 2015)
- (39) DFARS 252.232-7007 Limitation of Government’s Obligation (APR 2014)
- (40) DFARS 252.232-7017 Accelerating Payments to Small Business Subcontractors – Prohibition on Fees and Consideration (APR 2020)
- (41) DFARS 252.237-7023 Continuation of Essential Contractor Services (OCT 2010)
- (42) DFARS 252.237-7024 Notice of Continuation of Essential Contractor Services (OCT 2010)
- (43) DFARS 252.245-7001 Tagging, Labeling, and Marking of Government-Furnished Property (APR 2012)
- (44) DFARS 252.245-7002 Reporting Loss of Government Property (JAN 2021)
- (45) DFARS 252.245-7003 Contractor Property Management System Administration (APR 2012)
- (46) DFARS 252.245-7004 Reporting, Reutilization, and Disposal (DEC 2017)
- (47) DFARS 252.247-7022 Representation of Extent of Transportation by Sea (JUN 2019)
- (48) DFARS 252.247-7023 Transportation of Supplies by Sea-Basic (FEB 2019)
- (49) DFARS 252.247-7025 Reflagging or Repair Work (JUN 2005)
- (50) DFARS 252.247-7027 Riding Gang Member Requirements (MAY 2018)
- (51) FAR 52.219-6 Notice of Total Small Business Set-Aside (NOV 2020)
- (52) FAR 52.219-7 Notice of Partial Small Business Set-Aside (NOV 2020)
- (53) RESERVED
- (54) DFARS 252.219-7003 Small Business Subcontracting Reporting (DEVIATION 2019-O0005)
- (55) RESERVED
- (56) DFARS 252.225-7975 Additional Access to Contractor and Subcontractor Records (Other than USCENTCOM) (DEVIATION 2020-O0022) (AUG 2020)
- (57) DFARS 252.225-7976 Contractor Personnel Performing in Japan (DEVIATION 2018-O0019)
- (58) DFARS 252.225-7980 Contractor Personnel Performing in the United States Africa Command Area of Responsibility (DEVIATION 2016-O0008)
- (59) DFARS 252.225-7987 Requirements for Contractor Personnel Performing in USSOUTHCOM Area of Responsibility (DEVIATION 2021-O0004)
- (60) DFARS 252.225-7993 Prohibition on Providing Funds to the Enemy (DEVIATION 2020-O0022) (AUG 2020)
- (61) DFARS 252.225-7995 Contractor Personnel Performing in the United States Central Command Area of Responsibility (DEVIATION 2017-O0004)
- (62) DFARS 252.215-7016 Notification to Offerors—Postaward Debriefings (MAR 2022)
- (63) FAR 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)
- (64) FAR 52.204-26 Covered Telecommunications Equipment or Services-Representation (Oct 2020)
- (65) DFARS 252.204-7016 Covered Defense Telecommunications Equipment or Services-Representation (DEC 2019)
- (66) DFARS 252.204-7017 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services – Representation (May 2021)
- (67) DFARS 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (JAN 2021)
- (68) DFARS 252.203-7000 Requirements Relating to Compensation of Former DoD Officials (SEP 2011)

(69) DFARS 252.203-7005 Representation Relating to Compensation of Former DoD Officials (SEP 2022)

(End of PART VI)

PART VII

**PART VII**

**(RESERVED)**

(End of PART VII)

PART VIII

**PART VIII**

**(RESERVED)**

(End of PART VIII)

PART IX

**PART IX**

**LIST OF ATTACHMENTS**

- (a) Offered Vessel Characteristic Sheet
- (b) Crew Compliment
- (c) Offered Rates Sheet
- (d) Reserved
- (e) Department of Labor Wage Determination
- (f) Disclosure of Lobbying Activities (SF LLL)
- (g) Strike Contingency Plan and Vessel Casualty Plan
- (h) Contractor's Subcontracting Plan
- (i) Request for Clarification/Question Form

(End of PART IX)

PART X

**PART X**

**52.212-1 (ADDENDUM) ADDITIONAL INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS**

- (a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in

its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

- (b) This procurement is a FAR Part 12 acquisition being conducted under FAR 15.101-2 and FAR 15.306 procedures.
- (c) Submission of offers. (Tailored) Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—
- (1) The solicitation number;
  - (2) The time specified in the solicitation for receipt of offers;
  - (3) The name, address, and telephone number of the offeror;
  - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with (or acknowledgment of, as appropriate) the requirements in the solicitation. This may include product literature, or other documents, if necessary (Tailored);
  - (5) Terms of any express warranty;
  - (6) Price and any discount terms;
  - (7) "Remit to" address, if different than mailing address;
  - (8) A completed copy of the representations and certifications at FAR 52.209-5; FAR 52.209-7; FAR 52.209-11; and FAR 52.212-3 (see FAR 52.212-3(b)) for those representations and certifications that the offeror shall complete electronically). (Tailored)
  - (9) Acknowledgment of Solicitation Amendments;
  - (10) Subcontracting Plan. (Tailored) In accordance with FAR 52.219-9 and DFARS 252.219-7003, other-than-small business offerors shall submit a Small Business Subcontracting Plan with their proposal. Offerors shall ensure that they submit a Small Business Subcontracting Plan with all of the information required by FAR 52.219-9.  
In preparing the Small Business Subcontracting Plan, offerors should note that historical compliance with FAR 52.219-8 and FAR 52.219-9 may be evaluated as part of past performance in future source selections in accordance with DFARS 215.305(a)(2).  
A subcontracting plan is NOT REQUIRED from small business concerns and will not be reviewed or assessed for acceptability.
  - (11) (Tailored) Owner's e-mail address, and point of contact to be used in conjunction with the Government's web-based post-contract performance information system, Contractor Performance Assessment Reporting System (CPARS).
  - (12) Form of Submission. Proposals/modifications must be submitted via e-mail in Adobe Acrobat (.pdf) format, and must be compatible with Adobe Acrobat Reader 8.0 or later version. Drawings and diagrams must be scaled and labeled to permit full-size reproduction and accurate determination of compartment and deck dimensions, equipment spacing, and other features of the vessel layout. Proposals/modifications must contain either a verifiable electronic signature (e.g. PKI enabled certificate), or a scanned image of the handwritten signature of the Offeror or Offeror's agent. Offerors are advised that delays in the receipt of e-mail do occur, and the Offeror is solely responsible for timely receipt of offers by the Government regardless of any problems or delays related to computer hardware or software systems including, but not limited to, servers and firewalls. An E-mail proposal that resides on a Government server, but has not appeared in the designated E-mail inbox by the due date and time for proposal submission will be considered late. Offerors are advised that the Government may be unable to receive other types of electronic files (e.g., .zip files) or files in excess of 20 megabytes. For electronic proposal/modifications, the only acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time and date set for receipt of offers is the receipt of the E-mail proposal, readable, in its entirety in the designated E-mail inbox by the due date and time for proposal submission. Any other timestamp or meta-data of the Offeror's sent e-mail shall not be construed as sufficient documentation of the Government's receipt of an e-mailed offer. It is the Offeror's responsibility to ensure the proposal has been received in the designated E-mail inbox by the due date and time.

Proposal and proposal modifications (e.g., proposal extension) shall be submitted electronically in response to this solicitation by e-mail directly to Samantha Boyd at samantha.r.boyd3.civ@us.navy.mil and F. Carley Orvin at franklin.c.orvin.civ@us.navy.mil or the designated E-mail addresses and inboxes for receipt of E-mail submissions. No other electronic means of submission, used in whole or in combination with E-mail, is permitted.

- (13) (Tailored) Any other characteristics/details not shown in Part I that are pertinent to the Government's evaluation factors.
  - (14) A valid submission consists of at least a ship name, a price, and a signature; without these at a minimum, your submission will not be considered for evaluation and award.
  - (15) Offers shall not contain classified material. Any portion of an offer which the offeror considers business sensitive should be clearly marked as such in accordance with FAR 52.215-1.
  - (16) A proposal shall not require extensive searching throughout the document(s) to locate and evaluate a particular item. Each offer should be written, to the greatest extent possible, on a stand-alone basis. The Government will not search through and fill-in missing information between offers, and it is the offeror's responsibility to provide all documentation in each volume as required.
  - (17) Representations and Certifications clauses that offerors are required to complete are also provided.
  - (18) Harbor Tugs supporting the US require the Tug to be issued a Certificate of Documentation with a coastwise endorsement, pursuant to 46 USC 55111 and 46 USC 12112.
  - (19) Harbor Tugs supporting the US require the Tug to be issued a Certificate of Inspection, pursuant to 46 CFR Chapter I Subchapter M.
- (d) Questions. Potential Offerors requesting additional information or clarifications relating to this solicitation shall submit their request in writing by email to Samantha Boyd at samantha.r.boyd3.civ@us.navy.mil and F. Carley Orvin at franklin.c.orvin.civ@us.navy.mil.

Questions regarding the solicitation must be submitted no later than 1:00pm local time, 14 days after the solicitation was issued; otherwise questions may not be answered prior to the solicitation closing. Offerors shall submit questions to this solicitation using the Request for Clarification and Question form provided as Attachment I to this solicitation. Each question shall be submitted on a separate form. Questions shall be submitted to the Contracting Officer and Contract Specialist identified in this solicitation.

Questions submitted not using this form, or that combine more than one question per form, may not receive a response. No telephonic responses will be provided.

- (e) Period for Acceptance of Offers. (Tailored) With respect to FAR 52.215-1(d), unless offeror proposes a shorter period, by submission of an offer, offeror agrees that its offer, including any timely revisions thereto, shall remain valid until the Government makes award under this solicitation. The foregoing does not preclude an offeror from withdrawing its offer prior to award.
- (f) Vessel Substitution. (Tailored) No proposed substitution will be permitted by Charterer during the procurement solicitation process after the date and time for offers has passed except when such substitution is made as part of a revised offer during a period in which the solicitation is reopened or when such substitution is made as part of a final proposal revision.
- (g) Multiple offers. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- (h) Late Proposals. Late submissions, modifications, revisions, and withdrawals of offers. For treatment of late proposals or modifications of proposals, see FAR 52.215-1.
  - (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

- (2) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers.
- (i) Contract 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.
- (j) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (k) Availability of requirements documents cited in the solicitation.
- (1)
    - i. The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to—  
GSA Federal Supply Service Specifications Section  
Suite 8100  
470 L'Enfant Plaza, SW  
Washington, DC 20407  
Telephone (202) 619-8925  
Facsimile (202) 619-8978
    - ii. If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.
  - (2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites—
    - i. ASSIST (<http://assist.daps.dla.mil>).
    - ii. Quick Search (<http://assist.daps.dla.mil/quicksearch/>)
    - iii. ASSISTdocs.com (<http://assistdocs.com>).
  - (3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by—
    - iv. Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard/>);
    - v. Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or
    - vi. Ordering from DoDSSP, Building 4 Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2197, Facsimile (215) 697-1462.
  - (4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.
- (l) Unique Entity Identifier (UEI). (Applies to all offers exceeding \$3,500, and offers of \$3,500 or less if the solicitation requires the Contractor to be registered in the System for Award Management (SAM).) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of

the Offeror to establish additional SAM records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at [www.sam.gov](http://www.sam.gov) for establishing the unique entity identifier.

- (m) **System for Award Management.** Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the SAM database accessed through <https://www.acquisition.gov>.
- (n) **Debriefing.** If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:
- (1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.
  - (2) The overall evaluated cost or price and technical rating of the successful and debriefed offeror and past performance information on the debriefed offeror.
  - (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
  - (4) A summary of rationale for award;
  - (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
  - (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.
- (o) **Service of Protest.** (Added) Protests, as defined in FAR 33.101, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from the Contracting Officer. The mailing address is the same as that stated in Box 9, SF 1449. Interested parties may request an independent review of their protest as an alternative to consideration by the Contracting Officer or as an appeal of the Contracting Officer's decision on their protest. See FAR 33.103. Requests for independent review shall be addressed to:

Director, Contracts & Business Management Directorate, Code N10  
Military Sealift Command  
471 East C Street, Bldg. SP-64  
Naval Station Norfolk  
Norfolk, VA 23511-2419

MSC encourages potential protestors to discuss their concerns with the Contracting Officer prior to filing a protest. The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

- (p) The Government intends to award one (1) contract under this RFP. This acquisition is conducted as **full and open competition**.
- (q) Failure of an offer to address any items in the Performance Work Statement may make the offer unacceptable and/or may result in it not being considered for award.

**Each offer shall be clearly labeled, and complete with the following parts: Critical Submission Data; Business Submission; Technical Proposal; Past Performance Proposal; and Price Proposal.**

**CRITICAL SUBMISSION DATA. Reserved****BUSINESS SUBMISSION.** Offerors shall provide the following:

1. A proposal cover letter that includes:
  - a. The solicitation number, the name, address, and telephone number of the Offeror (and electronic address if available);
  - b. A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;
  - c. The names, titles, and telephone number (and electronic addresses if available) of person(s) authorized to negotiate on the Offeror's behalf with the Government in connection with this solicitation; and
  - d. Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.
  - e. Evidence that the Offeror has the right to offer the proposed vessel. Offeror shall certify that it currently owns or is the bareboat or time charterer of the vessel(s). If the offeror is not the owner, offeror shall provide with its proposal a copy of the executed bareboat or time charter agreement with the owner, or an executed purchase agreement with the owner. The bareboat or time charter must contain a period of performance ending no earlier than 5 years after the date of delivery. The bareboat charter, time charter, or purchase agreement may be contingent on award of the contract pursuant to this solicitation and may be redacted to protect pricing.
2. Completed **AND SIGNED** Standard Form (SF) 1449 (pages 1 and 2 of the RFP). Failure to submit a signed SF 1449 will result in rejection of the offer.
3. SCA Certification: The Offeror must certify that it will comply with the Service Contract Act and Department of Labor Wage Determination (Attachment E) in performance of this contract, should they apply.
4. Standard Form SF-LLL, "Disclosure of Lobbying Activities" (Attachment F), if applicable.
5. Offerors shall identify those ports in which they have any active arrest warrants or similar actions pending that would either delay the vessel from performing, or otherwise prevent the vessel from free entry/departure.
6. Corporate Viability. The Offeror shall provide the most recent audited financial information containing, at a minimum, balance sheets, cash flow statements, income statements, and combined financial statements that illustrate the company's ability to remain a viable business concern. If an Offeror intends to utilize the financial information or assistance of another entity to meet the corporate viability requirement (loan, income statement from parent company, etc.), that Offeror must provide signed statement(s) proving that entity's agreement with the arrangement. The Offeror must furnish evidence of adequate financial resources to perform the contract or the ability to obtain such resources. For the purpose of this section, adequate financial resources are an amount equal to the total value of forty-five (45) days of the proposed daily charter hire rate for the vessel (calculated based on the firm period FOS charter hire rate).
7. Representations and Certifications. The Offeror must submit a complete Representations and Certifications of all applicable provisions included in the solicitation. Items that are not applicable must be marked "N/A." If an Offeror has completed its representations and certifications online, it must so state in its proposal.
8. Offerors shall confirm that it will provide the required insurance as required in PART IV(g) and IV(h) of the solicitation.
9. Evidence of Contractor Responsibility. Offerors must provide evidence to support the prospective

contractor's affirmative responsibility determination, to include a response to each of the seven (7) elements of a responsibility determination as defined in FAR 9.104-1.

10. Offeror shall fill out and submit FAR 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021) and FAR 52.204-26 Covered Telecommunications Equipment or Services-Representation (OCT 2020)
11. Offeror shall submit the certification required in FAR 52.222-56 with regards to its Combatting Trafficking in Persons Compliance Plan.

**TECHNICAL PROPOSAL.** The Technical Proposal shall NOT contain any pricing information.

1. Offerors shall provide the following information to demonstrate that the proposed tugs will meet the minimum requirements as stated in the performance work statement at time of delivery:
  - a. **TUG ARRANGEMENTS, DRAWINGS, PLANS AND PICTURES:** Offerors shall provide current Pictures and/or General Arrangement drawings of the proposed tug(s). **DRAWINGS MUST DEPICT THE CURRENT OR PLANNED CONFIGURATION WITH FENDERING AND OTHER REQUIRED CHARACTERISTICS CLEARLY MARKED.** Pictures shall show all four sides of the vessel. Fire plans may be submitted to demonstrate AED and EEBD locations, firefighting capability and arrangement of berthing and sponsor work areas if applicable. The Offeror shall include the USCG COI and COD, and the ABC Class Certificate for each tug listed.
  - b. **OFFERED VESSEL CHARACTERISTICS SHEET:** Offerors shall provide a completed Offered Vessel Characteristics Sheet. for each tug or class of tugs being proposed. If company specification sheets are submitted, supplementary data must be provided to describe all characteristics of interest (a blank form listing all characteristics of interest can be found in the Submission Package, PART XII). Offerors shall list the name(s) of each tug being proposed on the Offered Vessel Characteristics Sheet pertaining to that tug or class of tugs.
  - c. **Strike Contingency Plan – Attachment G.** Offerors shall provide a strike contingency plan that describes how services will be provided if there is a labor strike or any other deficiency of Master or crewmembers. The plan must be practicable and must clearly state the means and method for vessel manning during a strike or labor action, and for providing services in the face of disruptive measures typical of a strike situation.
  - d. **Vessel Casualty Plan – Attachment G.** Offerors shall provide a vessel casualty plan that describes how services will be continued if there is a casualty to the tug or to a system that makes the tug inoperable or incapable of safely providing a required service. The plan must be practicable and must clearly state the means and method for timely acquisition and deployment of a substitute tug in the event of a vessel casualty.

**PAST PERFORMANCE.** (Offerors do not submit Past Performance information.) For the purposes of evaluating offerors' past performance.

1. "Recent" is defined as a contract in-progress or completed within the last three (3) years.
2. "Relevant" is defined as a contract that is of similar scope, magnitude, complexity to the requirements as set forth in this solicitation.
  - a. **Scope:** Experience in the areas defined in the PWS.
  - b. **Magnitude:** The measure of the similarity of the volume, dollar value and/or duration of the work actually performed under the offeror's contracts in CPARS to the PWS.
  - c. **Complexity:** The measure of technical difficulty, managerial intricacy and/or required coordination of efforts and disciplines performed by the offeror. For complexity, not only will the

tasks performed by the offeror be considered, but also the offeror's ability to coordinate tasks (e.g., concurrent performance requirements).

In accordance with DFARS 215.305(a)(2), all offerors shall address the historical compliance with the requirements of FAR 52.219-8, Utilization of Small Business Concerns, and FAR 52.219-9, Small Business Subcontracting Plan (when applicable). All offerors shall provide a list of contracts that within the last three (3) years demonstrate the offeror has carried out the policy described in FAR 52.219-8, in awarding of subcontracts to small business concerns to the fullest extent consistent with efficient contract requirements of FAR 52.219-8 (Utilization of Small Business Concerns). Other than small businesses shall also address historical compliance with the requirements of FAR 52.219-9, Small Business Subcontracting Plan, and DFARS 252.219-7003, Small Business Subcontracting Plan (DoD Requirements).

**PRICE PROPOSAL.** The Offeror's price proposal shall contain the following:

1. Offerors shall provide a completed Offered Rates Sheet, Attachment C. Rates will be incorporated into the contract upon award.
2. Offerors shall provide a published commercial price list/tariff for the ports covered in PART I, Section 2, if one exists.
3. Offerors shall provide the basis for its delivery/redelivery fees to include previous/follow-on port locations and breakout of costs.
4. Crew Complement. Offerors shall complete Attachment B, "Crew Complement Form" for each performance period.
5. The offeror must certify that the wages and fringe benefits contained in its offer meet, at a minimum, the wage and fringe benefits levels contained in the Department of Labor Wage Determination (Attachment E).

#### **SUBCONTRACTING PLAN.**

1. In accordance with PART V, FAR 52.219-9 and PART VI, DFARS 252.219-7003, other-than-small business offerors shall submit a Small Business Subcontracting Plan with their proposals. Offerors shall submit Small Business Subcontracting Plans with all of the information required by FAR 52.219-9.
2. In preparing the Small Business Subcontracting Plan, offerors should note that historical compliance with PART V, FAR 52.219-8 and FAR 52.219-9 shall be evaluated as part of Past Performance in future source selections.
3. A subcontracting plan is NOT REQUIRED from small business concerns and will not be reviewed.

(End of Provision)

(End of PART X)

#### **PART XI**

### **PART XI**

#### **FAR 52.212-2 EVALUATION – COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (NOV 2021)**

**(Tailored pursuant to FAR 12.302(a))**

- 1) Award will be made, if at all, resulting from this solicitation to the responsible offeror (see paragraph 2 below) whose technically acceptable proposal with acceptable past performance represents the lowest price to the Government. If this RFP includes DFARS 252.247-7026, then this evaluation scheme is subject to the next paragraph.
- 2) If 50% or more of the cost of overhaul, repair, and maintenance work of an offeror's "covered vessel[s]" (see definition at DFARS 252.247-7026(a)) has been conducted within a U.S. shipyard during the period covering the current calendar year through the date of proposal submission, plus the preceding four calendar years, then the offeror is in "Category 1." All other offerors are in "Category 2." Award will be made, if at all, for the low

price, technically acceptable “Category 1” offer with acceptable past performance. If no such offers exist, then award will be made, if at all, to the lowest price, technically acceptable, “Category 2” offer with acceptable past performance.

- 3) The Government intends to award without discussions. Pursuant to FAR 52.215-1(f) (4), however, the Government reserves the right to conduct discussions.
- 4) Offerors need to have a self-assessment in Supplier Performance Risk System (SPRS) application in Procurement Integrated Enterprise Environment (PIEE) in accordance with DFAR 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements. Failure to have this information will make the offeror ineligible for award.
- 5) Apparent Awardee will be required to submit the certification required in FAR 52.222-56 with regards to its Combatting in Trafficking Persons Compliance Plan.
- 6) Critical Submission Data.  
Reserved.

Classified Requirement.

Reserved.

- 7) In selecting the lowest-priced, technically acceptable offer, the following factors will be considered:

Factor 1: Technical

Factor 2: Price

Factor 3: Past Performance

### **Evaluation of Factors**

- 1) Technical.

All proposals will be evaluated based on the requirements listed in PART X. TECHNICAL PROPOSAL of FAR 52.212-1(ADDENDUM – ADDITIONAL INSTRUCTIONS TO OFFERORS – COMMERCIAL ITEMS). Technical proposals will be evaluated based on acceptable/unacceptable criteria. In order to be determined technically acceptable, and thus be eligible for award, vessels must meet or exceed the requirements for the technical factor described in PART X TECHNICAL PROPOSAL.

Proposals rated unacceptable for any of the technical requirements listed in Part X will be rated overall unacceptable for the technical factor.

- 2) Price.

Price analysis techniques will be used to determine price reasonableness. Materially unbalanced offers may not be considered for award.

The total evaluated price will equal the sum of the total dollar amounts for the firm and option periods, including the FAR 52.217-8 option to extend, for all tugs including daily hire, after-hours, if a separate after-hours rate is offered, and any delivery and/or redelivery fees, if offered. Fuel will not be part of the total evaluated price. The daily hire will equal the offered daily rate multiplied by the number of days in the period.

For evaluation purposes, the option price for the FAR 52.217-8 six-month period will use the daily rate of the final option period.

The after-hours component of the total evaluated price will equal the proposed after-hours rate per period multiplied by the estimated number of hours for each period listed in the table in PART I, Schedule of Estimates.

- 3) Past Performance.

The Government will search CPARS for each offeror’s three most recent, relevant government contracts for the ocean transportation of cargo. While the Government intends to use primarily CPARS to gather information on

offerors' past performance, it reserves the right to consider other sources of relevant information. The Government will not consider the past performance of parent or sister companies, and will only consider the past performance of the offeror. Recency and relevancy are defined in Part X above. The Government will consider the extent of the offeror's ability to perform a previous contract successfully by considering the overall quality of service provided.

At a minimum, award will not be made to an offeror who is or within the past three years has been seriously deficient in contract performance, unless the Contracting Officer determines that the circumstances were properly beyond the offeror's control or that the offeror took appropriate corrective action.

If discussions are held, offerors will be given the opportunity to address unfavorable reports of past performance assuming the offeror has not previously addressed it in the CPARS or other past performance database.

Rating Scale: The Government will assign ratings as follows:

Acceptable: Based on the offeror's performance record, the government has a reasonable expectation that the offeror will successfully perform the required effort, or the offeror's performance record is unknown (see note below).

Unacceptable: Based on the offeror's performance record, the government does not have a reasonable expectation that the offeror will be able to successfully perform the required effort.

Note: In the case of an offeror without a record of relevant past performance or for whom information on past performance is not available or so sparse that no meaningful past performance rating can be reasonably assigned, the offeror may not be evaluated favorably or unfavorably on past performance (see FAR 15.305(a)(2)(iv)). Therefore, the offeror shall be determined to have unknown past performance. In the context of acceptability/unacceptability, "unknown" shall be considered "acceptable."

For all offerors, the Government will consider historical compliance with the requirements of FAR 52.219-8 (Utilization of Small Business Concerns). In addition, for other-than-small businesses, the Government will consider historical compliance with the requirements of FAR Part 52.219-9 (Small Business Subcontracting Plan).

- 4) Subcontracting Plan. (if required) For other-than-small businesses, unless determined that subcontracting possibilities do not exist, the Government will evaluate the Small Business Subcontracting Plan in accordance with FAR 52.219-9. Failure to submit and negotiate a subcontracting plan acceptable to the Contracting Officer will make the offeror ineligible for award of a contract. Only the subcontracting plan submitted by the apparent awardee, if required, will be reviewed and negotiated prior to award.
- 5) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).
- 6) Offerors need to have a self-assessment in Supplier Performance Risk System (SPRS) application in Procurement Integrated Enterprise Environment (PIEE) in accordance with DFAR 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements. Failure to have this information will make the offeror ineligible for award.
- 7) Apparent Awardee will be required to submit the certification required in FAR 52.222-56 with regards to its Combatting in Trafficking Persons Compliance Plan.
- 8) 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.

(End of provision)

(End of PART XI)

PART XII

**PART XII  
SUBMISSION PACKAGE**

FAR 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to --

(i) Those prices,

(ii) The intention to submit an offer, or

(iii) The methods of factors used to calculate the prices offered:

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory --

(1) Is the person in the offeror's organization responsible for determining the prices offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ (insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies subparagraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of Provision)

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

(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 FAPIIS as required through maintaining an active registration in the System for Award Management, which can be accessed via <https://www.sam.gov> (see 52.204-7).

(End of provision)

FAR 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (DEC 2022), ALTERNATE I (OCT 2014)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

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

"Covered telecommunications equipment or services" has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Economically disadvantaged women-owned small business (EDWOSB) concern* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

*Forced or indentured child labor* means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

*Highest-level owner* means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

*Immediate owner* means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: Ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

*Inverted domestic corporation*, means a foreign incorporated entity that meets the definition of an inverted domestic corporation under 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

*Manufactured end product* means any end product in product and service codes (PSCs) 1000-9999, except—

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

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

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

*Reasonable inquiry* has the meaning provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

*Sensitive technology—*

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—
  - (i) To restrict the free flow of unbiased information in Iran; or
  - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

*Service-disabled veteran-owned small business concern—*

- (1) Means a small business concern—
  - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
  - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

*Small business concern—*

- (1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in its field of operation, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.
- (2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to

all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

*Small disadvantaged business concern*, consistent with 13 CFR 124.1002," means a small business concern under the size standard applicable to the acquisition, that--

- (1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by--
  - (i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and
  - (ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

*Subsidiary* means an entity in which more than 50 percent of the entity is owned—

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation.

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

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

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

*Women-owned business concern* means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

*Women-owned small business concern* means a small business concern --

- (1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

*Women-owned small business (WOSB) concern eligible under the WOSB Program (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States, and the concern is certified by SBA or an approved third-party certifier in accordance with 13 CFR 127.300.*

(b)

(1) Annual Representations and Certifications. Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM.

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications--Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs \_\_\_\_\_.

*[Offeror to identify the applicable paragraphs at (c) through (u) of this provision that the offeror has completed for the purposes of this solicitation only, if any.*

*These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.*

*Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that—

(i) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a small business concern; or

(ii) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a small business joint venture that complies with the requirements of 13 CFR 121.103(h) and 13 CFR 125.8(a) and (b). *[The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_.]*

(2) *Veteran-owned small business concern.* *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents as part of its offer that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.]* The offeror represents as part of its offer that—

(i) it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a service-disabled veteran-owned small business concern; or

(ii) it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a joint venture that complies with the requirements of 13 CFR 125.18(b)(1) and (2). *[The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .]* Each service-disabled veteran-owned small business concern

participating in the joint venture shall provide representation of its service-disabled veteran-owned small business concern status.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a women-owned small business concern.

(6) *WOSB joint venture eligible under the WOSB Program.* The offeror represents that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .]

(7) *Economically disadvantaged women-owned small business (EDWOSB) joint venture.* The offeror represents that it [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a joint venture that complies with the requirements of 13 CFR 127.506(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .]

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ \_\_\_\_ ] is, a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

\_\_\_\_\_

(10) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that--

(i) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a HUBZone small business concern listed, on the date of this representation, as having been certified by SBA as a HUBZone small business concern in the Dynamic Small Business Search and SAM, and will attempt to maintain an employment rate of HUBZone residence of 35 percent of its employees during performance of a HUBZone contract (13 CFR 126.200(e)(1)); and

(ii) It [ \_\_\_\_ ] is, [ \_\_\_\_ ] is not a HUBZone joint venture that complies with the requirements of 13 CFR 126.616(a) through (c). [The offeror shall enter the name and unique entity identifier of each party to the joint venture: \_\_\_\_ .] Each HUBZone small business concern participating in the HUBZone joint venture shall provide representation of its HUBZone status.

(d) Representations required to implement provisions of Executive Order 11246 --

(1) Previous contracts and compliance. The offeror represents that --

(i) It [ \_\_\_\_ ] has, [ \_\_\_\_ ] has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It [ \_\_\_\_ ] has, [ \_\_\_\_ ] has not, filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that --

(i) It [ \_\_\_\_ ] has developed and has on file, [ \_\_\_\_ ] has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It [ \_\_\_\_ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American – Supplies, is included in this solicitation.)

(1) (i) The Offeror certifies that each end product and that each domestic end product listed in paragraph (f)(3) of this provision contains a critical component, except those listed in paragraph (f)(2) of this provision, is a domestic end product.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except for those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

(iii) The Offeror shall separately list the line item numbers of domestic end products that contain a critical component (see FAR 25.105).

(iv) The terms “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American-Supplies.”

(2) Foreign End Products:

Line Item No.	Country of Origin	Exceeds 55% domestic content (yes/no)
____	____	____
____	____	____
____	____	____

[List as necessary]

(3) Domestic end products containing a critical component:

Line Item No. \_\_\_\_

[List as necessary]

(4) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g) (1) *Buy American -- Free Trade Agreements -- Israeli Trade Act Certificate.* (Applies only if the clause at FAR 52.225-3, Buy American -- Free Trade Agreements -- Israeli Trade Act, is included in this solicitation.)

(i) (A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that each domestic end product listed in paragraph (g)(1)(iv) of this provision contains a critical component.

(B) The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “critical component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American--Free Trade Agreements--Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
____	____
____	____
____	____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) or this provision) as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as end products. For those foreign end products that do not consist wholly or predominantly of iron or steel or a combination of both, the Offeror shall also indicate whether these foreign end products exceed 55 percent domestic content, except those that are COTS items. If the percentage of the domestic content is unknown, select “no”.

Other Foreign End Products:

Line Item No.	Country of Origin	Exceeds 55% domestic content (yes/no)
___	___	___
___	___	___
___	___	___

[List as necessary]

(iv) The Offeror shall list the line item numbers of domestic end products that contain a critical component (see FAR 25.105)

Line Item No. \_\_\_

[List as necessary]

(v) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Israeli End Products:

Line Item No.
___
___
___

[List as necessary]

(3) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American--Free Trade Agreements--Israeli Trade Act”:

Canadian or Israeli End Products:

Line Item No.:	Country of Origin:
___	___
___	___
___	___

[List as necessary]

(4) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.:	Country of Origin:
—	—
—	—
—	—

[List as necessary]

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product as defined in the clause of this solicitation entitled “Trade Agreements.”

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products

Line Item No.:	Country of Origin:
—	—
—	—
—	—

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals--

(1) [ \_\_\_\_ ] Are, [ \_\_\_\_ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) [ \_\_\_\_ ] Have, [ \_\_\_\_ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) [ \_\_\_\_ ] Are, [ \_\_\_\_ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) [ \_\_\_\_ ] Have, [ \_\_\_\_ ] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals Contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).* [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) Listed End Product

Listed End Product:	Listed Countries of Origin:
—	—
—	—
—	—

(2) *Certification.* [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

[  ] (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[  ] (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

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

(2) [  ] Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

(1) [  ] Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror [  ] does [  ] does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003-4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) [ \_\_\_\_ ] Certain services as described in FAR 22.1003-4(d)(1). The offeror [ \_\_\_\_ ] does [ \_\_\_\_ ] does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer identification number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to

the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) Taxpayer Identification Number (TIN).

TIN: \_\_\_\_ .

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other \_\_\_\_ .

(5) Common parent.

Offeror is not owned or controlled by a common parent:

Name and TIN of common parent:

Name \_\_\_\_

TIN \_\_\_\_

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.* (1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.

(2) *Representation.* The Offeror represents that--

(i) It [ \_\_\_ ] is, [ \_\_\_ ] is not an inverted domestic corporation; and

(ii) It [ \_\_\_ ] is, [ \_\_\_ ] is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and Certification.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR 25.703-2(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (et seq.) (See OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (e.g., 52.212-3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation).

(1) The Offeror represents that it [ \_\_\_ ] has or [ \_\_\_ ] does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates “has” in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: \_\_\_ .

Immediate owner legal name: \_\_\_ .

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity: \_\_\_ Yes or \_\_\_ No.

(3) If the Offeror indicates "yes" in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: \_\_\_ .

Highest-level owner legal name: \_\_\_ .

*(Do not use a "doing business as" name)*

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

(1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is [ \_\_\_ ] is not [ \_\_\_ ] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is [ \_\_\_ ] is not [ \_\_\_ ] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at 52.204-16, Commercial and Government Entity Code Reporting.)

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

(2) If the Offeror has indicated "is" in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_ (or mark "Unknown").

Predecessor legal name: \_\_\_ .

*(Do not use a "doing business as" name).*

(s) [Reserved]

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM (12.301(d)(1)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner) [ \_\_\_ ] does, [ \_\_\_ ] does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible Web site the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) [ \_\_\_ ] does, [ \_\_\_ ] does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly accessible Web site a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible Web site includes the Offeror's own Web site or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked "does" in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible Web site(s) where greenhouse gas emissions and/or reduction goals are reported: \_\_\_ .

(u)(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(v) *Covered Telecommunications Equipment or Services-Representation.* Section 889(a)(1)(A) and section 889(a)(1)(B) of Public Law 115-232.

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

(2) The Offeror represents that—

(i) 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.

(ii) After conducting a reasonable inquiry for purposes of this representation, 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)

FAR 52.212-3 ALTERNATE 1 (OCT 2014). AS PRESCRIBED IN 12.301(B)(2), ADD THE FOLLOWING PARAGRAPH (C)(11) TO THE BASIC PROVISION

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

- \_\_\_ Black American.
- \_\_\_ Hispanic American.
- \_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).
- \_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).
- \_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).
- \_\_\_ Individual/concern, other than one of the preceding.

(End of provision)

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

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 or 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) *Representation.* 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 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)

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

a) *Definitions.* As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have 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) (1) *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)

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

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

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

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

(End of provision)

#### DFARS 252.204-7017 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES—REPRESENTATION (MAY 2021)

The Offeror is not required to complete the representation in this provision if the Offeror has represented in the provision at [252.204-7016](#), Covered Defense Telecommunications Equipment or Services—Representation, that it "does not provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument."

(a) *Definitions.* "Covered defense telecommunications equipment or services," "covered mission," "critical technology," and "substantial or essential component," as used in this provision, have the meanings given in the [252.204-7018](#) clause, Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services, of this solicitation.

(b) *Prohibition.* Section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits agencies from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service to carry out covered missions that uses covered defense telecommunications

equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) at <https://www.sam.gov> for entities that are excluded when providing any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless a waiver is granted.

*Representation.* If in its annual representations and certifications in SAM the Offeror has represented in paragraph (c) of the provision at [252.204-7016](#), Covered Defense Telecommunications Equipment or Services—Representation, that it “does” provide covered defense telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument, then the Offeror shall complete the following additional representation:

The Offeror represents that it [ \_\_\_ ] will [ \_\_\_ ] will not provide covered defense telecommunications equipment or services as a part of its offered products or services to DoD in the performance of any award resulting from this solicitation.

(e) *Disclosures.* If the Offeror has represented in paragraph (d) of this provision that it “will provide covered defense telecommunications equipment or services,” the Offeror shall provide the following information as part of the offer:

(1) A description of all covered defense telecommunications equipment and services offered (include brand or manufacturer; product, such as model number, original equipment manufacturer (OEM) number, manufacturer part number, or wholesaler number; and item description, as applicable).

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

(3) For services, the entity providing the covered defense telecommunications services (include entity name, unique entity identifier, and Commercial and Government Entity (CAGE) code, if known). [ \_\_\_ ]

(4) For equipment, the entity that produced or provided the covered defense telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known). [ \_\_\_ ]

(End of provision)

#### FAR 52.233-2 SERVICE OF PROTEST (SEP 2006)

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

**Military Sealift Command, N103**  
471 East C Street – Building SP-48  
Naval Station Norfolk  
Norfolk, VA 23511

(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 provision)

FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://acquisition.gov/far>

<http://www.acq.osd.mil/dpap/dars/dfarspgi/current/>

(End of provision)

**ATTACHMENT A-OFFERED VESSEL CHARACTERISTICS SHEET**

CHARACTERISTIC	MINIMUM	CHARACTERISTIC	MINIMUM
FLAG		CLASSIFICATION	
PROPULSION TYPE		MAXIMUM LENGTH OVER ALL	
BOLLARD PULL	Fore: Aft: Athwart:	FENDERING AND CONFIGURATION	
TRANSIT SPEED		MAXIMUM DRAFT	
PASSENGER CAPACITY		ENDURANCE	
COMMUNICATION EQUIPMENT		FIREFIGHTING EQUIPMENT	
CAPSTANS/ WINCHES		PILOT TRANSFER CAPABILITY	
NAVIGATION EQUIPMENT		SEWAGE CAPACITY	
LINES		OTHER REQUIREMENTS	
BROW		VETTING	
MAXIMUM FIXED AIR DRAFT			

**ATTACHMENT B: CREW COMPLEMENT**

Crew Complement Per Tug: (billet, number of positions, and US dollar per day for base period, rounded to the nearest whole dollar. If billeting is different for different tugs, copy sheet and identify tugs on each sheet. )\*

Rating	Manning Scale	Actual Complem	Base Wage	Overtime	Pension/ Welfare	Vacation	Training	Payroll Taxes	Other	Total
Totals>										

**\*Wages/Fringes must be compliant with the Service Contract Act.**

**ATTACHMENT C- OFFERED RATES SHEET**

(To be filled in by the Contractor)

**Daily Rate**

Tug #1	Firm Period	Option One	Option Two	Option Three	Option Four
Daily Hire Rate					
After-hours Rate					
Delivery Fee					
Redelivery Fee					

Tug #2	Firm Period	Option One	Option Two	Option Three	Option Four
Daily Hire Rate					
After-hours Rate					
Delivery Fee					
Redelivery Fee					

**Fuel Consumption**

Tug #1

KNOTS (NM)	TOWING		UNDERWAY (NOT TOWING)	
	NET BBLs PER DAY	OPERATING RANGE	NET BBLs PER DAY	OPERATING RANGE
06>				
07>				
08>				
09>				
10>				
11>				
12>				

Tug #2

KNOTS (NM)	TOWING		UNDERWAY (NOT TOWING)	
	NET BBLs PER DAY	OPERATING RANGE	NET BBLs PER DAY	OPERATING RANGE
06>				
07>				
08>				
09>				
10>				
11>				
12>				

**ATTACHMENT E- DEPARTMENT OF LABOR WAGE DETERMINATION**

(SEE SEPARATE ATTACHMENT)

**ATTACHMENT F: DISCLOSURE OF LOBBYING ACTIVITIES (SF LLL)**

(SEE SEPARATE ATTACHMENT)

**ATTACHMENT G – STRIKE CONTINGENCY PLAN & VESSEL CASUALTY PLAN**

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**STRIKE CONTINGENCY PLAN**

Describe how services will be provided without interruption if there is a labor strike:

**VESSEL CASUALTY PLAN**

Describe how services will be provided without interruption if there is a severe casualty to a vessel that makes the vessel inoperable:

**ATTACHMENT H: CONTRACTOR'S SUBCONTRACTING PLAN**  
**(SEE SEPARATE ATTACHMENT)**





**ATTACHMENT I: REQUEST FOR CLARIFICATION/QUESTION**  
**SOLICITATION: N3220523R4012**

DATE OF REQUEST: \_\_\_\_\_

QUESTION NO: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

CONTRACTOR POC & PHONE: \_\_\_\_\_

CONTRACTOR QUESTION:

DO NOT WRITE BELOW THIS LINE  
(FOR MSC USE ONLY)

TECHNICAL REVIEW/RESPONSE TO N103:

COR REVIEW:		DATE:		LEGAL REVIEW:		DATE:	
LCE REVIEW:		DATE:					
SOLICITATION CHANGE: Y/N	TECH MANUAL CHANGE: Y/N						

(End of PART XII)

(End of Summary of Changes)