

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NO. 4208-7137+	PAGE 1 OF 42
2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NO.	5. SOLICITATION NO. N00164-04-R-8535	6. SOLICITATION ISSUE DATE 14 OCT 2004	
7. FOR SOLICITATION INFORMATION CALL		a. NAME Dallas Parsley fax 812-854-5066	b. TELEPHONE NO. <i>(No collect calls)</i> 812-854-2239	8. OFFER DUE DATE/LOCAL TIME 14 NOV 2004 2:00pm est	
9. ISSUED BY NSWC Crane, Code 0565ZE Bldg. 3291 300 Highway 361 Crane IN 47522-5001		CODE N00164	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV. BUSINESS <input type="checkbox"/> 8(A) SIC: 334511 SIZE STD: 750	11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input checked="" type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING DO-A70 CD: B	12. DISCOUNT TERMS
15. DELIVER TO NSWC Crane, 300 Highway 361 M/F 805C BLDG 3291 Lab Harry Taylor X 5868 Crane IN 47522-5001		CODE N00164	16. ADMINISTERED BY CODE		
17a. CONTRACTOR/OFFEROR CODE		FACILITY CODE	18a. PAYMENT WILL BE MADE BY CODE		
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER			18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input checked="" type="checkbox"/> SEE ADDENDUM		
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE
	SEE PAGE 2				
					24. AMOUNT
<i>(Attach Additional Sheets as Necessary)</i>					
25. ACCOUNTING AND APPROPRIATION DATA Will be specified in individual delivery orders.				26. TOTAL AWARD AMOUNT <i>(For Govt. Use Only)</i>	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.					
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.					
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u> 1 </u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN. <input type="checkbox"/>			29. AWARD OF CONTRACT: REFERENCE N00164-03-R-8533 OFFER DATED 29 DEC 2003. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: <input type="checkbox"/>		
30a. SIGNATURE OF OFFEROR/CONTRACTOR			31a. UNITED STATES OF AMERICA <i>(SIGNATURE OF CONTRACTING OFFICER)</i>		
30b. NAME AND TITLE OF SIGNER <i>(TYPE OR PRINT)</i>		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER <i>(TYPE OR PRINT)</i>		31c. DATE SIGNED
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED			33. SHIP NUMBER <input type="checkbox"/> PARTIAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR
32b. SIGNATURE OF AUTHORIZED GOVT		32c. DATE	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/>		37. CHECK NUMBER
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT			38. S/R ACCOUNT NO.	39. S/R VOUCHER NO.	40. PAID BY
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE	42a. RECEIVED BY <i>(Print)</i>		
			42b. RECEIVED AT <i>(Location)</i>		
			42c. DATE REC'D <i>(YY/MM/DD)</i>	42d. TOTAL CONTAINERS	

INPUT OF REPAIRS:**NON-WARRANTY REPAIRS ON ARTICLES TO BE REPAIRED AND/OR MODIFIED ON CLIN 0005**

Articles to be repaired under this contract, will be shipped at the Government's expense to the contractor's plant, _____ . The contractor shall receive for each shipment a list (referencing this contract number) of the articles included in the shipment stated on the DD Form 1149 or DD Form 1348.

THE FFP PRICE FOR CLIN 0005 – NON WARRANTY MINOR REPAIRS – IS FOR THE EVALUATION AND MINIMAL REPAIRS OF THE EO AND INCLUDES: Clean, visually inspect and bench test, disassemble to the extent necessary to verify failure and/or inspect for needed repair processes and parts of subassemblies as required. This process may include the removal and replacement of subassemblies in order to verify failures, the tightening of connections or fasteners, or other minimal repairs that can be accomplished during the evaluation. If there is no evidence of failure (NEOF), actions will include initial inspection with the applicable ATP and shipment to NSWC Crane/FOB destination for final inspection and acceptance.

Upon receipt of such articles, the contractor shall furnish labor and material effort, including facilities as may be required to repair the particular units.

If the repair requires work in excess of the repair defined for CLIN 0005, set by the contract, the contractor shall take action as described under the appropriate situation.

Advise the Procuring Contracting Officer (PCO) if any portion of the required servicing is a result of the furnishing by the contractor of articles that were defective in material and workmanship or otherwise not in conformance with the requirements of the contract under which such articles were originally furnished.

In the event the failed unit is determined to have equipment missing on induction, the contractor shall notify the PCO no later than five (5) days of its receipt along with a list of missing equipment. The Government will then provide disposition instructions (i.e. place usable assemblies/subassemblies into GFP and scrap remaining components, provide approval to replace missing equipment with existing GFP (if available) without replacement, or request the contractor provide a fixed-price repair proposal, to include the cost of the missing equipment and shipment to the return address.)

In the event the unit(s) is determined to be in need of repairs of such a magnitude that it will exceed the definition of CLIN 0005, the contractor shall notify the PCO within 48 hours, prior to exceeding the FFP requesting authorization to proceed with the repair. This request shall be followed within fifteen (15) days by a proposal that includes sufficient supporting data to permit its evaluation and eventual negotiation of a fixed price and delivery under CLIN 0006.

In the event the repair requires work in excess of the repair defined for CLIN 0005, the contractor shall provide a firm proposal with cost breakdown which shall include labor hours, labor categories, labor rates, material, overhead, general and administrative, profit, repair synopsis and the delivery schedule to complete the repair. The repair synopsis shall include a listing of all significant actions (failures, remedies, etc) which are necessary to effect the repair and, which are reflected in the labor hours being proposed. The repair proposals shall be forwarded to the Contracting Officer at the following address:

NAVSURFWARREN CRANE DIVISION
300 HIGHWAY 361
ATTN: DALLAS PARSLEY, CODE 1165ZR
CRANE, IN 47522-5001

Contractors are requested to provide additional SUBCLIN FFP pricing for CLIN 0005 repairs i.e. minor repair, intermediate repair and major repair at this time with a description of each repair type if enough history is available at this time.

SCHEDULE NOTES:

1. SPECIAL NOTICE - Contractors must be registered in the Central Contractor Registration (CCR) as a condition for receipt of contract award. Offerors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at <http://www.ccr.gov>. For further details regarding the requirements of CCR, offerors are advised to review the requirements of DFAR 252.204-7004 contained herein.

2. EXPEDITING CONTRACT CLOSEOUT (NAVSEA) (DEC 1995)

(a) As part of the negotiated fixed price or total estimated amount of this contract, both the Government and the Contractor have agreed to waive any entitlement that otherwise might accrue to either party in any residual dollar amount of \$500 or less at the time of final contract closeout. The term "residual dollar amount" shall include all money that would otherwise be owed to either part at the end of the contract except that, amounts connected in any way with taxation, allegations of fraud and/or antitrust violations shall be excluded. For purposes of determining residual dollar amounts, offsets of money owed by one party against money that would otherwise be paid by that party may be considered to the extent permitted by law.

(b) This agreement to waive entitlement to residual dollar amounts has been considered by both parties. It is agreed that the administrative costs for either part associated with collected such small dollar amounts could exceed the amount to be recovered.

3. List your Commercial and Government (CAGE) Code and Contractor Establishment Code in Block 17a. of Page 1.

4. The agency authorized to place delivery orders against this contract is: Crane Division, Naval Surface Warfare Center (NAVSURFWARCENDIV Crane), Crane, IN 47522.

5. Delivery orders placed under this contract will be placed by the Government no later than 60 months from award date of contract.

6. Failure of the Government to order such items in the amounts or quantities described in the Schedule as estimated or maximum will not entitle the contractor to any equitable adjustment in price.

7. Proposals for less than the maximum quantities solicited will be considered unacceptable. Offerors may submit a proposal for a SUBCLIN to be considered for award.

8. In order to expedite payment it is requested that contractor submit billing using a DD250.

9. It is requested that technical questions concerning this procurement be submitted, via electronic mail not later than 2:00 PM EST on the seventh calendar day preceding the date shown in item 8 on page 1 submitted to the following e-mail address: mary.sheetz@navy.mil or vonda.pollock@navy.mil.

BLOCK 25: ACCOUNTING AND APPROPRIATION DATA WILL BE SPECIFIED IN INDIVIDUAL DELIVERY ORDERS.

SPECIAL PAYMENT INSTRUCTIONS

- Payment instructions will be detailed in each individual delivery order
- Payment is not to be pro-rated.
- ACRNs are to be paid in accordance with contractor's invoice.
- Disburse ACRNs in the order shown:

SPECIAL INVOICE/BILLING INSTRUCTIONS

- Invoice/Billing instructions will be detailed in each individual delivery order
- The contract ACRN associated with each CLIN/SubCLIN shall be referenced on page 1 of the invoice by CLIN/SubCLIN.
- CLIN XXXX: Invoice ACRNs in the order shown:
- In addition to Payment Office copy, the contractor shall submit 1 copy of the invoice to:

VENDOR PAY
CODE 00M, BLDG 3173
NAVSURFWARCENDIV

300 HIGHWAY 361

CRANE IN 47522-5002

Or e-mail the invoice to the following address:

cnin_Vendor_Pay@crane.navy.mil

The subject line of the e-mail must read as follows:

Company Name/Contract Number/Order Number

PROMPT PAYMENT CONSTRUCTIVE ACCEPTANCE (5814)

Constructive Acceptance as defined in the Prompt Payment Act is hereby changed to:

For the sole purpose of computing an interest penalty that might be due the contractor, government acceptance shall be deemed to have occurred constructively on the 31th day after the contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision.

The due date for payment is defined in FAR 52.232-25, Prompt Payment, (Oct 2003), paragraph (a)(1) as follows:

Due date.

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause (FAR 52.232-25), the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause (FAR 52.232-25).

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

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

ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (5815)

DFARS 252.232-7003 is hereby incorporated into the contract by reference. For purposes of implementation of electronic finance payment invoicing under NSWC Crane contracts, WAWF-RA is applicable in accordance with [Deployment of Wide Area WorkFlow - Receipt and Acceptance](#) OUSD(AT&L)(DP) memo 1 Apr 2002. Other electronic systems are not to be utilized.

For other than finance payment request invoices, NSWC Crane is currently working with the WAWF-RA program office to develop an interface between the financial system and WAWF-RA. However, this interface is not currently in place and NSWC Crane cannot currently accept WAWF-RA invoices for payment against lines of accounting cited in contracts/orders issued and certified for payment by NSWC Crane (DoDACC N00164 / FC).

In accordance with DFARS 252.232-7003(c), the contractor is required to submit their receipt and acceptance documentation with delivery of the materials. A copy of the invoice for payment shall be submitted, in hard copy or via e-mail, in accordance with the Submission of Invoice Clause and Special Invoice Instructions located elsewhere herein.

PAYMENT STATUS INQUIRIES

Status of invoice payments can be obtained from the following web site:

www.dfas.mil/money/vendor

If the **payment is being made by DFAS—Columbus** use the **MOCAS Vendor Pay Inquiry System (VPIS)** site listed on the above web site. It is recommended that the vendor download the “MOCAS VPIS Help Guide” and “Reason and Remark Code Document”. You must then register by clicking on “User Registration” under the subheading “MOCAS Vendor Pay Inquiry System” before payment inquiries can be made.

If payment is being made by **other than DFAS-Columbus**, status of invoice payment can be obtained through the **Non-MOCAS System** by cage code, contract number or DUNS number at the above listed web site.

To determine which system to use see the following blocks of your contract document for payment offices designation:

<u>Document</u>	<u>Block</u>
SF 1449 Solicitation/Contract/Order for Commercial Items	18a
DD1155 Order for Supplies or Services	15
Section "A" - Standard Form (SF) DD1449	
Section "B" - Continuation of block 20 from SF 1449 (Schedule of Supplies and Services)	
Section "C" - Solicitation/Contract Clauses with addenda	
Section "D" - Attachments	
Section "E" - Solicitation Provisions	
Section "D" - List of Attachments:	

EXHIBITS/ATTACHMENTS SECTION IN ACCORDANCE WITH FAR 12.303(D)

<u>Description:</u>	<u># of Pages</u>	<u>Attachment #</u>
Contractor Performance Data Sheet	1	1
Statement of work 8/25/9/17/04	11	2
Performance specification: Electro-optics Sensor (EOS) Version 1.3 dated 16 SEP 2004	23	3
DD254	1	4
DD 1423 Contract Data Requirement Lists (CDRLs)		
A001 Configuration Identification Baseline		
A002 Engineering Change Proposal		
A003 Request for Deviation (RFD)		
A004 Request for Wavier (RFW)		
A005 Notice of Revision (NOR)		
A006 Failure Summary and Analysis Report		
A007 Reliability Centered Maintenance		
A008 Reliability Data		
A009 Acceptance Test Plan (ATP)		
A010 Acceptance Test Procedure		
A011 Training Curriculum		
A012 COTS Manual		
A013 Interface Control Documentation		
A014 Provisioning Technical documentation		
A015 Proposed Spare Parts Lists		
A016 In process Reviews Agenda and Minutes		
A017 In process Reviews Agenda and Minutes		
A018 Contractor's Progress, Status & Management Report		

CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (OCT 2003) (FAR 52.212-4)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights --

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

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

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

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

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

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

(g) *Invoice.* (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 52.212-5(b) for the appropriate EFT clause.

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

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

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

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

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

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

(l) *Termination for the Government's convenience.*

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

give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

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

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

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

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

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

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

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

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

(t) *Central Contractor Registration (CCR).*

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

(2) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the

contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to:

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

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

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

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

(End of Clause)

NOTE: The clause at FAR 52.212-4 has been tailored for this procurement via addendum 1.

ADDENDUM 1 TO FAR 52.212-4

Paragraph (a) "Inspection/Acceptance" replace with the following:

(a) Initial inspection of the supplies to be furnished hereunder shall be made by COGNIZANT GOVERNMENT REPRESENTATIVE at the contractor's or subcontractor's plant located at **. The cognizant inspector shall be notified when the material is available for inspection. The place designated for such actions may not be changed without authorization of the Contracting Officer. Final inspection and acceptance shall be made by NAVSEA Crane Local Government Representative within 30 days after receipt at DESTINATION.

Initial inspection shall consist of quality assurance at point of manufacture and/or assembly and check/test prior to shipment. Final inspection and acceptance will be made by the Government Representative Activity after testing of the supplies.

(b) Advance notification of the cognizant inspector x is is not required at least 5 days prior to conducting contractor inspections and/or testing.

Inspection and acceptance of all data shall be as specified on the attached Contract Data Requirements List(s), DD Form 1423.

Item(s) ALL – Final inspection and acceptance shall be made at destination by a representative of the Government.

The Government shall accept/reject supplies/services to be provided hereunder within 30 days after receipt of supplies/services at NAVSURFWARCENDIV Crane.

Offers submitted on a basis other than F.O.B. Destination may be rejected as nonresponsive.

**Will be completed in contract and/or indicated on individual delivery orders.

Paragraph (o) "Warranty" change as follows:

The contractor shall extend to the Government the full coverage of any standard commercial warranty normally offered in a similar commercial sale, provided such warranty is available at no additional cost to the Government. Acceptance of the standard commercial warranty does not waive the Government's rights under the "Inspection" clause nor does it limit the Government's rights with regard to the other terms and conditions of this contract. In the event of a conflict, the terms and conditions of the contract shall take precedence over the standard commercial warranty. The standard commercial warranty period shall begin upon final acceptance of the applicable material and/or services listed in the Schedule.

The contractor shall provide a copy of its standard commercial warranty (if applicable) with its offer. The warranty covers a period of __\ months or ____\ hours. (*Offeror is to insert number.*)

The following paragraph is hereby added to the clause:

(t) *Contractor Performance Reports.* The Government may evaluate the performance of the contractor awarded the contract resulting from this solicitation, in accordance with FAR 42.1500. The following performance rating factors will be utilized:

- Quality
- Timeliness of Performance
- Business Relations
- Customer Satisfaction

Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (June 2004) FAR 52.212-5

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clause, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items: 52.233-3, Protest after Award (Aug 1996)(31 U.S.C 3553).

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

- (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995)(41 U.S.C. 253g and 10 U.S.C. 2402).
- (2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999)(15 U.S.C. 657a).
- (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).
- (4) (i) 52.219-5, Very Small Business Set-Aside (June 2003)(Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
- (ii) Alternate I (Mar 1999) of 52.219-5.
- (iii) Alternate II (June 2003) of 52.219-5.
- (5) (i) 52.219-6, Notice of Total Small Business Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-6.
- (iii) Alternate II (Mar 2004) of 52.219-6.
- (6) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003)(15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-7.
- (iii) Alternate II (Mar 2004) of 52.219-7.

- (7) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
- (8) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2002)(15 U.S.C. 637 (d)(4)).
- ___ (ii) Alternate I (Oct 2001) of 52.219-9.
- ___ (iii) Alternate II (Oct 2001) of 52.219-9.
- ___ (9) 52.219-14, Limitations on Subcontracting (Dec 1996)(15 U.S.C. 637(a)(14)).
- ___ (10) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (June 2003)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- ___ (ii) Alternate I (June 2003) of 52.219-23.
- ___ (11) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Oct 1999)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (12) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000)(Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ___ (13) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).
- ___ (14) 52.222-3, Convict Labor (June 2003)(E.O. 11755).
- ___ (15) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (June 2004) (E.O. 13126).
- ___ (16) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (17) 52.222-26, Equal Opportunity (Apr 2002)(E.O. 11246).
- (18) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).
- (19) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998)(29 U.S.C. 793).
- (20) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).
- ___ (21) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Aug 2000)(42 U.S.C. 6962(c)(3)(A)(ii)).
- ___ (ii) Alternate I (Aug 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- ___ (22) 52.225-1, Buy American Act--Supplies (June 2003)(41 U.S.C. 10a-10d).
- ___ (23) (i) 52.225-3, Buy American Act –Free Trade Agreement – Israeli Trade Act (Jan 2004)(41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L. 108-77, 108-78).
- ___ (ii) Alternate I (Jan 2004) of 52.225-3.
- ___ (iii) Alternate II (Jan 2004) of 52.225-3.
- ___ (24) 52.225-5, Trade Agreements (June 2004)(19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- ___ (25) 52.225-13, Restrictions on Certain Foreign Purchases (Dec 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ___ (26) 52.225-15, Sanctioned European Union Country End Products (Feb 2000)(E.O. 12849).
- ___ (27) 52.225-16, Sanctioned European Union Country Services (Feb 2000)(E.O. 12849).

(28) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002)(41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(29) 52.232.30, Installment Payments for Commercial Items (Oct 1995)(41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(30) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003)(31 U.S.C. 3332).

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

(32) 52.232-36, Payment by Third Party (May 1999)(31 U.S.C. 3332).

(33) 52.239-1, Privacy or Security Safeguards (Aug 1996)(5 U.S.C. 552a).

(34) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003)(46 U.S.C. 1241 and 10 U.S.C. 2631).

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

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

(1) 52.222-41, Service Contract Act of 1965, as Amended (May 1989)(41 U.S.C. 351, *et seq.*).

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

(3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (May 1989)(29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

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

(5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreements (CBA) (May 1989)(41 U.S.C. 351, *et seq.*).

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

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

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

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

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

- (i) 52.219-8, Utilization of Small Business Concerns (May 2004)(15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
- (ii) 52.222-26, Equal Opportunity (Apr 2002)(E.O. 11246).
- (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001)(38 U.S.C. 4212).
- (iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998)(29 U.S.C. 793).
- (v) 52.222-41, Service Contract Act of 1965, as Amended (May 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, *et seq.*)
- (vi) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Apr 2003)(46 U.S.C. Appx 1241 and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64,

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

(End of Clause)

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (JUN 2004) DFARS 252.212-7001

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

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

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

- 252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416)
- 252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (D Contracts) (APR 1996) (15 U.S.C. 637).
- 252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (T Program) (JUN 1997) (15 U.S.C. 637 note).
- 252.225-7001 Buy American Act and Balance of Payments Program (APR 2003) (41 U.S.C. 10a-10d, E 10582).
- 252.225-7012 Preference for Certain Domestic Commodities (JUN 2004) (10 U.S.C. 2533a).
- 252.225-7014 Preference for Domestic Specialty Metals (APR 2003) (10 U.S.C. 2533a).

<input type="checkbox"/>	252.225-7015	Restriction on Acquisition of Hand or Measuring Tools (APR 2003) (10 U.S.C. 2533a).
<input checked="" type="checkbox"/>	252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (MAY 2004) (<input type="checkbox"/> Alternate I) (APR 2003) (10 U.S.C. 2534 and Section 8099 of Pub. L. 104-61 and similar sections in subsequent DoD appropriations acts).
<input type="checkbox"/>	252.225-7021	Trade Agreements (JUN 2004) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
<input type="checkbox"/>	252.225-7027	Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
<input type="checkbox"/>	252.225-7028	Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
<input type="checkbox"/>	252.225-7036	Buy American Act--Free Trade Agreements--Balance of Payments Program (JAN 2004) (<input type="checkbox"/> Alternate I) (JAN 2004) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
<input type="checkbox"/>	252.225-7038	Restriction on Acquisition of Air Circuit Breakers (APR 2003) (10 U.S.C. 2534(a)(3))
<input type="checkbox"/>	252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (OCT 2003) (Section 8021 of Pub. L. 107-248).
<input checked="" type="checkbox"/>	252.227-7015	Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
<input checked="" type="checkbox"/>	252.227-7037	Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
<input checked="" type="checkbox"/>	252.232-7003	Electronic Submission of Payment Requests (JAN 2004) (10 U.S.C. 2227).
<input checked="" type="checkbox"/>	252.243-7002	Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
<input checked="" type="checkbox"/>	252.247-7023	Transportation of Supplies by Sea (MAY 2002) (<input type="checkbox"/> Alternate I) (MAR 2000) (<input type="checkbox"/> Alternate II) (MAR 2000) (<input type="checkbox"/> Alternate III) (MAY 2002) (10 U.S.C. 2631).
<input checked="" type="checkbox"/>	252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014	Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
252.247-7023	Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

CLAUSES INCORPORATED BY REFERENCE

<u>Title and Date</u>	<u>FAR Paragraph No.</u>
Security Requirements (Aug 1996)	52.204-2
Defense Priority And Allocation Requirements (Sep 1990)	52.211-15
Subcontractor Cost Or Pricing Data--Modifications (Oct 1997)	52.215-13
Hazardous Material Identification And Material Safety Data (Jan 1997)	52.223-3
Restrictions On Certain Foreign Purchases (Dec 2003)	52.225-13

Service Of Protest (Aug 1996)
 Optional Information For Electronic Funds Transfer Payment (Aug 1996)
 Stop Work Order (Aug 1989)
 Changes - Fixed Price (Aug 1987)
 FOB Destination (NOV 1991)
 Facsimile Proposals (Dec 1989)

52.233-2
 52.232-34
 52.242-15
 52.243-1
 52.247-34
 52.215-05

Title and Date

DFAR Paragraph No.

Central Contractor Registration – Alt 1 (Nov 2003)
 Deferred Ordering of Technical Data or Computer Software (Apr 1988)
 Qualifying country sources as subcontractors (Dec 1991)

252.204-7004
 252.227-7027
 252.225-7002

CLAUSES INCORPORATED IN FULL

Delivery is required as follows:

<u>CLIN</u>	<u>QTY</u>	<u>Required Delivery</u>
Max 147 of delivery order is complete.	0001	<u>TBD</u> At least 8 units 60 days from effective date (DO) with subsequent deliveries of at least 10 units every 60 days until order
0002	1 LO	As specified in delivery order.
0003,0004AA through 004AF	1 LO	As specified in DD1423.
0005	1 LO	Repair of system 10 days from receipt/date of DO.
0006	1 LO	Repair of system 10 days from receipt/date of DO.

PLACE OF DELIVERY

The material to be furnished hereunder shall be delivered F.o.b. destination with all transportation charges paid by the supplier to: BLDG 3291 Lab CODE 805C; NAVSURFWARCDIV; 300 Highway 361, CRANE, IN 47522-5011; Mark For: 805C, Attn: Harry Taylor

The contractor shall schedule deliveries under this contract to ensure arrival at destination only on Monday through Friday (excluding holidays) between the hours of 7:00 A.M. and 2:00 P.M. Eastern Standard Time. The receiving facility for this material is closed on Saturdays and Sundays.

REPORTING REQUIREMENTS - MONTHLY STATUS REPORTS

A status report shall be submitted monthly to NAVSURFWARCEN CRANE, 300 HIGHWAY 361, CODE 805C BLDG 3291, M/F Greg Smith, CRANE IN 47522-5001. The report shall also provide the data status and delivery status.

IDENTIFICATION MARKING OF PARTS (NAVSEA) (NOV 1996)

(a) Identification marking of individual parts within the systems, equipment, assemblies, subassemblies, components, groups, sets or kits, and of spare and repair parts shall be done in accordance with applicable specifications and drawings. To the extent identification marking of such parts is not specified in applicable specifications or drawings, such marking shall be accomplished in accordance with the following:

- (1) Parts shall be marked in accordance with generally accepted commercial practice.
- (2) In cases where parts are so small as not to permit identification marking as provided above, such parts shall be appropriately coded so as to permit ready identification.

Review performance specification(s) for additional marking instructions.

DATA PACKAGING LANGUAGE

All unclassified data shall be prepared for shipment in accordance with best commercial practice. Classified reports, data, and documentation shall be prepared for shipment in accordance with National Industrial Security Program Operating Manual (NISPOM), DOD 5220.22-M dated January 1995.

MARKING AND PACKING LIST(S) (NAVSEA) (NOV 1996)

- (a) Marking. Shipments, shipping containers and palletized unit loads shall be marked in accordance with best commercial practice.
- (b) Packing List(s). A packing list (DD Form 250 Material Inspection and Receiving Report may be used) identifying the contents of each shipment, shipping container or palletized unit load shall be provided by the Contractor with each shipment. When a contract line item identified under a single stock number includes an assortment of related items such as kit or set components, detached parts or accessories, installation hardware or material, the packing list(s) shall identify the assorted items. Where assortment of related items is included in the shipping container, a packing list identifying the contents shall be furnished.
- (c) Master Packing List. In addition to the requirements in paragraph (b) above, a master packing list shall be prepared where more than one shipment, shipping container or palletized unit load comprise the contract line item being shipped. The master packing list shall be attached to the number one container and so identified.
- (d) Part Identification. All items within the kit, set, installation hardware or material shall be suitably segregated and identified within the unit pack(s) or shipping container by part number and/or national stock number.

MARKING OF ITEMS ARE INDICATED IN PERFORMANCE SPECIFICATION AND STATEMENT OF WORK.

PREPARATION FOR DELIVERY

- (1) PRESERVATION-PACKAGING. Preservation-packaging for Item(s) ALL shall be in accordance with the requirements of best commercial.
- (2) PACKING. Item(s) All preserved-packaged as above shall be packed level ASTM 3951 and MIL-HDBK-129M.

PROHIBITED PACKING MATERIALS

The use of asbestos, excelsior, newspaper or shredded paper (all types including waxed paper, computer paper and similar hygroscopic or non-neutral material) is prohibited. In addition, loose fill polystyrene is prohibited for shipboard use.

QUALITY SYSTEM REQUIREMENTS (NAVSEA) (MAY 1995)

Quality System Requirements: The Contractor shall provide and maintain a quality system that, as a minimum, adheres to the requirements of ISO-9001 or equivalent for Quality Assurance in Design/Development, Production, Installation, and Servicing and supplemental requirements imposed by this contract. The quality system procedures, planning, and all other documentation and data that comprise the quality system shall be made available to the Government for review. Existing quality documents that meet the requirements of this contract may continue to be used. The Government may perform any necessary inspections, verifications, and evaluations to ascertain conformance to requirements and the adequacy of the implementing procedures. The Contractor shall require of subcontractors a quality system achieving control of the quality of the services and/or supplies provided. The Government reserves the right to disapprove the quality system or portions thereof when it fails to meet the contractual requirements.

TECHNOLOGY IMPROVEMENTS (OCT 1991) 5252.239-9605

After contract award, the Government may solicit, and the Contractor is encouraged to propose independently, technology improvements to the equipment, software specifications, or other requirements of the contract. These improvements may be proposed to save money, to improve performance, to save energy or for any other purpose which presents a technological advantage to the Government. As part of the proposed changes, the Contractor shall submit a price proposal to the Contracting Officer for evaluation. Those proposed technology improvements that are acceptable to the Government will be processed as modifications to the contract. As a minimum, the following information shall be submitted by the Contractor with each proposal:

A description of the difference between the existing contract requirement and the proposed change, and the comparative advantages and disadvantages of each; Itemized requirements of the contract which must be changed if the proposal is adopted, and the proposed revision to the contract for each such change;

An estimate of the changes in performance and cost, if any, that will result from adoption of the proposal;
 An evaluation of the effects the proposed changes would have on collateral costs to the Government, such as Government-furnished property costs, costs of related items, and costs of maintenance, operation and conversion (including Government application software); and
 A statement of the time by which the contract modification adopting the proposal must be issued so as to obtain the maximum benefits of the changes during the remainder of this contract including supporting rationale; and
 Any effect on the contract completion time or delivery schedule shall be identified.
 The Government reserves the right to require a rerun of selected portions of the live test demonstration to verify the proposed improvement, at no additional charge to the Government.
 The Government will not be liable for proposal preparation costs or any delay in acting upon any proposal submitted pursuant to this clause. The Contractor has the right to withdraw, in whole or in part, any proposal not accepted by the Government within the period specified in the proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract is final and not subject to the "Disputes" Clause of this contract.
 The Contracting Officer may accept any proposal submitted pursuant to this clause by giving the Contractor written notice thereof. This written notice will be given by issuance of a modification to this contract. Unless and until a modification is executed to incorporate a proposal under this contract, the Contractor shall remain obligated to perform in accordance with the requirements, terms and conditions of the existing contract.
 If a proposal submitted pursuant to this clause is accepted and applied to this contract, the equitable adjustment increasing or decreasing the contract price shall be in accordance with the procedures of the "Changes" clause.
 The resulting contract modification will state that it is made pursuant to this clause.

(End of clause)

NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (FAR 52.211-14) (SEP 1990)

Any contract awarded as a result of this solicitation will be () DX rated order; (X) DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

ORDERING (OCT 1995) (FAR 52.216-18)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 1 DAY through 60 MONTHS FROM AWARD DATE OF CONTRACT.

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

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

DELIVERY ORDER LIMITATIONS (OCT 1995) (FAR 52.216-19)

(a) Minimum Order. When the Government requires supplies or services covered by this contract in an amount of less than 1 UNIT, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum Order. The Contractor is not obligated to honor--

(1) Any order for a single item in excess of 147 UNITS for CLIN 0001.

(2) Any order for a combination of items in excess of 147;

or

(3) A series of orders from the same ordering office within 1 week that together call for quantities exceeding the limitation in subparagraph (1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 14 days

after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for the reasons. Upon receiving this notice, the Government may acquire the supplies or service from another source.

INDEFINITE QUANTITY (OCT 1995) (FAR 52.216-22)

- (a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."
- (c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after completion of delivery of the last delivery order issued.

CONTRACTOR PERFORMANCE ASSESSMENT RATING SYSTEM (CPARS) (JAN 2001)

- (a) Pursuant to FAR 42.1502, this contract is subject to DoD's Contractor Performance Assessment System (CPARS). CPARS is an automated centralized information system accessible via the Internet that maintains reports of contractor performance for each contract. CPARS is located at <http://www.cpars.navy.mil/>. Further information on CPARS is available at that web-site.**
- (b) Under CPARS, the Government will conduct annual evaluations of the contractor's performance. The contractor has thirty (30) days after the Government's evaluation is completed to comment on the evaluation. The opportunity to review and comment is limited to this time period and will not be extended. Failure to review the report at this time will not prevent the Government from using the report.**
- (c) The contractor may request a meeting to discuss the CPAR. The meeting is to be requested via e-mail to the CPARS Program Manager no later than seven days following receipt of the CPAR. A meeting will then be held during the contractor's 30-day review period.**
- (d) The CPARS system requires the Government to assign the contractor a UserID and password in order to view and comment on the evaluation. Provide the name(s) of at least one individual (not more than three) that will be assigned as your Defense Contractor Representative for CPARS.**

<u>Name</u>	<u>Phone</u>	<u>E-mail</u>
<u>Address (optional)</u>		
_____	_____	_____
_____	_____	_____
_____	_____	_____

NOTICE OF RADIOACTIVE MATERIALS (JAN 1997) (FAR 52.223-7)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, 90 days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall--

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD-129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(End of provision)

252.211-7003 Item Identification and Valuation. (JAN 2004)

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

“Automatic identification device” means a device, such as a reader or interrogator, used to retrieve data encoded on machine-readable media.

“Commonly accepted commercial marks” means any system of marking products for identification that is in use generally throughout commercial industry or within commercial industry sectors. Some examples of commonly accepted commercial marks are: EAN.UCC Global Trade Item Number; Automotive Industry Action Group B-4 Parts Identification and Tracking Application Standard, and B-2 Vehicle Identification Number Bar Code Label Standard; American Trucking Association Vehicle Maintenance Reporting Standards; Electronic Industries Alliance EIA 802 Product Marking Standard; and Telecommunications Manufacturers Common Language Equipment Identification Code.

“Unique item identifier” means—

(1) For items that are serialized within the enterprise identifier, the linking together of the unique identifier data elements in order of the issuing agency code, enterprise identifier, and unique serial number within the enterprise identifier; or

(2) For items that are serialized within the original part number, the linking together of the unique identifier data elements in order of the issuing agency code, enterprise identifier, original part number, and serial number within the part number.

“Data qualifier” means a specified character (or string of characters) that immediately precedes a data field that defines the general category or intended use of the data that follows.

“DoD recognized unique identification equivalent” means a unique identification method that is in commercial use and has been recognized by DoD. All DoD recognized unique identification equivalents are listed at <http://www.acq.osd.mil/uid>.

“DoD unique item identification” means marking an item with a unique item identifier that has machine-readable data elements to distinguish it from all other like and unlike items. In addition—

(1) For items that are serialized within the enterprise identifier, the unique identifier shall include the data elements of issuing agency code, enterprise identifier, and a unique serial number.

(2) For items that are serialized within the part number within the enterprise identifier, the unique identifier shall include the data elements of issuing agency code, enterprise identifier, the original part number, and the serial number.

“Enterprise” means the entity (i.e., a manufacturer or vendor) responsible for assigning unique item identifiers to items.

“Enterprise identifier” means a code that is uniquely assigned to an enterprise by a registration (or controlling) authority.

“Government’s unit acquisition cost” means—

(1) For fixed-price type line, subline, or exhibit line items, the unit price identified in the contract at the time of delivery; and

(2) For cost-type line, subline, or exhibit line items, the Contractor’s estimated fully burdened unit cost to the Government for each item at the time of delivery.

“Issuing agency code” means a code that designates the registration (or controlling) authority.

“Item” means a single hardware article or unit formed by a grouping of subassemblies, components, or constituent parts required to be delivered in accordance with the terms and conditions of this contract.

“Machine-readable” means an automatic information technology media, such as bar codes, contact memory buttons, radio frequency identification, or optical memory cards.

“Original part number” means a combination of numbers or letters assigned by the enterprise at asset creation to a class of items with the same form, fit, function, and interface.

“Registration (or controlling) authority” means an organization responsible for assigning a non-repeatable identifier to an enterprise (i.e., Dun & Bradstreet’s Data Universal Numbering System (DUNS) Number, Uniform Code Council (UCC)/EAN International (EAN) Company Prefix, or Defense Logistics Information System (DLIS) Commercial and Government Entity (CAGE) Code).

“Serial number within the enterprise identifier” or “unique serial number” means a combination of numbers, letters, or symbols assigned by the enterprise to an item that provides for the differentiation of that item from any other like and unlike item and is never used again within the enterprise.

“Serial number within the part number” or “serial number” means a combination of numbers or letters assigned by the enterprise to an item that provides for the differentiation of that item from any other like item within a part number assignment.

“Serialization within the enterprise identifier” means each item produced is assigned a serial number that is unique among all the tangible items produced by the enterprise and is never used again. The enterprise is responsible for ensuring unique serialization within the enterprise identifier.

“Serialization within the part number” means each item of a particular part number is assigned a unique serial number within that part number assignment. The enterprise is responsible for ensuring unique serialization within the part number within the enterprise identifier.

“Unique item identification” means marking an item with machine-readable data elements to distinguish it from all other like and unlike items.

“Unique item identifier” means a set of data marked on items that is globally unique, unambiguous, and robust enough to ensure data information quality throughout life and to support multi-faceted business applications and users.

“Unique item identifier type” means a designator to indicate which method of uniquely identifying a part has been used. The current list of accepted unique item identifier types is maintained at <http://www.acq.osd.mil/uid>.

(b) The Contractor shall deliver all items under a contract line, subline, or exhibit line item.

(c) *Unique item identification.*

(1) The Contractor shall provide DoD unique item identification, or a DoD recognized unique identification equivalent, for—

(i) All items for which the Government’s unit acquisition cost is \$5,000 or more; and

(ii) The following items for which the Government’s unit acquisition cost is less than \$5,000:

Contract Line, Subline, or

Exhibit Line Item Number Item Description

(iii) Subassemblies, components, and parts embedded within items as specified in Exhibit Number ____ or Contract Data Requirements List Item Number ____.

(2) The unique item identifier and the component data elements of the unique item identifier shall not change over the life of the item.

(3) *Data syntax and semantics.* The Contractor shall—

(i) Mark the encoded data elements (except issuing agency code) on the item using any of the following three types of data qualifiers, as specified elsewhere in the contract:

(A) Data Identifiers (DIs) (Format 06).

(B) Application Identifiers (AIs) (Format 05), in accordance with ISO/IEC International Standard 15418, Information Technology – EAN/UCC Application Identifiers and ASC MH 10 Data Identifiers and ASC MH 10 Data Identifiers and Maintenance.

(C) Text Element Identifiers (TEIs), in accordance with the DoD collaborative solution “DD” format for use until the final solution is approved by ISO JTC1/SC 31. The DoD collaborative solution is described in Appendix D of the DoD Guide to Uniquely Identifying Items, available at <http://www.acq.osd.mil/uid>; and

(ii) Use high capacity automatic identification devices in unique identification that conform to ISO/IEC International Standard 15434, Information Technology – Syntax for High Capacity Automatic Data Capture Media.

(4) *Marking items.*

(i) Unless otherwise specified in the contract, data elements for unique identification (enterprise identifier, serial number, and, for serialization within the part number only, original part number) shall be placed on items requiring marking by paragraph (c)(1) of this clause in accordance with the version of MIL-STD-130, Identification Marking of U.S. Military Property, cited in the contract Schedule.

(ii) The issuing agency code—

(A) Shall not be placed on the item; and

(B) Shall be derived from the data qualifier for the enterprise identifier.

(d) *Commonly accepted commercial marks.* The Contractor shall provide commonly accepted commercial marks for items that are not required to have unique identification under paragraph (c) of this clause.

(e) *Material Inspection and Receiving Report.* The Contractor shall report at the time of delivery, as part of the Material Inspection and Receiving Report specified elsewhere in this contract, the following information:

(1) Description.*

(2) Unique identifier,** consisting of—

(i) Concatenated DoD unique item identifier; or

(ii) DoD recognized unique identification equivalent.

(3) Unique item identifier type.**

(4) Issuing agency code (if DoD unique item identifier is used).**

(5) Enterprise identifier (if DoD unique item identifier is used).**

(6) Original part number.**

(7) Serial number.**

(8) Quantity shipped.*

(9) Unit of measure.*

(10) Government's unit acquisition cost.*

(11) Ship-to code.

(12) Shipment date.

(13) Contractor's CAGE code or DUNS number.

(14) Contract number.

(15) Contract line, subline, or exhibit line item number.*

(16) Acceptance code.

* Once per contract line, subline, or exhibit line item.

** Once per item.

(f) *Material Inspection and Receiving Report for embedded subassemblies, components, and parts requiring unique item identification.* The Contractor shall report at the time of delivery, as part of the Material Inspection and Receiving Report specified elsewhere in this contract, the following information:

- (1) Unique item identifier of the item delivered under a contract line, subline, or exhibit line item that contains the embedded subassembly, component, or part.
- (2) Unique item identifier of the embedded subassembly, component, or part, consisting of—
 - (i) Concatenated DoD unique item identifier; or
 - (ii) DoD recognized unique identification equivalent.
- (3) Unique item identifier type.**
- (4) Issuing agency code (if DoD unique item identifier is used).**
- (5) Enterprise identifier (if DoD unique item identifier is used).**
- (6) Original part number.**
- (7) Serial number.**
- (8) Unit of measure.
- (9) Description.

** Once per item.

(g) The Contractor shall submit the information required by paragraphs (e) and (f) of this clause in accordance with the procedures at <http://www.acq.osd.mil/uid>.

(h) *Subcontracts.* If paragraph (c)(1)(iii) of this clause applies, the Contractor shall include this clause, including this paragraph (h), in all subcontracts issued under this contract.

(End of clause)

ITEM 0002 - PROVISIONED ITEMS ORDER (NAVSEA) (APR 1999) – (5404)

(a) General. The Contractor agrees that it will furnish the supplies or services ordered by the Government in accordance with the procedures specified herein. Orders may be placed by the Contracting Officer, Provisioning Activity or Administrative Contracting Officer as unilateral or bilateral modifications to this contract on SF 30, Amendment of Solicitation/Modification of Contract. Any amounts shown in Section B at time of award of the initial contract for each provisioned line item are estimated amounts only and are subject to upward or downward adjustment by the issuing activity. If no amounts are shown, funding will be obligated before or at time of order issuance. It is understood and agreed that the Government has no obligation under this contract to issue any orders hereunder.

(b) Priced Orders. For each proposed order, the Contractor agrees that it will submit such cost or pricing data as the Contracting Officer may require. Promptly thereafter, the Contractor and the Contracting Officer shall negotiate the price and delivery schedule for the proposed order. Upon execution and receipt of the priced order, the Contractor shall promptly commence the work specified in the order.

(c) Undefined Orders. Whenever the Contracting Officer determines that urgent demands or requirements prevent the issuance of a priced order, he/she may issue an unpriced order. Such order may be unilateral or bilateral and shall establish a limitation on Government liability, a maximum ceiling amount, and a schedule for definitization, as described in subparagraph (e)(2) below. Upon

request the Contractor shall submit a maximum ceiling amount proposal before the undefinitized order is issued. The maximum ceiling amount is the maximum price at which the order may be definitized. The Contractor shall begin performing the undefinitized order upon receipt, except as provided in paragraph (d) below. The clause entitled "CONTRACT DEFINITIZATION" (DFARS 252.217-7027) shall be included in any undefinitized order.

(d) Rejection of Unilateral Orders. The Contractor may reject any unilateral order if the Contractor determines that it cannot feasibly perform the order, or if the Contractor does not concur with the maximum ceiling amount. However, each unilateral order shall be deemed to have been accepted by the Contractor unless within fifteen days of issuance of the order, the Contractor notifies the Contracting Officer in writing of its rejection of the order.

(e) Definitization of Undefinitized Orders.

(l) The Contractor agrees that following the issuance of an undefinitized order, it will promptly begin negotiating with the Contracting Officer the price and terms of a definitive order that will include: (A) all clauses required by regulation on the date of the order; (B) all clauses required by law on the date of execution of the definitive order; and, (C) any other mutually agreeable clauses, terms and conditions. No later than sixty (60) days after the undefinitized order is issued, the contractor agrees to submit a cost proposal with sufficient data to support the accuracy and derivation of its price; and, when required by FAR, cost or pricing data, including SF 1411. If additional cost information is available prior to the conclusion of negotiations, the Contractor shall provide that information to the Contracting Officer. The price agreed upon shall be set forth in a bilateral modification to the order. In no event shall the price exceed the maximum ceiling amount specified in the undefinitized order.

(2) Each undefinitized order shall contain a schedule for definitization which shall include a target date for definitization and dates for submission of a qualifying proposal, beginning of negotiations and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data. Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the order. The schedule shall provide for definitization of the order by the earlier of:

(i) a specified target date which is not more than 180 days after the issuance of the undefinitized order. However, that target date may be extended by the Contracting Officer for up to 180 days after the Contractor submits a qualifying proposal as defined in DFARS 217.7401; or

(ii) the date on which the amount of funds expended by the Contractor under the undefinitized order exceed fifty percent (50%) of the order's maximum ceiling amount, except as provided in subparagraph (f)(3) below.

(3) If agreement on a definitive order is not reached within the time provided pursuant to subparagraph (e)(2) above, the Contracting Officer may, with the approval of the Head of the Contracting Activity, determine a reasonable price in accordance with Subpart 15.8 and Part 31 of the FAR, and issue a unilateral order subject to Contractor appeal as provided in the "DISPUTES" clause (FAR 52.233-1). In any event, the Contractor shall proceed with completion of the order, subject to the "LIMITATION OF GOVERNMENT LIABILITY" clause (FAR 52.216-24).

(f) Limitation of Government Liability.

(l) Each undefinitized order shall set forth the limitation of Government liability, which shall be the maximum amount that the Government will be obligated to pay the Contractor for performance of the order until the order is definitized. The Contractor is not authorized to make expenditures or incur obligations exceeding the limitation of Government liability set forth in the order. If such expenditures are made, or if such obligations are incurred, they will be at the Contractor's sole risk and expense. Further, the limitation of liability shall be the maximum Government liability if the order is terminated. The "LIMITATION OF GOVERNMENT LIABILITY" clause shall be included in any undefinitized order.

(2) Except for undefinitized orders for Foreign Military Sales; purchases of less than \$25,000; special access programs; and Congressionally-mandated long-lead procurements; and except as otherwise provided in subparagraph (f)(3) below, the limitation of Government liability shall not exceed fifty percent (50%) of the ceiling amount of an undefinitized order. In the case of orders within these excepted categories, however, the procedures set forth herein shall be followed to the maximum extent practical.

(3) If the Contractor submits a qualifying proposal (as defined in DFARS 217.7401) to definitize an order before the Contractor has incurred costs in excess of fifty percent (50%) of the ceiling amount, the Contracting Officer may increase the limitation of Government liability to up to seventy-five percent (75%) of

the maximum ceiling amount or up to seventy-five percent (75%) of the price proposed by the Contractor, whichever is less.

(4) If at any time the Contractor believes that its expenditure under an undefinitized order will exceed the limitation of Government liability, the Contractor shall so notify the Contracting Officer, in writing, and propose an appropriate increase in the limitation of Government liability of such order. Within thirty (30) days of such notice, the Contracting Officer will either (i) notify the Contractor in writing of such appropriate increase, or (ii) instruct the Contractor how and to what extent the work shall be continued; provided, however, that in no event shall the Contractor be obligated to proceed with work on an undefinitized order beyond the point where its costs incurred plus a reasonable profit thereon exceed the limitation of Government liability, and provided also that in no event shall the Government be obligated to pay the Contractor any amount in excess of the limitation of Government liability specified in any such order prior to establishment of firm prices.

(g) Initial Spares. The limitations set forth in paragraph (c) and subparagraphs (e)(2), (f)(2) and (f)(3) do not apply to undefinitized orders for the purchase of initial spares.

(h) Terminal Date for Placement of Orders. The Contractor shall not be obligated to accept any orders placed hereunder beyond 180 days after delivery of the last end item.

(i) Segregation of Costs. The Contractor shall segregate the costs of performance of each undefinitized order from the cost of performance of any other work performed by the Contractor.

SOLICITATION PROVISIONS

Provisions section in accordance with FAR 12.303(e)FAR Paragraph No.**INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (JAN 2004) (FAR 52.212-1)**

- (a) *Standard industrial classification (SIC) code and small business size standard.* The SIC code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.
- (b) *Submission of offers.* Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show--
- (1) The solicitation number;
 - (2) The time specified in the solicitation for receipt of offers;
 - (3) The name, address, and telephone number of the offeror;
 - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
 - (5) Terms of any express warranty;
 - (6) Price and any discount terms;
 - (7) "Remit to" address, if different than mailing address;
 - (8) A completed copy of the representations and certifications at FAR 52.212-3;
 - (9) Acknowledgment of Solicitation Amendments;
 - (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
 - (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.
- (c) *Period for acceptance of offers.* The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.
- (d) *Product samples.* When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.
- (e) *Multiple offers.* Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- (f) *Late offers.* Offers or modifications of offers received at the address specified for the receipt of offers after the exact time specified for receipt of offers will not be considered.
- (g) *Contract award (not applicable to Invitation for Bids).* The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.
- (h) *Multiple awards.* The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (i) *Availability of requirements documents cited in the solicitation.* (1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--
GSA Federal Supply Service Specifications Section
Suite 8100
470 East 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) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained from the--
Department of Defense Single Stock Point (DoDSSP)

Building 4, Section D

700 Robbins Avenue

Philadelphia, PA 19111-5094

Telephone (215) 697-2667/2179

Facsimile (215) 697-1462.

(i) Automatic distribution may be obtained on a subscription basis.

(ii) Order forms, pricing information, and customer support information may be obtained--

(A) By telephone at (215) 697-2667/2179; or

(B) Through the DoDSSP Internet site at <http://www.dodssp.daps.mil>.

(3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Data Universal Numbering System (DUNS) Number.* (Applies to offers exceeding \$25,000.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet to obtain one at no charge. An offeror within the United States may call 1-800-333-0505. The offeror may obtain more information regarding the DUNS number, including locations of local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet home page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

NOTE: The provision at 52.212-1 has been tailored as follows:

FAR 52.212-1 ADDENDUM as follows:

Paragraph (b) (4) is hereby replaced with the following:

a) General

Full, accurate and complete information shall be set forth in the submissions to facilitate a thorough and timely evaluation by the Government. Submissions are expected to be short and concise.

This will be an acquisition effort utilizing a best value approach. The Offeror(s) proposals will be evaluated to ensure that their system complies with the criteria listed in the solicitation. This acquisition will allow for single award for electro optic systems as detailed in the performance specification and associated line items.

(b). Structure

(1) The submissions shall be typewritten, or otherwise duplicated in ink, on 8 1/2" x 11" paper. Pages are to be 1-inch top, bottom and side margins, type size shall be no smaller than 10 pica. The following information shall be included in the title page:

- i. Purchase Description
- ii. Name of Offeror
- iii. Date of submission

(2) The technical proposal, the price proposal and the past performance proposal shall be submitted in separate volumes. The technical proposal shall not contain any pricing information. Past Performance may be submitted 15 days prior to the close of the solicitation. Contractor past performance data may be submitted in contractor format. Past Performance shall be separate from subcontracting plans to be submitted by large business pursuant to FAR 52.219-9.

(3) The technical proposal submissions shall not exceed 80 pages (single sided).

The title page as detailed in #1 above, engineering change proposal procedures/documentation process, system operation and maintenance manual, sample of Monthly Contractor's Progress and Status Report, and Quality Assurance Plan or copy of ISO 9001 Certificate of Compliance may be listed as attachments and will not count **toward the 80-page (single sided) proposal limitation.**

The past performance proposal submissions **shall not exceed 40 pages (single sided).** As in the technical proposal submission, items contractors choose to identify as attachments will not count toward the 40 page proposal limitation.

The following are specific page limitations:

- i) Table of Contents (2 PAGE MAXIMUM)
- ii) Executive Summary (2 PAGE MAXIMUM)
- iii) Discussion of Technical Factors (78 PAGE MAXIMUM) (single sided)
- iv) Discussion of Past Performance Factors (38 PAGE MAXIMUM) (single sided)

Price will not be counted toward page limitation. The discussion is to follow the format of these instructions.

(c) The offeror shall submit the following information:

- (1) 2 completed signed solicitation packages, with all representations and certifications executed, and with cost/prices in Section B.
- (2) 7 hard copies of the technical proposal. (1 electronic copy on CDROM.)
- (3) 2 copies of the cost/price proposal.
- (4) 2 copies of the past performance information. (1 electronic copy on CDROM.)

(d) Technical Proposal. Each technical proposal shall enable Government evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the requirements of the government. To this end, each technical proposal shall be so specific, detailed and complete as to clearly and fully demonstrate that the prospective contractor has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the specifications or attest that "standard procedures will be employed," are inadequate to demonstrate how it is proposed to comply with the requirements of the specifications, and this clause. As a minimum, the proposal must clearly provide the following:

(e) Product Samples are to be submitted to the POC on page 1 at the same time technical proposal are required (see paragraph (d) for additional information on product samples submission). One unit (Electro Optic System) is required as a product sample. If alternate proposals are submitted one product sample per system type is to be provided. The product sample will be tested to ensure compliance with the technical requirements.

The product sample and written proposal submitted will be evaluated by the Government to ensure that all criteria are met.

Submit TWO complete signed solicitation packages, with all representations and certifications executed, and with cost/prices in Section B. Every page of the proposal shall include the page number and the Offeror's name, and solicitation number.

A. TECHNICAL PROPOSAL

Each technical proposal shall enable Government evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the requirements of the government. Each technical proposal shall be specific, detailed, and complete as to clearly and fully demonstrate that the prospective contractor has a thorough knowledge and understanding of the requirements and has valid and practical solutions for modification for technical problems. Statements that paraphrase the specifications or attest that "standard procedures will be employed" are inadequate to demonstrate how it is proposed to comply with the requirements of the specifications, and this clause.

The Offeror shall provide detailed answers to demonstrate that their proposed units meet the requirements of the Performance Specification(s) and SOW. The Offeror shall include as part of the item description the manufacturer (if applicable) and model, feature, and product number of each major component. The description of each component and feature shall include a parenthetical reference to the applicable Statement of Work (SOW) and/or Performance Specification (PS) paragraph(s). The responses shall be keyed to the corresponding paragraph(s) and subparagraph(s) of the SOW and/or PS. *The responses shall be in the sequence of the paragraph of 52.212-1 Addendum (1) (b) (3) (A) and (1) (b) 10).*

ALTERNATE PROPOSALS

Offers may submit more than one proposal, each of which must satisfy the mandatory requirements of the solicitation, including any Benchmark Tests, in order to be considered. As a minimum, one of the proposals submitted must be complete. The alternate proposal(s) may be in an abbreviated form following the same section format, but providing only those sections, which differ in any way from those contained in the original proposal. Each proposal will include price tables indicating the complete range of pricing options. In the case of price/cost options for a given configuration, an alternate proposal will not be required. If alternate proposals are submitted, such alternatives will be clearly labeled and identified on

the cover page of each separate document. The reason for each alternate and its comparative benefits shall be explained. Each proposal submitted will be evaluated on its own merits.

If the offeror's Product Sample does not fully comply with each and every requirement identified in the performance specification, the proposal shall describe in detail how the offeror is going to comply with those requirements that are not satisfied.

As a minimum, the proposal must clearly provide the following:

FACTOR I – TECHNICAL

SUBFACTOR A – PRODUCT SAMPLE

1. The contractor shall submit to NSWC Crane, Code 805C, one (1) each product sample, which is representative of a production unit the contractor would provide in the event of an award decision. The product sample shall be required at the same time as the receipt of proposal date contained in this solicitation. The offeror shall provide with the product sample interface or control hardware to facilitate product sample functionality (eg. hand controller or other ancillary equipment). The vendor shall also provide user manuals and all cabling required for the component operation and interface. Cable shall be no less than 20' lengths.
2. The product sample shall be tested in a non-destructive manner by Government personnel. Product sample testing is planned to occur in a laboratory environment at NSWC Crane. This statement will not however restrict the Government from testing outside the laboratory. The Government shall test the product sample against the technical requirements set forth in the Performance Specification contained in this solicitation.
3. Contractor's technical proposal shall describe system characteristics and performance with respect to the thresholds and objectives specified in the Performance Specification. Provide documentation to demonstrate that the system meets the technical parameters specified in Performance Specification. If your system does not meet the minimum requirements of the Performance Specification and the Statement of Work (SOW), describe the exceptions. Any proposal that does not meet this requirement should indicate how the offeror is going to comply with the requirement.
4. The shall contractor provide Software Interface Control Drawings / Documentation.

SUBFACTOR B – PERFORMANCE SPECIFICATION COMPLIANCE

1. Offerors shall provide a matrix to summarize compliance with the technical requirements Performance Specification to the paragraph in the Offeror's proposal that demonstrates the Offeror's ability to meet the requirements listed in the Performance Specification. The matrix shall be cross-referenced to the Performance Specification by paragraph number and title to facilitate Government verification that all items have been addressed.
2. Offerors shall address the maximum number of systems that can be delivered in one month. Address the production lead-time required for delivery of hardware after receipt of order. Address your maximum production surge capacity and the time required to achieve this rate of production. Delivery schedules will be set forth at time of award. T
3. The offeror shall provide available independent test results verifying compliance with the environmental requirements for the proposed hardware. If test results/data are not available contractor shall describe how these requirements will be met. Additionally, if available the contractor shall provide information concerning applications/usages of the proposed hardware in maritime environments or in environments which are similar to those required in the performance specification.
4. The offeror shall provide available executable test software or test data captured from such software that can be used to verify the specified software control features required by Appendix C of the performance specification.

SUBFACTOR C – STATEMENT OF WORK COMPLIANCE

1. Offerors shall provide a matrix to summarize compliance with the logistics requirements and references to the paragraph

in the Offeror's proposal that demonstrates the Offeror's ability to meet the requirements listed in the SOW. The matrix shall be cross-referenced to the SOW by paragraph number and title to facilitate Government verification that all items have been addressed.

2. Describe how you will create and/or maintain, update and validate the product baseline(s) documentation for the system. Provide your configuration management plan that addresses how you will perform configuration management for the system. The offeror's plan to identify, document, maintain, and validate product baseline for the system and plan to identify and document functional baseline shall be addressed. Provide a copy of your engineering change proposal procedures/documentation process. Provide a copy of your configuration status accounting database that demonstrates how you track and identify each configuration item.

3. Describe in detail your approach to plan and manage Integrated Logistics Support (ILS). Provide your Integrated Logistics Support Plan that identifies how you will provide ILS. Provide any other existing supporting documentation that will enable the government to evaluate your ability to provide life cycle support for the operating life of the system. Logistics elements such as maintenance planning; supply support; technical data (manuals and support data); manpower, personnel and training; packaging, handling, storage and transportation; design interface; and safety shall be addressed.

4. Describe your reliability and maintainability program and how it relates to system preventive and scheduled maintenance and your prediction of system operational availability. Describe your data collection, analysis, reporting, and corrective action system and how it is used for field failure reporting and to correct failures from re-occurring.

5. Describe your warranties and how they relate to expected system reliability. Describe your warranty return process and the time required for returning systems returned under warranty.

6. Describe your system operation, maintenance, and repair training program for instructors utilizing train-the-trainer philosophy. Provide your new equipment training curriculum for this system.

7. Describe how you develop and validate technical documentation. Provide a copy of the system operation and maintenance manual(s).

8. Offerors shall provide a Recommended Operational ("O") Spare Parts Listing, including associated spare parts pricing, which will be required for a 12-month sustainment period.

9. Describe your overall management philosophy, an organization matrix to include key personnel with their responsibilities and your perception of the major aspects of managing the expected contract. Describe the corporate structure and functional relationships and responsibilities among the organizational elements that will participate in accomplishing this effort, including internal management communication lines and customer interface and subcontractor/vendor management. Provide a sample Monthly Contractor's Progress and Status Report. Describe how you will integrate the execution of the expected contract with your other current and expected commercial and Government contracts.

FACTOR II – PRICE

1. The following cost/price information is required (in addition to any other requirement for cost/price information herein): Price of all CLINS is required. CLIN 0001 shall include pricing for each of the **stairstep quantities** set forth in the schedule. CLIN 0002 Spare Parts List that meet the constraints of Recommended Operational ("O") Spare Parts Listing, including associated spare parts pricing.

EXCEPTIONS: Offerors are not encouraged to take exceptions to this solicitation, however, any exceptions taken to the specifications, terms and conditions of this solicitation shall be explained in detail and set forth in a cover letter as well as in this section of the Price Proposal. Offerors are to detail the particular section, clause paragraph and page to which they are taking exception.

FACTOR III - PAST PERFORMANCE**SUBFACTOR A – CONTRACT HISTORY**

1. Describe your ability to meet the specification requirements for similar systems provided under other contracts. Describe and provide examples of your effectiveness at managing similar contracts for the past three years. Include company names, points of contact and phone numbers.
2. Have you requested relief from system specification requirements on any of your systems? If yes, please describe the areas and the ultimate impact on system performance, cost and schedule for each request.
3. Describe how your in process and acceptance testing address the consistency of overall system performance throughout the production cycle.

SUBFACTOR B -- CUSTOMER SATISFACTION

1. Describe how you have resolved corporate/customer differences and/or contract problems/disputes for the past three years. Cite specific examples.
2. Describe how you ensure adequate resources are committed, in a timely manner, to recommend effective solutions and to successfully solve problems.
3. Describe and provide examples of your warranty, problem, failure and corrective action reporting and tracking system. Describe how this system is used to improve the reliability, maintainability and/or availability of your systems.

SUBFACTOR C - DELIVERY

1. Describe your delivery of system hardware, technical documentation, and program documentation in terms of conformance with delivery schedule and other contractual requirements for the past three years.

SUBFACTOR D - SUBCONTRACTING

1. Describe your approach for selecting subcontractors and vendors.
2. Describe how you monitor and control subcontractors and vendors.

SUBCONTRACT DATA REQUIRED (6410)

It is the intent of the Government to encourage the use of Small Business, Small and Disadvantaged Businesses and Woman Owned Businesses whenever practicable. Describe the extent to which your company has identified and committed to provide for participation by small, small and disadvantaged businesses (SDB), woman owned businesses (WOB), historically black colleges and universities, or other minority institutions for the performance of this effort. The Offeror shall provide sufficient information to demonstrate that the tasks assigned the selected small and/or SDB and WOB subcontractors are meaningful in the sense that they will be performing functions important to the overall success of the program and also broaden the subcontractor's technical capability. The offeror shall describe their management approach for enhancing small, SDB and WOB subcontractor's technical capability. Of special interest is the amount and type of work to be performed by the subcontractors. The offeror shall explain the reasons for and advantages of selecting particular

subcontractors. Performance shall be separate from subcontracting plans to be submitted by large businesses pursuant to FAR 52.219-9, but must incorporate the goals stressed herein, if applicable.

End of Paragraph (b) (4)

Add to Paragraph (b) (10) " Past Performance" as follows:

(a) PAST PERFORMANCE

During the source selection process, the Government will assess the offeror's past performance in the evaluation for contract award. Accordingly, each offeror is required to submit a list of up to five of its most recent contracts for the same or similar items. It is preferred that these contracts be with U.S. government customers, but contracts with other commercial concerns are also acceptable. Offerors are authorized to provide information relative to any problems encountered on the identified contracts and any corrective actions taken by the offeror. The Source Selection Authority (SSA)/Contracting Officer will evaluate the offeror's past performance; based upon the information furnished by the offeror, or other information obtained by the Contracting Officer. The Contracting Officer is not responsible for locating or securing any information not identified in the offer. The SSA/Contracting Officer may, however, utilize all available information, including information not provided by the offeror, in the past performance evaluation.

If insufficient information regarding the offeror's corporate history is available, the offeror is encouraged to submit for evaluation evidence of relevant past performance on the part of the offeror's key/principal employees, as either a prime- or sub-contractor

Past performance is assessed by the SSA/Contracting Officer and is assigned a narrative rating in the evaluation. Each offeror will be given an adjectival rating on past performance: highly favorable, favorable, unfavorable, or highly unfavorable. Offerors who do not have same or similar past performance information reasonably available to the Contracting Officer will be rated neither favorably nor unfavorably. The Government reserves the right to award to other than the lowest priced offer as set forth elsewhere in the solicitation. In addition, the Government may accept other than the lowest priced offer if doing so would result in greater value to the Government in terms of technical performance, quality, reliability, life cycle cost, or lower overall program risk. As a part of the past performance evaluation, the Government will assess the offeror's previous compliance with the requirements of FAR 52.219-8 and 52.219-9 as applicable.

The Government may use past performance information obtained from sources other than those identified by the Offeror and that information may be used for both the responsibility determination and the best value decision.

The information may be used to evaluate the Offeror's past performance in meeting costs/price, technical, delivery objectives and customer satisfaction. The results may be used in the overall comparative evaluation of the offer in accordance with 52.212-2 and addendum.

Paragraph (c) "Period for acceptance of offers" is replaced with the following:

(c). *Period for acceptance of offers.* The Offeror agrees to hold the prices in its offer **firm for 90 calendar days** from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

Paragraph (d) "Product Samples" is replaced with the following:

(d). *Product Samples.* One (1) product sample for each unit (CLIN 0001) is to be submitted to NSWC Crane by the closing date of this solicitation. Address to submit the product sample is: NAVSURFWARCEN DIV Crane, Building 3291 lab, Code 805C ATTN: Harry Taylor, 300 Highway 361 Crane, IN 47522-5000. Offerors are to advise the government in writing of the address to return the product samples after completion of testing. **The product sample will be tested/evaluated to determine compliance with the applicable performance specification.**

Add to Paragraph (i) as follows:

The Department of Defense Index of Specifications and Standards (DoDISS) has made available to DoD and non-DoD customers all current standards and specifications, including all Data Item Descriptions (DIDs). Complete indexes are also available, complete subscription, ordering, and pricing information is available from the Defense Printing Service Web Page

at <http://www.dtic.mil/dps-phila/>.

Offeror's may provide data in a digital format and/or using electronic online access.

END OF ADDENDUM FAR 52.212-1

EVALUATION--COMMERCIAL ITEMS (JAN 1999) (FAR 52.212-2) Addendum 3

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

FACTOR I - Technical

SUBFACTORS

- A. Product Sample
- B. Performance Specification Compliance
- C. Statement of Work Compliance

FACTOR II - Price

SUBFACTORS

None

FACTOR III – Past Performance

SUBFACTORS

- A. Contract History
- B. Customer Satisfaction
- C. Delivery
- D. Subcontracting

The Technical factor is significantly more important than the Price and Past Performance factors. The Price factor is more important than the Past Performance factor. Technical and Price factors, when combined, are more important than Past Performance. Under Factor I, Technical, Subfactor A is significantly more important than Subfactor B and C. Under Factor II, Price, there are no subfactors. Under Factor III, Past Performance, Subfactors A, B, C and D are listed in descending order of importance.

The price factor becomes more important as the degree of equality of Factors Other Than Price increases, or when the price is so significantly high as to diminish the value of the technical superiority to the Government.

(b) *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). **Delete paragraph (b) in its entirety.**

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

NOTE: The provision at 52.212-2 has been tailored (See addendum 3).

PRICING OF STEPLADDER QUANTITIES

The government reserves the right to award any quantity within the stepladder quantity range (CLIN 0001). The stepladder quantity range is sufficiently large to accommodate potential increases in funding which may occur prior to award, and to permit the widest possible latitude in evaluation of proposals.

Small business and small disadvantaged business subcontracting plan (NAVSEA) (Jun 1999)

Offerors shall submit as part of its proposal a written proposed subcontracting plan in accordance with the clause entitled "SMALL BUSINESS SUBCONTRACTING PLAN" (FAR 52.219-9). The plan shall include the Congressionally mandated five percent (5%) goal for small disadvantaged business concerns or a detailed explanation as to why the goal cannot be

252.212-7000 Offeror Representations and Certifications--Commercial Items. (NOV 1995)

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

(1) "Foreign person" means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) "United States person" is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.* By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it-

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation. The Offeror represents that it-

_____ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

_____ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

CONTRACTOR PERFORMANCE DATA (OCT 1995)

The offeror MAY use the "Contractor Performance Data Sheet" (attachment 1) to submit past performance information. If the Contractor Performance Data Sheet is used complete in its entirety and include the information requested under 52.212-1 paragraph 10 past performance. Additionally, offerors are urged to submit brief and concise responses, within the confines of the space allotted.

52.212-3 -- Offeror Representations and Certifications -- Commercial Items. (MAY 2004)

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

"Emerging small business" means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

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

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

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

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

(1) Means a small business concern—

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

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

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

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

“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.

(b) *Taxpayer identification number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

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

(2) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.]

(3) *Taxpayer Identification Number (TIN)*.

* TIN: _____.

* TIN has been applied for.

* TIN is not required because:

* Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the 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 _____

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

(1) *Small business concern*. The offeror represents as part of its offer that it * is, * is not a small business concern.

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

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

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

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

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

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

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

(8) *Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program.* [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).] The offeror represents as part of its offer that it * is, * is not an emerging small business.

(ii) [Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).] Offeror represents as follows:

- (A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or
- (B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

<u>Number of Employees</u>	<u>Average Annual Gross Revenues</u>
50 or fewer	\$1 million or less
51-100	\$1,000,001-\$2 million
101-250	\$2,000,001-\$3.5 million
251-500	\$3,500,001-\$5 million
501-750	\$5,000,001-\$10 million
751-1,000	\$10,000,001-\$17 million
Over 1,000	Over \$17 million

(9) [Complete only if the solicitation contains the clause at FAR 52.219-23, *Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns*, or FAR 52.219-25, *Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting*, and the offeror desires a benefit based on its disadvantaged status.]

(i) *General.* The offeror represents that either—

- (A) It * is, * is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business

Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It *has, * has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.]

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

(i) It * is, * is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It * is, * not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: _____.] Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(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 \$100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

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

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

--	--

[List as necessary]

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

(g)

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act."

(ii) The offeror certifies that the following supplies are FTA country end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

FTA Country 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 Act—Free Trade Agreements—Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

(2) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I (Jan 2004).* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

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

Canadian End Products:

Line Item No.:

[List as necessary]

(3) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II (Jan 2004).* 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 Act--Free Trade Agreements--Israeli Trade Act":

Canadian or Israeli End Products:

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

[List as necessary]

(4) **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)(4)(ii) of this provision, is a U.S.-made, designated country, Caribbean Basin country, or FTA 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, designated country, Caribbean Basin country, or FTA 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 subject to the Trade Agreements Act, the Government will evaluate offers of U.S.-made, designated country, Caribbean Basin country, or FTA country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made, designated country, Caribbean Basin country, or FTA 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 Debarment, Suspension or Ineligibility for Award (Executive Order 12549).** (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; and

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

(3) * Are, * are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(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.

(End of Provision)

Alternate I (Apr 2002). 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) or (c)(9) of this provision.) [*The offeror shall check the category in which its ownership falls*]:

Black American.

Hispanic American.

Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory or the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

Individual/concern, other than one of the preceding.

Alternate II (Oct 2000). As prescribed in [12.301\(b\)\(2\)](#), add the following paragraph (c)(9)(iii) to the basic provision:

(iii) Address. The offeror represents that its address ___ is, ___ is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

CONTRACTOR PERFORMANCE DATA SHEET

NOTE: THE INFORMATION PROVIDED MAY BE USED TO EVALUATE THE OFFEROR'S PAST PERFORMANCE IN MEETING COSTS/PRICE, TECHNICAL, AND DELIVERY OBJECTIVES. POINTS OF CONTACT PROVIDED, MAY BE CONTACTED TO CONFIRM INFORMATION PROVIDED AND TO GATHER INFORMATION ON TECHNICAL PERFORMANCE, QUALITY, LIFE CYCLE COST AND/OR RELIABILITY. THE RESULTS MAY BE USED IN THE OVERALL COMPARATIVE EVALUATION OF THE OFFEROR (S) IN ACCORDANCE WITH THE REQUEST FOR PROPOSAL. (If this form is used, include the past performance information).

List Performance Data on no more than three most recently completed Federal Government contracts (not to exceed three years since completion) for like or similar items (night vision submersible unit) this RFP. (If you do not have three Federal Government contracts, then list state, local, or commercial contracts, in that order, to complete this report)

Contractor Name: RFP #:
 Address: POC: (Person who can verify data)
 Telephone:
 Division: FAX:

CONTRACT INFORMATION

Contract Number: Date Completed:
 Contract Type: Fixed Price Cost Reimbursement Other
 (Specify)
 Item Description:
 Contract Quantity/Length of Service:
 Customer Name: 2 Customer POC: (Person who can verify data)
 Address: Telephone:
 FAX: