

# **FEDERAL ACQUISITION CIRCULAR**

June 12, 2008

Number 2005-26

Federal Acquisition Circular (FAC) 2005-26 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-26 is effective June 12, 2008.

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## **FAC 2005-26 SUMMARY of ITEMS**

Federal Acquisition Circular (FAC) 2005-26 amends the Federal Acquisition Regulation (FAR) as specified below:

### **Item I—Prohibition on Restricted Business Operations in Sudan and Imports from Burma (FAR Case 2008-004) (Interim)**

This interim rule amends the Federal Acquisition Regulation (FAR) Subparts 4.12, 15.1, 25.7, 25.11, and Part 52 to implement Section 6 of the Sudan Accountability and Divestment Act of 2007, and Executive Orders 13310 and 13448. Section 6 requires certification that the contractor does not conduct certain business operations in Sudan. This case also updates the list of countries from which most imports are prohibited, to reflect Burma as well as Sudan.

**Replacement pages:** 4.2-1 and 4.2-2; 4.12-1 and 4.12-2; 15.1-1 and 15.1-2; TOC pp. 25-1 and 25-2; 25.7-1 and 25.7-2; 25.11-1 and 25.11-2; TOC pp. 52-5 and 52-6; 52.2-27 thru 52.2-34.4; 52.2-39 and 52.2-40; 52.2-149 and 52.2-150; 52.2-152.1 thru 52.2-152.4; and Matrix pp. 52.3-17 and 52.3-18.

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## FAC 2005-26 FILING INSTRUCTIONS

**NOTE:** The FAR is now segmented by subparts. The FAR page numbers reflect FAR Subparts. For example, "4.2-1" is page one of Subpart 4.2, and "15.1-2" is page two of Subpart 15.1.

### Remove Pages

4.2-1 and 4.2-2  
4.12-1 and 4.12-2

15.1-1 and 15.1-2

TOC Part 25  
pp. 25-1 and 25-2  
25.7-1 and 25.7-2  
25.11-1 and 25.11-2

TOC Part 52  
pp. 52-5 and 52-6  
52.2-27 thru 52.2-34.4  
52.2-39 and 52.2-40  
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52.2-152.1 thru 52.2-152.4

Matrix  
pp. 52.3-17 and 52.3-18

### Insert Pages

4.2-1 and 4.2-2  
4.12-1 and 4.12-2

15.1-1 and 15.1-2

TOC Part 25  
pp. 25-1 and 25-2  
25.7-1 and 25.7-2  
25.11-1 and 25.11-2

TOC Part 52  
pp. 52-5 and 52-6  
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52.2-152.1 thru 52.2-152.4

Matrix  
pp. 52.3-17 and 52.3-18

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## Subpart 4.2—Contract Distribution

### 4.201 Procedures.

Contracting officers shall distribute copies of contracts or modifications within 10 working days after execution by all parties. As a minimum, the contracting officer shall—

(a) Distribute simultaneously one signed copy or reproduction of the signed contract to the contractor and the paying office;

(b) When a contract is assigned to another office for contract administration (see [Subpart 42.2](#)), provide to that office—

(1) One copy or reproduction of the signed contract and of each modification; and

(2) A copy of the contract distribution list, showing those offices that should receive copies of modifications, and any changes to the list as they occur;

(c) Distribute one copy to each accounting and finance office (funding office) whose funds are cited in the contract;

(d) When the contract is not assigned for administration but contains a Cost Accounting Standards clause, provide one copy of the contract to the cognizant administrative contracting officer and mark the copy “*For Cost Accounting Standards Administration Only*” (see [30.601\(b\)](#));

(e) Provide one copy of each contract or modification that requires audit service to the appropriate field audit office listed in the “Directory of Federal Contract Audit Offices” (copies of this directory can be ordered from the—

U.S. Government Printing Office  
Superintendent of Document  
Washington, DC 20402

referencing stock numbers 008-007-03189-9 and 008-007-03190-2 for Volumes I and II, respectively); and

(f) Provide copies of contracts and modifications to those organizations required to perform contract administration support functions (*e.g.*, when manufacturing is performed at multiple sites, the contract administration office cognizant of each location).

### 4.202 Agency distribution requirements.

Agencies shall limit additional distribution requirements to the minimum necessary for proper performance of essential functions. When contracts are assigned for administration to a contract administration office located in an agency different from that of the contracting office (see [Part 42](#)), the two agen-

cies shall agree on any necessary distribution in addition to that prescribed in [4.201](#).

### 4.203 Taxpayer identification information.

(a) If the contractor has furnished a Taxpayer Identification Number (TIN) when completing the solicitation provision at [52.204-3](#), Taxpayer Identification, or paragraph (l) of the solicitation provision at [52.212-3](#), Offeror Representations and Certifications—Commercial Items, the contracting officer shall, unless otherwise provided in agency procedures, attach a copy of the completed solicitation provision as the last page of the copy of the contract sent to the payment office.

(b) If the TIN or type of organization is derived from a source other than the provision at [52.204-3](#) or [52.212-3\(l\)](#), the contracting officer shall annotate the last page of the contract or order forwarded to the payment office to state the contractor’s TIN and type of organization, unless this information is otherwise provided to the payment office in accordance with agency procedures.

(c) If the contractor provides its TIN or type of organization to the contracting officer after award, the contracting officer shall forward the information to the payment office within 7 days of its receipt.

(d) *Federal Supply Schedule contracts.* Each contracting officer that places an order under a Federal Supply Schedule contract (see [Subpart 8.4](#)) shall provide the TIN and type of organization information to the payment office in accordance with paragraph (b) of this section.

(e) *Basic ordering agreements and indefinite-delivery contracts (other than Federal Supply Schedule contracts).*

(1) Each contracting officer that issues a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide to contracting officers placing orders under the agreement or contract (if the contractor is not required to provide this information to a central contractor registration database)—

(i) A copy of the agreement or contract with a copy of the completed solicitation provision at [52.204-3](#) or [52.212-3\(l\)](#) as the last page of the agreement or contract; or

(ii) The contractor’s TIN and type of organization information.

(2) Each contracting officer that places an order under a basic ordering agreement or indefinite-delivery contract (other than a Federal Supply Schedule contract) shall provide the TIN and type of organization information to the payment office in accordance with paragraph (a) or (b) of this section.

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**Subpart 4.12—Representations and Certifications**

**4.1200 Scope.**

This subpart prescribes policies and procedures for requiring submission and maintenance of representations and certifications via the Online Representations and Certifications Application (ORCA) to—

(a) Eliminate the administrative burden for contractors of submitting the same information to various contracting offices; and

(b) Establish a common source for this information to procurement offices across the Government.

**4.1201 Policy.**

(a) Prospective contractors shall complete electronic annual representations and certifications at <http://orca.bpn.gov> in conjunction with required registration in the Central Contractor Registration (CCR) database (see FAR 4.1102).

(b)(1) Prospective contractors shall update the representations and certifications submitted to ORCA as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and certifications are effective until one year from date of submission or update to ORCA.

(2) When the conditions in paragraph (b) of the clause at [52.219-28](#), Post-Award Small Business Program Rerepresentation, apply, contractors that represented they were small businesses prior to award of a contract must update the representations and certifications in ORCA as directed by the clause. Contractors that represented they were other than small businesses prior to award of a contract may update the representations and certifications in ORCA as directed by the clause, if their size status has changed since contract award.

(c) Data in ORCA is archived and is electronically retrievable. Therefore, when a prospective contractor has completed representations and certifications electronically via ORCA, the contracting officer must reference the date of ORCA verification in the contract file, or include a paper copy of the electronically-submitted representations and certifications in the file. Either of these actions satisfies contract file documentation requirements of [4.803\(a\)\(11\)](#). However, if an offeror identifies changes to ORCA data pursuant to the FAR provisions at [52.204-8\(c\)](#) or [52.212-3\(b\)](#), the contracting officer must include a copy of the changes in the contract file.

**4.1202 Solicitation provision and contract clause.**

Except for commercial item solicitations issued under FAR [Part 12](#), insert in solicitations the provision at [52.204-8](#), Annual Representations and Certifications. When the clause at [52.204-7](#), Central Contractor Registration, is included in

the solicitation, do not include the following representations and certifications:

(a) [52.203-2](#), Certificate of Independent Price Determination.

(b) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

(c) [52.204-3](#), Taxpayer Identification.

(d) [52.204-5](#), Women-Owned Business (Other Than Small Business).

(e) [52.209-5](#), Certification Regarding Responsibility Matters.

(f) [52.214-14](#), Place of Performance—Sealed Bidding.

(g) [52.215-6](#), Place of Performance.

(h) [52.219-1](#), Small Business Program Representations (Basic & Alternate I).

(i) [52.219-2](#), Equal Low Bids.

(j) [52.219-19](#), Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

(k) [52.219-21](#), Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program.

(l) [52.219-22](#), Small Disadvantaged Business Status (Basic & Alternate I).

(m) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

(n) [52.222-22](#), Previous Contracts and Compliance Reports.

(o) [52.222-25](#), Affirmative Action Compliance.

(p) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements.

(q) [52.222-48](#), Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

(r) [52.223-1](#), Biobased Product Certification.

(s) [52.223-4](#), Recovered Material Certification.

(t) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Alternate I only).

(u) [52.223-13](#), Certification of Toxic Chemical Release Reporting.

(v) [52.225-2](#), Buy American Act Certificate.

(w) [52.225-4](#), Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate (Basic, Alternate I & II).

(x) [52.225-6](#), Trade Agreements Certificate.

(y) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

(z) [52.226-2](#), Historically Black College or University and Minority Institution Representation.

(aa) [52.227-6](#), Royalty Information (Basic & Alternate I).

(bb) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

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**15.000 Scope of part.**

This part prescribes policies and procedures governing competitive and noncompetitive negotiated acquisitions. A contract awarded using other than sealed bidding procedures is a negotiated contract (see [14.101](#)).

**15.001 Definitions.**

As used in this part—

“Deficiency” is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

“Proposal modification” is a change made to a proposal before the solicitation closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a contracting officer, as the result of negotiations.

“Weakness” means a flaw in the proposal that increases the risk of unsuccessful contract performance. A “significant weakness” in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.

**15.002 Types of negotiated acquisition.**

(a) *Sole source acquisitions.* When contracting in a sole source environment, the request for proposals (RFP) should be tailored to remove unnecessary information and requirements; *e.g.*, evaluation criteria and voluminous proposal preparation instructions.

(b) *Competitive acquisitions.* When contracting in a competitive environment, the procedures of this part are intended to minimize the complexity of the solicitation, the evaluation, and the source selection decision, while maintaining a process designed to foster an impartial and comprehensive evaluation of offerors’ proposals, leading to selection of the proposal representing the best value to the Government (see [2.101](#)).

## Subpart 15.1—Source Selection Processes and Techniques

**15.100 Scope of subpart.**

This subpart describes some of the acquisition processes and techniques that may be used to design competitive acquisition strategies suitable for the specific circumstances of the acquisition.

**15.101 Best value continuum.**

An agency can obtain best value in negotiated acquisitions by using any one or a combination of source selection approaches. In different types of acquisitions, the relative importance of cost or price may vary. For example, in acquisitions where the requirement is clearly definable and the risk

of unsuccessful contract performance is minimal, cost or price may play a dominant role in source selection. The less definitive the requirement, the more development work required, or the greater the performance risk, the more technical or past performance considerations may play a dominant role in source selection.

**15.101-1 Tradeoff process.**

(a) A tradeoff process is appropriate when it may be in the best interest of the Government to consider award to other than the lowest priced offeror or other than the highest technically rated offeror.

(b) When using a tradeoff process, the following apply:

(1) All evaluation factors and significant subfactors that will affect contract award and their relative importance shall be clearly stated in the solicitation; and

(2) The solicitation shall state whether all evaluation factors other than cost or price, when combined, are significantly more important than, approximately equal to, or significantly less important than cost or price.

(c) This process permits tradeoffs among cost or price and non-cost factors and allows the Government to accept other than the lowest priced proposal. The perceived benefits of the higher priced proposal shall merit the additional cost, and the rationale for tradeoffs must be documented in the file in accordance with [15.406](#).

**15.101-2 Lowest price technically acceptable source selection process.**

(a) The lowest price technically acceptable source selection process is appropriate when best value is expected to result from selection of the technically acceptable proposal with the lowest evaluated price.

(b) When using the lowest price technically acceptable process, the following apply:

(1) The evaluation factors and significant subfactors that establish the requirements of acceptability shall be set forth in the solicitation. Solicitations shall specify that award will be made on the basis of the lowest evaluated price of proposals meeting or exceeding the acceptability standards for non-cost factors. If the contracting officer documents the file pursuant to [15.304\(c\)\(3\)\(iv\)](#), past performance need not be an evaluation factor in lowest price technically acceptable source selections. If the contracting officer elects to consider past performance as an evaluation factor, it shall be evaluated in accordance with [15.305](#). However, the comparative assessment in [15.305\(a\)\(2\)\(i\)](#) does not apply. If the contracting officer determines that a small business’ past performance is not acceptable, the matter shall be referred to the Small Business Administration for a Certificate of Competency determination, in accordance with the procedures contained in [Subpart 19.6](#) and [15 U.S.C. 637\(b\)\(7\)](#).

(2) Tradeoffs are not permitted.

(3) Proposals are evaluated for acceptability but not ranked using the non-cost/price factors.

(4) Exchanges may occur (see [15.306](#)).

### 15.102 Oral presentations.

(a) Oral presentations by offerors as requested by the Government may substitute for, or augment, written information. Use of oral presentations as a substitute for portions of a proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, and are subject to the same restrictions as written information, regarding timing (see [15.208](#)) and content (see [15.306](#)). Oral presentations provide an opportunity for dialogue among the parties. Pre-recorded videotaped presentations that lack real-time interactive dialogue are not considered oral presentations for the purposes of this section, although they may be included in offeror submissions, when appropriate.

(b) The solicitation may require each offeror to submit part of its proposal through oral presentations. However, representations and certifications shall be submitted as required in the FAR provisions at [52.204-8\(c\)](#) or [52.212-3\(b\)](#), and a signed offer sheet (including any exceptions to the Government's terms and conditions) shall be submitted in writing.

(c) Information pertaining to areas such as an offeror's capability, past performance, work plans or approaches, staffing resources, transition plans, or sample tasks (or other types of tests) may be suitable for oral presentations. In deciding what information to obtain through an oral presentation, consider the following:

(1) The Government's ability to adequately evaluate the information;

(2) The need to incorporate any information into the resultant contract;

(3) The impact on the efficiency of the acquisition; and

(4) The impact (including cost) on small businesses. In considering the costs of oral presentations, contracting offic-

ers should also consider alternatives to on-site oral presentations (*e.g.*, teleconferencing, video teleconferencing).

(d) When oral presentations are required, the solicitation shall provide offerors with sufficient information to prepare them. Accordingly, the solicitation may describe—

(1) The types of information to be presented orally and the associated evaluation factors that will be used;

(2) The qualifications for personnel that will be required to provide the oral presentation(s);

(3) The requirements for, and any limitations and/or prohibitions on, the use of written material or other media to supplement the oral presentations;

(4) The location, date, and time for the oral presentations;

(5) The restrictions governing the time permitted for each oral presentation; and

(6) The scope and content of exchanges that may occur between the Government's participants and the offeror's representatives as part of the oral presentations, including whether or not discussions (see [15.306\(d\)](#)) will be permitted during oral presentations.

(e) The contracting officer shall maintain a record of oral presentations to document what the Government relied upon in making the source selection decision. The method and level of detail of the record (*e.g.*, videotaping, audio tape recording, written record, Government notes, copies of offeror briefing slides or presentation notes) shall be at the discretion of the source selection authority. A copy of the record placed in the file may be provided to the offeror.

(f) When an oral presentation includes information that the parties intend to include in the contract as material terms or conditions, the information shall be put in writing. Incorporation by reference of oral statements is not permitted.

(g) If, during an oral presentation, the Government conducts discussions (see [15.306\(d\)](#)), the Government must comply with [15.306](#) and [15.307](#).

**PART 25—FOREIGN ACQUISITION**

*Sec.*

- 25.000 Scope of part.
- 25.001 General.
- 25.002 Applicability of subparts.
- 25.003 Definitions.
- 25.004 Reporting of acquisition of end products manufactured outside the United States.

**Subpart 25.1—Buy American Act—Supplies**

- 25.100 Scope of subpart.
- 25.101 General.
- 25.102 Policy.
- 25.103 Exceptions.
- 25.104 Nonavailable articles.
- 25.105 Determining reasonableness of cost.

**Subpart 25.2—Buy American Act—Construction Materials**

- 25.200 Scope of subpart.
- 25.201 Policy.
- 25.202 Exceptions.
- 25.203 Preaward determinations.
- 25.204 Evaluating offers of foreign construction material.
- 25.205 Postaward determinations.
- 25.206 Noncompliance.

**Subpart 25.3—Contracts Performed Outside the United States**

- 25.301 Contractor personnel in a designated operational area or supporting a diplomatic or consular mission outside the United States.
- 25.301-1 Scope.
- 25.301-2 Government support.
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**Subpart 25.4—Trade Agreements**

- 25.400 Scope of subpart.
- 25.401 Exceptions.
- 25.402 General.
- 25.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.
- 25.404 Least developed countries.
- 25.405 Caribbean Basin Trade Initiative.
- 25.406 Israeli Trade Act.
- 25.407 Agreement on Trade in Civil Aircraft.
- 25.408 Procedures.

**Subpart 25.5—Evaluating Foreign Offers—Supply Contracts**

- 25.501 General.
- 25.502 Application.
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- 25.504 Evaluation examples.
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**Subpart 25.6—[Reserved]**

**Subpart 25.7—Prohibited Sources**

- 25.700 Scope of subpart.
- 25.701 Restrictions on acquisitions of supplies or services from prohibited sources.
- 25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.
- 25.702-1 Definitions.
- 25.702-2 Certification.
- 25.702-3 Remedies.
- 25.702-4 Waiver.

**Subpart 25.8—Other International Agreements and Coordination**

- 25.801 General.
- 25.802 Procedures.

**Subpart 25.9—Customs and Duties**

- 25.900 Scope of subpart.
- 25.901 Policy.
- 25.902 Procedures.
- 25.903 Exempted supplies.

**Subpart 25.10—Additional Foreign Acquisition Regulations**

- 25.1001 Waiver of right to examination of records.
- 25.1002 Use of foreign currency.

**Subpart 25.11—Solicitation Provisions and Contract Clauses**

- 25.1101 Acquisition of supplies.
- 25.1102 Acquisition of construction.
- 25.1103 Other provisions and clauses.

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## Subpart 25.7—Prohibited Sources

### 25.700 Scope of subpart.

This subpart implements—

(a) Economic sanctions administered by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury prohibiting transactions involving certain countries, entities, and individuals; and

(b) The Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174).

### 25.701 Restrictions on acquisitions of supplies or services from prohibited sources.

(a) Except as authorized by OFAC, agencies and their contractors and subcontractors must not acquire any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR Chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea into the United States or its outlying areas. In addition, lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sgn>. More information about these restrictions, as well as updates, is available in OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.

(c) Refer questions concerning the restrictions in paragraphs (a) or (b) of this section to the—

Department of the Treasury  
Office of Foreign Assets Control  
Washington, DC 20220  
(Telephone (202) 622-2490).

### 25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.

#### 25.702-1 Definitions.

As used in this section—

“Appropriate Congressional committees” means—

(1) The Committee on Banking, Housing, and Urban Affairs, The Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(2) The Committee on Financial Services, the Committee on Foreign Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

“Business operations” means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment,

facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Marginalized populations of Sudan” means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

“Person” means—

(1) A natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act ([22 U.S.C. 262r\(c\)\(3\)](#)); and

(3) Any successor, subunit, parent company or subsidiary of any entity described in paragraphs (1) or (2) of this definition.

“Restricted business operations”—

(1) Means, except as provided in paragraph (2) of this definition, business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174).

(2) Does not include business operations that the person conducting the business can demonstrate—

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

(ii) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(iii) Consist of providing goods or services to marginalized populations of Sudan;

(iv) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(v) Consist of providing goods or services that are used only to promote health or education; or

(vi) Have been voluntarily suspended.

#### 25.702-2 Certification.

As required by the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174), each offeror must certify that it does not conduct restricted business operations in Sudan.

#### 25.702-3 Remedies.

Upon the determination of a false certification under subsection [25.702-2](#)—

- (a) The contracting officer may terminate the contract;
- (b) The suspending official may suspend the contractor in accordance with the procedures in [Subpart 9.4](#); and
- (c) The debarring official may debar the contractor for a period not to exceed 3 years in accordance with the procedures in [Subpart 9.4](#).

**25.702-4 Waiver.**

(a) The President may waive the requirement of subsection [25.702-2](#) on a case-by-case basis if the President determines and certifies in writing to the appropriate congressional committees that it is in the national interest to do so.

(b) An agency seeking waiver of the requirement shall submit the request through the Administrator of the Office of Federal Procurement Policy.



## Subpart 25.11—Solicitation Provisions and Contract Clauses

### 25.1101 Acquisition of supplies.

The following provisions and clauses apply to the acquisition of supplies and the acquisition of services involving the furnishing of supplies.

(a)(1) Insert the clause at [52.225-1](#), Buy American Act—Supplies, in solicitations and contracts with a value exceeding the micro-purchase threshold but not exceeding \$25,000; and in solicitations and contracts with a value exceeding \$25,000, if none of the clauses prescribed in paragraphs (b) and (c) of this section apply, except if—

(i) The solicitation is restricted to domestic end products in accordance with [Subpart 6.3](#);

(ii) The acquisition is for supplies for use within the United States and an exception to the Buy American Act applies (e.g., nonavailability, public interest, or information technology that is a commercial item); or

(iii) The acquisition is for supplies for use outside the United States.

(2) Insert the provision at [52.225-2](#), Buy American Act Certificate, in solicitations containing the clause at [52.225-1](#).

(b) (1) (i) Insert the clause at [52.225-3](#), Buy American Act—Free Trade Agreements—Israeli Trade Act, in solicitations and contracts if—

(A) The acquisition is for supplies, or for services involving the furnishing of supplies, for use within the United States, and the acquisition value is \$25,000 or more, but is less than \$194,000;

(B) The acquisition is not for information technology that is a commercial item, using fiscal year 2004 or subsequent fiscal year funds; and

(C) No exception in [25.401](#) applies. For acquisitions of agencies not subject to the Israeli Trade Act (see [25.406](#)), see agency regulations.

(ii) If the acquisition value is \$25,000 or more but is less than \$50,000, use the clause with its Alternate I.

(iii) If the acquisition value is \$50,000 or more but is less than \$67,826, use the clause with its Alternate II.

(2)(i) Insert the provision at [52.225-4](#), Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, in solicitations containing the clause at [52.225-3](#).

(ii) If the acquisition value is \$25,000 or more but is less than \$50,000, use the provision with its Alternate I.

(iii) If the acquisition value is \$50,000 or more but is less than \$67,826, use the provision with its Alternate II.

(c)(1) Insert the clause at [52.225-5](#), Trade Agreements, in solicitations and contracts valued at \$194,000 or more, if the acquisition is covered by the WTO GPA (see [Subpart 25.4](#)) and the agency has determined that the restrictions of the Buy American Act are not applicable to U.S.-made end products.

If the agency has not made such a determination, the contracting officer must follow agency procedures.

(2) Insert the provision at [52.225-6](#), Trade Agreements Certificate, in solicitations containing the clause at [52.225-5](#).

(d) Insert the provision at [52.225-7](#), Waiver of Buy American Act for Civil Aircraft and Related Articles, in solicitations for civil aircraft and related articles (see [25.407](#)), if the acquisition value is less than \$194,000.

(e) Insert the clause at [52.225-8](#), Duty-Free Entry, in solicitations and contracts for supplies that may be imported into the United States and for which duty-free entry may be obtained in accordance with [25.903\(a\)](#), if the value of the acquisition—

(1) Exceeds the simplified acquisition threshold; or

(2) Does not exceed the simplified acquisition threshold, but the savings from waiving the duty is anticipated to be more than the administrative cost of waiving the duty. When used for acquisitions that do not exceed the simplified acquisition threshold, the contracting officer may modify paragraphs (c)(1) and (j)(2) of the clause to reduce the dollar figure.

(f) Insert the provision at [52.225-18](#), Place of Manufacture, in solicitations that are predominantly for the acquisition of manufactured end products, as defined in the provision at [52.225-18](#) (i.e., the estimated value of the manufactured end products exceeds the estimated value of other items to be acquired as a result of the solicitation).

### 25.1102 Acquisition of construction.

(a) Insert the clause at [52.225-9](#), Buy American Act—Construction Materials, in solicitations and contracts for construction that is performed in the United States valued at less than \$7,443,000.

(1) List in paragraph (b)(2) of the clause all foreign construction material excepted from the requirements of the Buy American Act.

(2) If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(3)(i) of the clause.

(b)(1) Insert the provision at [52.225-10](#), Notice of Buy American Act Requirement—Construction Materials, in solicitations containing the clause at [52.225-9](#).

(2) If insufficient time is available to process a determination regarding the inapplicability of the Buy American Act before receipt of offers, use the provision with its Alternate I.

(c) Insert the clause at [52.225-11](#), Buy American Act—Construction Materials under Trade Agreements, in solicitations and contracts for construction that is performed in the United States valued at \$7,443,000 or more.

(1) List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American Act, other than WTO GPA country, least developed country, or FTA country construction material.

(2) If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(4)(i) of the clause.

(3) For acquisitions valued at \$7,443,000 or more, but less than \$8,817,449, use the clause with its Alternate I. List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American Act, unless the excepted foreign construction material is from a designated country other than Mexico.

(d)(1) Insert the provision at [52.225-12](#), Notice of Buy American Act Requirement—Construction Materials under Trade Agreements, in solicitations containing the clause at [52.225-11](#).

(2) If insufficient time is available to process a determination regarding the inapplicability of the Buy American Act before receipt of offers, use the provision with its Alternate I.

(3) For acquisitions valued at \$7,443,000 or more, but less than \$8,817,449, use the clause with its Alternate II.

**25.1103 Other provisions and clauses.**

(a) *Restrictions on certain foreign purchases.* Insert the clause at [52.225-13](#), Restrictions on Certain Foreign Purchases, in solicitations and contracts, unless an exception applies.

(b) *Translations.* Insert the clause at [52.225-14](#), Inconsistency Between English Version and Translation of Contract, in solicitations and contracts if anticipating translation into another language.

(c) *Foreign currency offers.* Insert the provision at [52.225-17](#), Evaluation of Foreign Currency Offers, in solicitations that permit the use of other than a specified currency. Insert in the provision the source of the rate to be used in the evaluation of offers.

(d) The contracting officer shall include in each solicitation for the acquisition of products or services (other than commercial items procured under [Part 12](#)) the provision at [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

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FEDERAL ACQUISITION REGULATION

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- 52.225-12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.
  - 52.225-13 Restrictions on Certain Foreign Purchases.
  - 52.225-14 Inconsistency between English Version and Translation of Contract.
  - 52.225-15 [Reserved]
  - 52.225-16 [Reserved]
  - 52.225-17 Evaluation of Foreign Currency Offers.
  - 52.225-18 Place of Manufacture.
  - 52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.
  - 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.
  - 52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.
  - 52.226-2 Historically Black College or University and Minority Institution Representation.
  - 52.226-3 Disaster or Emergency Area Representation.
  - 52.226-4 Notice of Disaster or Emergency Area Set-Aside.
  - 52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.
  - 52.227-1 Authorization and Consent.
  - 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.
  - 52.227-3 Patent Indemnity.
  - 52.227-4 Patent Indemnity—Construction Contracts.
  - 52.227-5 Waiver of Indemnity.
  - 52.227-6 Royalty Information.
  - 52.227-7 Patents—Notice of Government Licensee.
  - 52.227-8 [Reserved]
  - 52.227-9 Refund of Royalties.
  - 52.227-10 Filing of Patent Applications—Classified Subject Matter.
  - 52.227-11 Patent Rights—Ownership by the Contractor.
  - 52.227-12 [Reserved]
  - 52.227-13 Patent Rights—Ownership by the Government.
  - 52.227-14 Rights in Data—General.
  - 52.227-15 Representation of Limited Rights Data and Restricted Computer Software.
  - 52.227-16 Additional Data Requirements.
  - 52.227-17 Rights in Data—Special Works.
  - 52.227-18 Rights in Data—Existing Works.
  - 52.227-19 Commercial Computer Software License.
  - 52.227-20 Rights in Data—SBIR Program.
  - 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.
  - 52.227-22 Major System—Minimum Rights.
  - 52.227-23 Rights to Proposal Data (Technical).
  - 52.228-1 Bid Guarantee.
  - 52.228-2 Additional Bond Security.
  - 52.228-3 Workers' Compensation Insurance (Defense Base Act).
  - 52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.
  - 52.228-5 Insurance—Work on a Government Installation.
  - 52.228-6 [Reserved]
  - 52.228-7 Insurance—Liability to Third Persons.
  - 52.228-8 Liability and Insurance—Leased Motor Vehicles.
  - 52.228-9 Cargo Insurance.
  - 52.228-10 Vehicular and General Public Liability Insurance.
  - 52.228-11 Pledges of Assets.
  - 52.228-12 Prospective Subcontractor Requests for Bonds.
  - 52.228-13 Alternative Payment Protections.
  - 52.228-14 Irrevocable Letter of Credit.
  - 52.228-15 Performance and Payment Bonds—Construction.
  - 52.228-16 Performance and Payment Bonds—Other Than Construction.
  - 52.229-1 State and Local Taxes.
  - 52.229-2 North Carolina State and Local Sales and Use Tax.
  - 52.229-3 Federal, State, and Local Taxes.
  - 52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).
  - 52.229-5 [Reserved]
  - 52.229-6 Taxes—Foreign Fixed-Price Contracts.
  - 52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.
  - 52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.
  - 52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.
  - 52.229-10 State of New Mexico Gross Receipts and Compensating Tax.
  - 52.230-1 Cost Accounting Standards Notices and Certification.
  - 52.230-2 Cost Accounting Standards.
  - 52.230-3 Disclosure and Consistency of Cost Accounting Practices.
  - 52.230-4 Consistency in Cost Accounting Practices.
  - 52.230-5 Cost Accounting Standards—Educational Institution.
  - 52.230-6 Administration of Cost Accounting Standards.
  - 52.230-7 Proposal Disclosure—Cost Accounting Practice Changes.
  - 52.231 [Reserved]
  - 52.232-1 Payments.
  - 52.232-2 Payments under Fixed-Price Research and Development Contracts.
  - 52.232-3 Payments under Personal Services Contracts.
  - 52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.
  - 52.232-5 Payments under Fixed-Price Construction Contracts.
  - 52.232-6 Payment under Communication Service Contracts with Common Carriers.

52.232-7	Payments under Time-and-Materials and Labor-Hour Contracts.	52.235	[Reserved]
52.232-8	Discounts for Prompt Payment.	52.236-1	Performance of Work by the Contractor.
52.232-9	Limitation on Withholding of Payments.	52.236-2	Differing Site Conditions.
52.232-10	Payments under Fixed-Price Architect-Engineer Contracts.	52.236-3	Site Investigation and Conditions Affecting the Work.
52.232-11	Extras.	52.236-4	Physical Data.
52.232-12	Advance Payments.	52.236-5	Material and Workmanship.
52.232-13	Notice of Progress Payments.	52.236-6	Superintendence by the Contractor.
52.232-14	Notice of Availability of Progress Payments Exclusively for Small Business Concerns.	52.236-7	Permits and Responsibilities.
52.232-15	Progress Payments Not Included.	52.236-8	Other Contracts.
52.232-16	Progress Payments.	52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.
52.232-17	Interest.	52.236-10	Operations and Storage Areas.
52.232-18	Availability of Funds.	52.236-11	Use and Possession Prior to Completion.
52.232-19	Availability of Funds for the Next Fiscal Year.	52.236-12	Cleaning Up.
52.232-20	Limitation of Cost.	52.236-13	Accident Prevention.
52.232-21	[Reserved]	52.236-14	Availability and Use of Utility Services.
52.232-22	Limitation of Funds.	52.236-15	Schedules for Construction Contracts.
52.232-23	Assignment of Claims.	52.236-16	Quantity Surveys.
52.232-24	Prohibition of Assignment of Claims.	52.236-17	Layout of Work.
52.232-25	Prompt Payment.	52.236-18	Work Oversight in Cost-Reimbursement Construction Contracts.
52.232-26	Prompt Payment for Fixed-Price Architect-Engineer Contracts.	52.236-19	Organization and Direction of the Work.
52.232-27	Prompt Payment for Construction Contracts.	52.236-20	[Reserved]
52.232-28	Invitation to Propose Performance-Based Payments.	52.236-21	Specifications and Drawings for Construction.
52.232-29	Terms for Financing of Purchases of Commercial Items.	52.236-22	Design Within Funding Limitations.
52.232-30	Installment Payments for Commercial Items.	52.236-23	Responsibility of the Architect-Engineer Contractor.
52.232-31	Invitation to Propose Financing Terms.	52.236-24	Work Oversight in Architect-Engineer Contracts.
52.232-32	Performance-Based Payments.	52.236-25	Requirements for Registration of Designers.
52.232-33	Payment by Electronic Funds Transfer—Central Contractor Registration.	52.236-26	Preconstruction Conference.
52.232-34	Payment by Electronic Funds Transfer—Other than Central Contractor Registration.	52.236-27	Site Visit (Construction).
52.232-35	Designation of Office for Government Receipt of Electronic Funds Transfer Information.	52.236-28	Preparation of Proposals—Construction.
52.232-36	Payment by Third Party.	52.237-1	Site Visit.
52.232-37	Multiple Payment Arrangements.	52.237-2	Protection of Government Buildings, Equipment, and Vegetation.
52.232-38	Submission of Electronic Funds Transfer Information with Offer.	52.237-3	Continuity of Services.
52.233-1	Disputes.	52.237-4	Payment by Government to Contractor.
52.233-2	Service of Protest.	52.237-5	Payment by Contractor to Government.
52.233-3	Protest after Award.	52.237-6	Incremental Payment by Contractor to Government.
52.233-4	Applicable Law for Breach of Contract Claim.	52.237-7	Indemnification and Medical Liability Insurance.
52.234-1	Industrial Resources Developed Under Defense Production Act Title III.	52.237-8	Restriction on Severance Payments to Foreign Nationals.
52.234-2	Notice of Earned Value Management System - Pre-Award IBR.	52.237-9	Waiver of Limitation on Severance Payments to Foreign Nationals.
52.234-3	Notice of Earned Value Management System - Post Award IBR.	52.237-10	Identification of Uncompensated Overtime.
52.234-4	Earned Value Management System.	52.237-11	Accepting and Dispensing of \$1 Coin.
		52.238	[Reserved]
		52.239-1	Privacy or Security Safeguards.
		52.240	[Reserved]
		52.241	Utility Services Provisions and Clauses.
		52.241-1	Electric Service Territory Compliance Representation.
		52.241-2	Order of Precedence—Utilities.
		52.241-3	Scope and Duration of Contract.

**52.212-1 Instructions to Offerors—Commercial Items.**

As prescribed in [12.301\(b\)\(1\)](#), insert the following provision:

INSTRUCTIONS TO OFFERORS—COMMERCIAL ITEMS  
(JUNE 2008)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet ([SF 1449](#)). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) *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](#) (see FAR [52.212-3\(b\)](#) for those representations and certifications that the offeror shall complete electronically);
- (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 submissions, modifications, revisions, and withdrawals of offers.* (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government’s control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation

on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(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) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST web-sites:

(i) ASSIST (<http://assist.daps.dla.mil>).

(ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by—

(i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) 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 all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR [Subpart 32.11](#)) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://fedgov.dnb.com/webform>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.

(k) *Central Contractor Registration*. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(l) *Debriefing.* If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

- (1) The agency’s evaluation of the significant weak or deficient factors in the debriefed offeror’s offer.
- (2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

**52.212-2 Evaluation—Commercial Items.**

As prescribed in [12.301\(c\)](#), the Contracting Officer may insert a provision substantially as follows:

EVALUATION—COMMERCIAL ITEMS (JAN 1999)

(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:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 [Contracting Officer shall insert the significant evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR [15.304](#)); (iv) small disadvantaged business participation; and include them in the relative order of importance of the evaluation factors, such as in descending order of importance.]

Technical and past performance, when combined, are \_\_\_\_\_ [Contracting Officer state, in accordance with FAR [15.304](#), the relative importance of all other evaluation factors, when combined, when compared to price.]

(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).

(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.

(End of provision)

**52.212-3 Offeror Representations and Certifications—Commercial Items.**

As prescribed in [12.301\(b\)\(2\)](#), insert the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—  
COMMERCIAL ITEMS (JUNE 2008)

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (m) of this provision.

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

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

“Forced or indentured child labor” means all work or service—

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

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

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

(1) FSC 5510, Lumber and Related Basic Wood Materials;

(2) Federal Supply Group (FSG) 87, Agricultural Supplies;

(3) FSG 88, Live Animals;

(4) FSG 89, Food and Related Consumables;

(5) FSC 9410, Crude Grades of Plant Materials;

(6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) FSC 9610, Ores;

(9) FSC 9620, Minerals, Natural and Synthetic; and

(10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassem-

bled and reassembled, the place of reassembly is not the place of manufacture.

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

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

“Service-disabled veteran-owned small business concern”—

- (1) Means a small business concern—
  - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
  - (ii) The management and daily business operations 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 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

(1) Whose management and daily business operations are controlled by one or more women.

(b) (1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)), except for paragraphs \_\_\_\_\_.

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

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

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

(c) Offerors must complete the following representations when the resulting contract will 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 designated industry groups (DIGs).] The offeror represents as part of its offer that it  is,  is not an emerging small business.

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

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

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

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

(A) It  is,  is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

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

(ii)  *Joint 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,  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. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American 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 “Bahrainian or Moroccan end product,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act-Free Trade Agreements-Israeli Trade Act.”

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

Free Trade Agreement Country End Products (Other than Bahrainian or Moroccan End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of 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.* 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.* 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 or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

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

Other End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

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

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

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

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

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

(4)  Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

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

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

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

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

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

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

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

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

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____

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

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

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

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

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

(2)  Outside the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109, 31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

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

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

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

- TIN: \_\_\_\_\_.
- TIN has been applied for.
- TIN is not required because:
- Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;

- Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_.

(5) *Common parent.*

- Offeror is not owned or controlled by a common parent;
- Name and TIN of common parent:  
Name \_\_\_\_\_.  
TIN \_\_\_\_\_.

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

(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 of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

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

\_\_\_\_\_ Individual/concern, other than one of the preceding.

*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.

#### 52.212-4 Contract Terms and Conditions—Commercial Items.

As prescribed in [12.301\(b\)\(3\)](#), insert the following clause:

##### CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (FEB 2007)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act ([31 U.S.C. 3727](#)). However, when a third party makes 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

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(9) *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 that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(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 an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system that 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 that reasonably could have been avoided.

**52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.**

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

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JUNE 2008)

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

(1) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(2) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78)

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

[Contracting Officer check as appropriate.]

(1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (Sept 2006), 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 (JULY 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

(4) [Reserved]

(5)(i) [52.219-6](#), Notice of Total Small Business Set-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 (APR 2008) ([15 U.S.C. 637\(d\)\(4\)](#)).

(ii) Alternate I (OCT 2001) of [52.219-9](#).

(iii) Alternate II (OCT 2001) of [52.219-9](#).

(9) [52.219-14](#), Limitations on Subcontracting (DEC 1996) ([15 U.S.C. 637\(a\)\(14\)](#)).

(10) [52.219-16](#), Liquidated Damages—Subcontracting Plan (JAN 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).

(11)(i) [52.219-23](#), Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (SEPT 2005) ([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](#).

(12) [52.219-25](#), Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (APR 2008) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).

(13) [52.219-26](#), Small Disadvantaged Business Participation Program—Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).

(14) [52.219-27](#), Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (MAY 2004) ([15 U.S.C. 657 f](#)).

(15) [52.219-28](#), Post Award Small Business Program Rerepresentation (JUNE 2007) ([15 U.S.C. 632\(a\)\(2\)](#)).

(16) [52.222-3](#), Convict Labor (JUNE 2003) (E.O. 11755).

(17) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (FEB 2008) (E.O. 13126).

(18) [52.222-21](#), Prohibition of Segregated Facilities (FEB 1999).

(19) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(20) [52.222-35](#), Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) ([38 U.S.C. 4212](#)).

— (21) [52.222-36](#), Affirmative Action for Workers with Disabilities (JUN 1998) ([29 U.S.C. 793](#)).

— (22) [52.222-37](#), Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) ([38 U.S.C. 4212](#)).

— (23) [52.222-39](#), Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).

— (24)(i) [52.222-50](#), Combating Trafficking in Persons (AUG 2007) (Applies to all contracts).

— (ii) Alternate I (AUG 2007) of [52.222-50](#).

— (25)(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) ([42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)).

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

— (26) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)).

— (27)(i) [52.223-16](#), IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).

— (ii) Alternate I (DEC 2007) of [52.223-16](#).

— (28) [52.225-1](#), Buy American Act—Supplies (JUNE 2003) ([41 U.S.C. 10a-10d](#)).

— (29)(i) [52.225-3](#), Buy American Act—Free Trade Agreements—Israeli Trade Act (AUG 2007) ([41 U.S.C. 10a-10d](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, Pub. L 108-77, 108-78, 108-286, 109-53 and 109-169).

— (ii) Alternate I (JAN 2004) of [52.225-3](#).

— (iii) Alternate II (JAN 2004) of [52.225-3](#).

— (30) [52.225-5](#), Trade Agreements (NOV 2007) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

— (31) [52.225-13](#), Restrictions on Certain Foreign Purchases (JUNE 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

— (32) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (NOV 2007) ([42 U.S.C. 5150](#)).

— (33) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) ([42 U.S.C. 5150](#)).

— (34) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (FEB 2002) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).

— (35) [52.232-30](#), Installment Payments for Commercial Items (OCT 1995) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).

— (36) [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration (OCT 2003) ([31 U.S.C. 3332](#)).

— (37) [52.232-34](#), Payment by Electronic Funds Transfer—Other than Central Contractor Registration (MAY 1999) ([31 U.S.C. 3332](#)).

— (38) [52.232-36](#), Payment by Third Party (MAY 1999) ([31 U.S.C. 3332](#)).

— (39) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ([5 U.S.C. 552a](#)).

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

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

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

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

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

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

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

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

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

— (7) [52.237-11](#), Accepting and Dispensing of \$1 Coin (AUG 2007) ([31 U.S.C. 5112\(p\)\(1\)](#)).

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

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

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

Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

(End of clause)

*Alternate I (Aug 2007).* As prescribed in [25.1102\(c\)\(3\)](#), add the following definition of “Bahrainian or Mexican construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

“Bahrainian or Mexican construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Bahrain or Mexico; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain or Mexico into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements the Buy American Act ([41 U.S.C. 10a - 10d](#)) by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except NAFTA apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials other than Bahrainian or Mexican construction materials.

(2) The Contractor shall use only domestic or designated country construction material other than Bahrainian or Mexican construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

**52.225-12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.**

As prescribed in [25.1102\(d\)\(1\)](#), insert the following provision:

NOTICE OF BUY AMERICAN ACT REQUIREMENT—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (JAN 2005)

(a) *Definitions.* “Construction material,” “designated country construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American Act—Construction Materials Under Trade Agreements” (Federal Acquisition Regulation (FAR) clause [52.225-11](#)).

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause [52.225-11](#) in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American Act before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.* (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American Act, based on claimed unreasonable cost of domestic construction materials, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(4)(i) of FAR clause [52.225-11](#).

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.* (1) When an offer includes foreign construction material, other than designated country construction material, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause [52.225-11](#), the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate [Standard Form 1442](#) for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause [52.225-11](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of

FAR clause [52.225-11](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material, and the offeror shall be required to furnish such domestic or designated country construction material. An offer based on use of the foreign construction material for which an exception was requested—

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

(End of provision)

*Alternate I (May 2002).* As prescribed in [25.1102\(d\)\(2\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determination of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of FAR clause [52.225-11](#).

*Alternate II (Aug 2007).* As prescribed in [25.1102\(d\)\(3\)](#), add the definition of “Bahrainian or Mexican construction material” to paragraph (a) and substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) *Alternate offers.* (1) When an offer includes foreign construction material, except foreign construction material from a designated country other than Bahrain or Mexico, that is not listed by the Government in this solicitation in paragraph (b)(3) of FAR clause [52.225-11](#), the offeror also may submit an alternate offer based on use of equivalent domestic or designated country construction material other than Bahrainian or Mexican construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate [Standard Form 1442](#) for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of FAR clause [52.225-11](#) for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of FAR clause [52.225-11](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic or designated country construction material other than Bahrainian or Mexican construction material. An offer based on use of the foreign construction material for which an exception was requested—

- (i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or
- (ii) May be accepted if revised during negotiations.

### 52.225-13 Restrictions on Certain Foreign Purchases.

As prescribed in [25.1103\(a\)](#), insert the following clause:

#### RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)

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

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC’s List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. More information about these restrictions, as well as updates, is available in the OFAC’s regulations at 31 CFR Chapter V and/or on OFAC’s website at <http://www.treas.gov/offices/enforcement/ofac>.

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

(End of clause)

### 52.225-14 Inconsistency between English Version and Translation of Contract.

As prescribed at [25.1103\(b\)](#), insert the following clause:

#### INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT (FEB 2000)

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

(End of clause)

### 52.225-15 [Reserved]

### 52.225-16 [Reserved]

### 52.225-17 Evaluation of Foreign Currency Offers.

As prescribed in [25.1103\(c\)](#), insert the following provision:

#### EVALUATION OF FOREIGN CURRENCY OFFERS (FEB 2000)

If the Government receives offers in more than one currency, the Government will evaluate offers by converting the foreign currency to United States currency using [*Contracting Officer to insert source of rate*] in effect as follows:

(a) For acquisitions conducted using sealed bidding procedures, on the date of bid opening.

(b) For acquisitions conducted using negotiation procedures—

(h) *Contractor personnel.* The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor personnel who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including termination for default or cause.

(i) *Weapons.* (1) If the Contracting Officer, subject to the approval of the Combatant Commander or the Chief of Mission, authorizes the carrying of weapons—

(i) The Contracting Officer may authorize an approved Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The \_\_\_\_\_ [*Contracting Officer to specify individual, e.g., Contracting Officer Representative, Regional Security Officer, etc.*] may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified Contractor employees.

(2) The Contractor shall provide to the Contracting Officer a specific list of personnel for whom authorization to carry a weapon is requested.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained to carry and use them—

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander or the Chief of Mission; and

(C) In compliance with applicable agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by [18 U.S.C. 922](#); and

(iii) Adhere to all guidance and orders issued by the Combatant Commander or the Chief of Mission regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Upon revocation by the Contracting Officer of the Contractor's authorization to possess weapons, the Contractor shall ensure that all Government-furnished weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(5) Whether or not weapons are Government-furnished, all liability for the use of any weapon by Contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(j) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the area of performance.

(k) *Military clothing and protective equipment.* (1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized by the Combatant Commander. If authorized to wear military clothing, Con-

tractor personnel must wear distinctive patches, armbands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures.

(2) Contractor personnel may wear specific items required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(l) *Evacuation.* (1) If the Chief of Mission or Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide to United States and third country national Contractor personnel the level of assistance provided to private United States citizens.

(2) In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations unless instructed to evacuate by the Contracting Officer.

(m) *Personnel recovery.* (1) In the case of isolated, missing, detained, captured or abducted Contractor personnel, the Government will assist in personnel recovery actions.

(2) Personnel recovery may occur through military action, action by non-governmental organizations, other Government-approved action, diplomatic initiatives, or through any combination of these options.

(3) The Department of Defense has primary responsibility for recovering DoD contract service employees and, when requested, will provide personnel recovery support to other agencies in accordance with DoD Directive 2310.2, Personnel Recovery.

(n) *Notification and return of personal effects.* (1) The Contractor shall be responsible for notification of the employee-designated next of kin, and notification as soon as possible to the U.S. Consul responsible for the area in which the event occurred, if the employee—

(i) Dies;

(ii) Requires evacuation due to an injury; or

(iii) Is isolated, missing, detained, captured, or abducted.

(2) The Contractor shall also be responsible for the return of all personal effects of deceased or missing Contractor personnel, if appropriate, to next of kin.

(o) *Mortuary affairs.* Mortuary affairs for Contractor personnel who die in the area of performance will be handled as follows:

(1) If this contract was awarded by DoD, the remains of Contractor personnel will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(2)(i) If this contract was awarded by an agency other than DoD, the Contractor is responsible for the return of the remains of Contractor personnel from the point of identification of the remains to the location specified by the employee or next of kin, as applicable, except as provided in paragraph (o)(2)(ii) of this clause.

(ii) In accordance with [10 U.S.C. 1486](#), the Department of Defense may provide, on a reimbursable basis, mor-

tuary support for the disposition of remains and personal effects of all U.S. citizens upon the request of the Department of State.

(p) *Changes*. In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(q) *Subcontracts*. The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to perform outside the United States—

(1) In a designated operational area during—

- (i) Contingency operations;
- (ii) Humanitarian or peacekeeping operations; or
- (iii) Other military operations; or military exercises, when designated by the Combatant Commander; or

(2) When supporting a diplomatic or consular mission—

(i) That has been designated by the Department of State as a danger pay post (see [http://aoprals.state.gov/Web920/danger\\_pay\\_all.asp](http://aoprals.state.gov/Web920/danger_pay_all.asp)); or

(ii) That the Contracting Officer has indicated is subject to this clause.

(End of clause)

#### **52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.**

As prescribed at [25.1103\(d\)](#), insert the following provision:

##### PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN SUDAN—CERTIFICATION (JUNE 2008)

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

“Business operations” means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Marginalized populations of Sudan” means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and

(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

“Person” means—

(1) A natural person, corporation, company, business association, partnership, society, trust, any other nongovernmental entity, organization, or group;

(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and

(3) Any successor, subunit, parent company or subsidiary of any entity described in paragraphs (1) or (2) of this definition.

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

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

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

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

(End of provision)

#### **52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.**

As prescribed in [26.104](#), insert the following clause:

##### UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUNE 2000)

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

“Indian” means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with [25 U.S.C. 1452\(c\)](#) and any “Native” as defined in the Alaska Native Claims Settlement Act ([43 U.S.C. 1601](#)).

“Indian organization” means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of [25 U.S.C., Chapter 17](#).

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

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with [25 U.S.C. 1452\(c\)](#).

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

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

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the Contracting Officer will refer the matter to the—

U.S. Department of the Interior  
Bureau of Indian Affairs (BIA)  
Attn: Chief, Division of Contracting and Grants  
Administration  
1849 C Street, NW,  
MS-2626-MIB  
Washington, DC 20240-4000.

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

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

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

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-

price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

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

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

(End of clause)

#### 52.226-2 Historically Black College or University and Minority Institution Representation.

As prescribed in [26.304](#), insert the following provision:

HISTORICALLY BLACK COLLEGE OR UNIVERSITY AND  
MINORITY INSTITUTION REPRESENTATION (MAY 2001)

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

“Historically black college or university” means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

“Minority institution” means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 ([20 U.S.C. 1067k](#), including a Hispanic-serving institution of higher education, as defined in Section 316(b)(1) of the Act ([20 U.S.C. 1101a](#))).

(b) *Representation.* The offeror represents that it—

- is  is not a historically black college or university;
- is  is not a minority institution.

(End of provision)

#### 52.226-3 Disaster or Emergency Area Representation.

As prescribed in [26.205](#)(a), insert the following provision:

DISASTER OR EMERGENCY AREA REPRESENTATION  
(NOV 2007)

(a) *Set-aside area.* The area covered in this contract is:

[Contracting Officer to fill in with definite geographic boundaries.]

(b) *Representations.* The offeror represents that it  does  does not reside or primarily do business in the designated set-aside area.

(c) An offeror is considered to be residing or primarily doing business in the set-aside area if, during the last twelve months—

(1) The offeror had its main operating office in the area; and

(2) That office generated at least half of the offeror's gross revenues and employed at least half of the offeror's permanent employees.

(d) If the offeror does not meet the criteria in paragraph (c) of this provision, factors to be considered in determining whether an offeror resides or primarily does business in the set-aside area include—

(1) Physical location(s) of the offeror's permanent office(s) and date any office in the set-aside area(s) was established;

(2) Current state licenses;

(3) Record of past work in the set-aside area(s) (*e.g.*, how much and for how long);

(4) Contractual history the offeror has had with subcontractors and/or suppliers in the set-aside area;

(5) Percentage of the offeror's gross revenues attributable to work performed in the set-aside area;

(6) Number of permanent employees the offeror employs in the set-aside area;

(7) Membership in local and state organizations in the set-aside area; and

(8) Other evidence that establishes the offeror resides or primarily does business in the set-aside area. For example, sole proprietorships may submit utility bills and bank statements.

(e) If the offeror represents it resides or primarily does business in the set-aside area, the offeror shall furnish documentation to support its representation if requested by the Contracting Officer. The solicitation may require the offeror to submit with its offer documentation to support the representation.

(End of provision)

#### **52.226-4 Notice of Disaster or Emergency Area Set-Aside.**

As prescribed in [26.205](#)(b), insert the following clause:

NOTICE OF DISASTER OR EMERGENCY AREA SET-ASIDE  
(NOV 2007)

(a) *Set-aside area.* Offers are solicited only from businesses residing or primarily doing business in

[Contracting Officer to fill in with definite geographic boundaries.] Offers received from other businesses shall not be considered.

(b) This set-aside is in addition to any small business set-aside contained in this contract.

(End of clause)

#### **52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.**

As prescribed in [26.205](#)(c), insert the following clause:

RESTRICTIONS ON SUBCONTRACTING OUTSIDE  
DISASTER OR EMERGENCY AREA (NOV 2007)

(a) *Definitions.* The definitions of the following terms used in this clause are found in the Small Business Administration regulations at 13 CFR 125.6(e): cost of the contract, cost of contract performance incurred for personnel, cost of manufacturing, cost of materials, personnel, and subcontracting.

(b) The Contractor agrees that in performance of the contract in the case of a contract for—

(1) *Services (except construction).* At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the Contractor or employees of other businesses residing or primarily doing business in the area designated in the clause at FAR [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside;

(2) *Supplies (other than procurement from a nonmanufacturer of such supplies).* The Contractor or employees of other businesses residing or primarily doing business in the set-aside area shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials;

(3) *General construction.* The Contractor will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area; or

(4) *Construction by special trade Contractors.* The Contractor will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area.

(End of clause)



PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.225-9</a> Buy American Act—Construction Materials.	<a href="#">25.1102(a)</a>	C	No								A	A											
<a href="#">52.225-10</a> Notice of Buy American Act Requirement—Construction Materials.	<a href="#">25.1102(b)(1)</a>	P	No								A	A											
Alternate I	<a href="#">25.1102(b)(2)</a>	P	No								A	A											
<a href="#">52.225-11</a> Buy American Act—Construction Materials under Trade Agreements.	<a href="#">25.1102(c)</a>	C	No								A	A											
Alternate I	<a href="#">25.1102(c)(3)</a>	C	No								A	A											
<a href="#">52.225-12</a> Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.	<a href="#">25.1102(d)(1)</a>	P	No								A	A											
Alternate I	<a href="#">25.1102(d)(2)</a>	P	No								A	A											
Alternate II	<a href="#">25.1102(d)(3)</a>	P	No								A	A											
<a href="#">52.225-13</a> Restrictions on Certain Foreign Purchases.	<a href="#">25.1103(a)</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.225-14</a> Inconsistency Between English Version and Translation of Contract.	<a href="#">25.1103(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-17</a> Evaluation of Foreign Currency Offers.	<a href="#">25.1103(c)</a>	P	Yes	M	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-18</a> Place of Manufacture.	<a href="#">25.1101(f)</a>	P	No	K	R	R							A							A		A	A
<a href="#">52.225-19</a> Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.	<a href="#">25.301-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-20</a> Prohibition on Conducting Restricted Business Operations in Sudan—Certification.	<a href="#">25.1103(d)</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.226-1</a> Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	<a href="#">26.104</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
<a href="#">52.226-2</a> Historically Black College or University and Minority Institution Representation.	<a href="#">26.304</a>	P	No	K	A	A	A	A	A	A			A		A					A		A	
<a href="#">52.226-3</a> Disaster or Emergency Area Representation.	<a href="#">26.205(a)</a>	P	No	K	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A
<a href="#">52.226-4</a> Notice of Disaster or Emergency Area Set-Aside.	<a href="#">26.205(b)</a>	C	Yes	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A
<a href="#">52.226-5</a> Restrictions on Subcontracting Outside Disaster or Emergency Area.	<a href="#">26.205(c)</a>	C	Yes	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A
<a href="#">52.227-1</a> Authorization and Consent.	<a href="#">27.201-2(a)(1)</a>	C	Yes	I	A	A			A		A	A			A	A	A	A	A		O		
Alternate I	<a href="#">27.201-2(a)(2)</a>	C	Yes	I			A	A			A	A			A		A	A					
Alternate II	<a href="#">27.201-2(a)(3)</a>	C	Yes	I			A				A												

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.227-2</a> Notice and Assistance Regarding Patent and Copyright Infringement.	<a href="#">27.201-2(b)</a>	C	Yes	I	A	A																	
<a href="#">52.227-3</a> Patent Indemnity.	<a href="#">27.201-2(c)(1)</a>	C	Yes	I	A	A			A	A									A				
Alternate I	<a href="#">27.201-2(c)(2)</a>	C	Yes	I	A	A			A	A									A				
Alternate II	<a href="#">27.201-2(c)(2)</a>	C	Yes	I	A	A			A	A					A				A				
Alternate III	<a href="#">27.201-2(c)(3)</a>	C	Yes	I											A						A		
<a href="#">52.227-4</a> Patent Indemnity—Construction Contracts.	<a href="#">27.201-2(d)(1)</a>	C	Yes							A	A					A							
Alternate I	<a href="#">27.201-2(d)(2)</a>	C	Yes							O	O					O							
<a href="#">52.227-5</a> Waiver of Indemnity.	<a href="#">27.201-2(e)</a>	C	Yes	I	A	A	A	A	A	A	A					A		A	A				
<a href="#">52.227-6</a> Royalty Information.	<a href="#">27.202-5(a)(1)</a>	P	No	K	A	A	A	A	A	A	A					A		A	A				
Alternate I	<a href="#">27.202-5(a)(2)</a>	P	No	K											A			A					
<a href="#">52.227-7</a> Patents—Notice of Government Licensee.	<a href="#">27.202-5(b)</a>	P	No	K	A	A	A	A	A	A	A					A	A		A	A			
<a href="#">52.227-9</a> Refund of Royalties.	<a href="#">27.202-5(c)</a>	C	Yes	I	A		A		A		A				A	A		A	A				
<a href="#">52.227-10</a> Filing of Patent Applications—Classified Subject Matter.	<a href="#">27.203-2</a>	C	Yes	I	A	A	A	A	A	A	A				A	A		A	A				
<a href="#">52.227-11</a> Patent Rights—Ownership by the Contractor.	<a href="#">27.303(b)(1)</a>	C	Yes	I			A	A			A	A							A				
Alternate I	<a href="#">27.303(b)(3)</a>	C	Yes	I			A	A			A	A							A				
Alternate II	<a href="#">27.303(b)(4)</a>	C	Yes	I			A	A			A	A							A				
Alternate III	<a href="#">27.303(b)(5)</a>	C	Yes	I			A	A			A	A											
Alternate IV	<a href="#">27.303(b)(6)</a>	C	Yes	I			A	A			A	A											
Alternate V	<a href="#">27.303(b)(7)</a>	C	Yes	I			A	A			A	A											
<a href="#">52.227-13</a> Patent Rights—Ownership by the Government.	<a href="#">27.303(e)</a>	C	Yes	I			A	A			A	A							A				
Alternate I	<a href="#">27.303(e)(4)</a>	C	Yes	I			A	A			A	A							A				
Alternate II	<a href="#">27.303(e)(5)</a>	C	Yes	I			A	A			A	A							A				
<a href="#">52.227-14</a> Rights in Data—General.	<a href="#">27.409(b)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate I	<a href="#">27.409(b)(2)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate II	<a href="#">27.409(b)(3)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate III	<a href="#">27.409(b)(4)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
Alternate IV	<a href="#">27.409(b)(5)</a>	C	Yes	I	O	O	A	A	O	O			O	O	O	O		O	O	O	O		
Alternate V	<a href="#">27.409(b)(6)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A		
<a href="#">52.227-15</a> Representation of Limited Rights Data and Restricted Computer Software.	<a href="#">27.409(c)</a>	P	No	K	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	
<a href="#">52.227-16</a> Additional Data Requirements.	<a href="#">27.409(d)</a>	C	Yes	I			A	A														A	
<a href="#">52.227-17</a> Rights in Data—Special Works.	<a href="#">27.409(e)</a>	C	Yes	I	A	A	A	A	A	A	O	O	A		A		O					A	