



**United States  
Department of  
Agriculture**

**FARM SERVICE AGENCY  
Commodity Operations**

The U.S. Department of Agriculture (USDA), Farm Service Agency (FSA), Deputy Administrator for Commodity Operations (DACO) requests proposals from responsible sources to provide marine cargo discharge/delivery survey services in **BANGLADESH, BENIN, INDIA, IVORY COAST, and SOUTH SUDAN**.

The services will include surveys of containerized, and/or breakbulk, and/or bulk commodities for food assistance programs. It is the intention of the Government to award a firm-fixed price requirements service contract to one firm for each country.

**January 3, 2013**

## Contents

I. Solicitation Form	3
II. General Description	5
III. Contract Clauses	5
A. FAR 52.212-4 Contract Terms and Conditions—Commercial Items (Feb 2012)	5
A.1. Addenda to FAR 52.212-4	8
A.2. Additional Clauses	9
B. 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (AUG 2012)	12
IV. Contract Documents and Attachments	16
A. Statement of Work	16
B. Scope of Work	17
C. Required Services	17
D. Deliverables	18
E. Applicable Documents	21
F. Exhibits	21
F.1. KC-334 Rate Schedule	22
F.2. KC-337 Discharge/Delivery Survey Summary	23
V. Solicitation Provisions	24
A. 52.212-1 Instructions to Offerors—Commercial Items (Feb 2012)	24
A.1. Addenda to FAR 52.212-1	26
A.2. Additional Provisions	27
B. FAR 52.212-2 Evaluation-Commercial Items. (Jan 1999)	27
C. 52.212-3 Offeror Representations and Certifications—Commercial Items (Apr 2012)	28

## I. Solicitation Form

1. Solicitation Number: AG-INTS-S-13-0003
2. Solicitation Issue Date: January 3, 2013
3. Issued and Administered By:  
USDA-Farm Service Agency-Deputy Administrator for Commodity Operations  
International Procurement Division  
Beacon Facility- Mail Stop 8738  
P.O. Box 419205  
Kansas City, MO 64141-6205
4. Solicitation Type: Request for Proposals (RFP)
5. Offer Due Date/Local Time: February 11, 2013, 10:00 A.M. Central Time
6. Award Information Available By: March 8, 2013 2:00 P.M. Central Time
7. Public Release of Award By: March 8, 2013 4:00 P.M. Central Time
8. Solicitation Information Contact:  
Name: Patsy Carleton  
Fax: 816-823-1640  
E-mail: patsy.carleton@kcc.usda.gov
9. This Acquisition is:  
    /x/ Unrestricted
10. Schedule of Services: It is anticipated that food aid cargoes requiring marine cargo discharge/delivery survey services will be shipped to the following countries; however, due to program changes, there is no guarantee that a survey will be required at all locations during the period of the contracts.
  - **Bangladesh**
  - **Benin**
  - **India**
  - **Ivory Coast**
  - **South Sudan**
11. Place of Performance: See Section IV.B. for Scope of Work.
12. Submit survey reports and invoices to:  
USDA-FSA-DACO  
Contract Reconciliation Division - Export Debt Branch  
Beacon Facility - Mail Stop 8758  
P.O. Box 419205  
Kansas City, MO 64141-6205

For express mail:

USDA-FSA-DACO  
Contract Reconciliation Division - Export Debt Branch  
Beacon Facility - Mail Stop 8758  
9240 Troost Ave  
Kansas City, MO 64131-3005

For questions concerning invoices contact Steve Yancey at 816-926-1460 or Dennis Atkins at 816-926-1532.

13. Contract Type:

- // Definite Delivery/Definite Quantity
- // Indefinite Delivery/Indefinite Quantity
- /x/ Requirements/Indefinite Quantity
- // Fixed Price (Differential) with Economic Price Adjustment

14. Accounting and Appropriation Data:

Funding for the service contracts awarded under this solicitation will be provided through the applicable funding source used for the procurement of the food aid that is to be surveyed.

15. Solicitation incorporates FAR provisions 52.212-1, 52.212-2, 52.212-3 and clauses 52.212-4 and 52.212-5.

These provisions and clauses are included within this document.

16. USDA Contracting Officer

/s/ Patsy Carleton, Contracting Officer

## II. General Description

The Farm Service Agency procures staple foods for use in various international food aid programs administered by the U.S. Agency for International Development (USAID) and USDA's Foreign Agricultural Service (FAS). The food is purchased in bulk and packaged form and transported overseas by ocean carriers to discharge ports or foreign inland destinations for delivery to Non-Governmental Organizations (NGO), Private Voluntary Organizations (PVO), or foreign governments. Given the inherent nature of transporting bulk and packaged food long distances by sea and overland in foreign nations, there is a potential for loss or damage. To address this risk, the Government is seeking to hire marine cargo survey companies to attend at discharge locations and, if applicable, customs and final delivery locations in order to witness and examine cargoes, document the count and condition of these food aid shipments and activities related to disposition, and provide a written report. The survey reports issued by the Contractors will be used by the Government to fix responsibility for loss and damage to the food aid. The Statement of Work under Section IV.A. provides the Government's requirements.

Under certain circumstances, DACO may require that ancillary services be performed. Examples of such services include sampling of damaged commodities and providing analysis of suspected unfit cargoes.

Pursuant to FAR 15.306(a)(3), the government intends to evaluate proposals and make award without discussions. However, the Government reserves the right to hold discussions, if necessary.

Provisions and clauses in effect through FAC 2005-61 are incorporated into this RFP, as applicable.

## III. Contract Clauses

### A. FAR 52.212-4 Contract Terms and Conditions—Commercial Items (Feb 2012)

(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. *Applicable to domestic firms only.*

(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—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

- (A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
- (B) Affected contract number and delivery order number, if applicable;
- (C) Affected contract line item or subline item, if applicable; and
- (D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as

provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by [33.211](#) if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

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

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

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

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

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

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

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

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

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

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

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

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

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

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

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

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

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

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with [31 U.S.C. 1352](#) relating to limitations on the use of appropriated funds to influence certain Federal contracts; [18 U.S.C. 431](#) relating to officials not to benefit; [40 U.S.C. 3701](#), *et seq.*, Contract Work Hours and Safety Standards Act; [41 U.S.C. 51-58](#), Anti-Kickback Act of 1986; [41 U.S.C. 265](#) and [10 U.S.C. 2409](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. 423](#) relating to procurement integrity.

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

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.

(3) The clause at [52.212-5](#).

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The [Standard Form 1449](#).

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) Central Contractor Registration (CCR).

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

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR [Subpart 42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of [Subpart 42.12](#); and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The Contractor must provide with the notification sufficient documentation to support the legally changed name.

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

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

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

## **A.1 Addenda to FAR 52.212-4**

1. Addendum to Paragraph (a) *Inspection/Acceptance.* The Contracting Officer or the Contracting Officer's duly authorized representative will inspect and accept the supplies and/or services to be



provided under this contract. Inspection and acceptance will be performed at: United States Department of Agriculture, Deputy Administrator for Commodity Operations, 6501 Beacon Drive, Kansas City, Missouri, 64133- 4676.

**2. Addendum to Paragraph (b) *Assignment*.**

If requesting assignment of claims under the contract, the contractor may use USDA forms CCC-251 (Notice of Assignment) and CCC-252 (Instrument of Assignment), which may be obtained at: <http://www.fsa.usda.gov/FSA/webapp?area=home&subject=coop&topic=pas> or the contractor may use its own forms provided the forms are essentially consistent with CCC-251 and CCC-252 in content.

**3. Addendum to Paragraph (e) *Definitions*.**

(1) "COTR" means Contracting Officer Technical Representative duly authorized by the Contracting Officer.

(2) "Major damage" means damage that in the estimation of the surveyor exceeds USD \$20,000.

(3) "NGO" means non-governmental organization which receives the food aid to be surveyed.

(4) "TBL" means through bill of lading.

(5) "Third party lab" means a laboratory meeting international ISO testing standards that is not affiliated/associated with either the ocean carrier or receiver involved in the shipment.

**4. Addendum to paragraph (t) – *Central Contractor Registration (CCR)***

The Central Contractor Registration system (as well as the Online Representations and Certifications (ORCA) referenced in 52.212-3) has been superseded by the System for Award Management ([www.sam.gov](http://www.sam.gov)) also available from <https://www.acquisition.gov>.

**5. Addendum to paragraph (u) – *Submission of deliverables***

All survey reports and related survey documentation shall be submitted concurrently with the associated invoice to the address in Section I Solicitation Form. Deliverables and invoice may be submitted electronically to the COTR.

(End of addenda)

**A.2. Additional Clauses**

**AGAR 452.211-74 Period of Performance. (Feb 1988)**

The base period of performance of this contract is from

April 1, 2013 through Sept 30, 2013.

Option period 1, if exercised, is from Oct 1, 2013 through Sept 30, 2014.

Option period 2, if exercised, is from Oct 1, 2014 through Sept 30, 2015.

Option period 3, if exercised, is from Oct 1, 2015 through Sept 30, 2016.

Option period 4, if exercised, is from Oct 1, 2016 through Sept 30, 2017.

(End of Clause)

**AGAR 452.211-75 Effective Period of the Contract. (Feb 1988)**

The effective period of this contract is from April 1, 2013 through the through date of clause 452.211-74.

(End of Clause)

**FAR 52.216-18 Ordering (Oct 1995)**

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

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

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

(End of Clause)

**FAR 52.216-19 Order Limitations. (Oct 1995)**

a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than one ocean container [for containerized cargoes], 75 metric tons [for breakbulk], or 500 metric tons [for bulk cargoes], the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of 450 ocean containers [for containerized cargoes], 40,000 metric tons [for breakbulk], or 65,000 metric tons [for bulk cargoes];

(2) Any order for a combination of items in excess of 450 ocean containers [for containerized cargoes], 40,000 metric tons [for breakbulk], or 65,000 metric tons [for bulk cargoes]; or

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

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within three (3) days after issuance, with written notice stating the Contractor’s intent not to perform the service called for and the reasons. Up on receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

**FAR 52.216-21 Requirements. (Oct 1995)**

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

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

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

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

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

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor’s and Government’s rights and obligations with respect to that order to the same extent as if the order were completed during the contract’s effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after 60 days after the through date in clause 452.211-74.

(End of clause)

**AGAR 452.216-73 Minimum And Maximum Contract Amounts (Feb 1988)**

During the period specified in FAR clause 52.216-18, ORDERING, the Government shall place orders totaling a minimum of not applicable, but not in excess of 5,000,000 metric tons.

(End of clause)

**FAR 52.217-8 Option to Extend Services. (November 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within sixty (60) days prior to contract expiration date.

(End of clause)

**FAR 52.217-9 Option to Extend the Term of the Contract (Mar 2000)**

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

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

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

(End of clause)

**FAR 52.232-19 Availability of Funds for the Next Fiscal Year (Apr 1984)**

Funds are not presently available for performance under this contract beyond September 30, 2013. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond September 30, 2013, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

**AGAR 452.246-70 Inspection and Acceptance (Feb 1988)**

(a) The Contracting Officer or the Contracting Officer's duly authorized representative will inspect and accept the supplies and/or services to be provided under this contract.

(b) Inspection and acceptance will be performed at: United States Department of Agriculture, Deputy Administrator for Commodity Operations, 6501 Beacon Drive, Kansas City, Missouri, 64133-4676.

(End of clause)

**FAR 52.247-5 Familiarization with Conditions (Apr 1984)**

The offeror shall become familiar with all available information regarding difficulties that may be encountered and the conditions, including safety precautions, under which the work must be accomplished under the contract. The offeror shall not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required in this contract because the offeror failed to investigate the conditions or to become acquainted with all information concerning the services to be performed.

(End of clause)

**FAR 52.252-2 Clauses Incorporated by Reference (Feb 1998)**

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

<https://www.acquisition.gov/far/http://www.usda.gov/procurement/policy/agar.html>

(End of clause)

**B. 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (AUG 2012)**

(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) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

\_\_\_ Alternate I (Aug 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(2) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(3) [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.]

X (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) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

\_\_\_ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

\_\_\_ (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Aug 2012) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

\_\_\_ (5) [52.204-11](#), American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

\_\_\_ (6) [52.209-6](#), Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) ([31 U.S.C. 6101 note](#)).

\_\_\_ (7) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (Feb 2012) ([41 U.S.C. 2313](#)).

\_\_\_ (8) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (May 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

\_\_\_ (9) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) ([15 U.S.C. 657a](#)).

\_\_\_ (10) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

\_\_\_ (11) [Reserved]

\_\_\_ (12)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2011) ([15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (Nov 2011).

\_\_\_ (iii) Alternate II (Nov 2011).

\_\_\_ (13)(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](#).
- (14) [52.219-8](#), Utilization of Small Business Concerns (Jan 2011) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- (15)(i) [52.219-9](#), Small Business Subcontracting Plan (Jan 2011) ([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](#).
- (iv) Alternate III (Jul 2010) of [52.219-9](#).
- (16) [52.219-13](#), Notice of Set-Aside of Orders (Nov 2011)([15 U.S.C. 644\(r\)](#)).
- (17) [52.219-14](#), Limitations on Subcontracting (Nov 2011) ([15 U.S.C. 637\(a\)\(14\)](#)).
- (18) [52.219-16](#), Liquidated Damages—Subcontracting Plan (Jan 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).
- (19)(i) [52.219-23](#), Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) ([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](#).
- (20) [52.219-25](#), Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).
- (21) [52.219-26](#), Small Disadvantaged Business Participation Program— Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).
- (22) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) ([15 U.S.C. 657 f](#)).
- (23) [52.219-28](#), Post Award Small Business Program Rerepresentation (Apr 2012) ([15 U.S.C. 632\(a\)\(2\)](#)).
- (24) [52.219-29](#), Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2012) ([15 U.S.C. 637\(m\)](#)).
- (25) [52.219-30](#), Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2012) ([15 U.S.C. 637\(m\)](#)).
- (26) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).
- (27) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Mar 2012) (E.O. 13126).
- (28) [52.222-21](#), Prohibition of Segregated Facilities (Feb 1999).
- (29) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).
- (30) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010)([38 U.S.C. 4212](#)).
- (31) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).
- (32) [52.222-37](#), Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- (33) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- (34) [52.222-54](#), Employment Eligibility Verification (JUL 2012). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)
- (35)(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ([42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (ii) Alternate I (May 2008) of [52.223-9](#) ([42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- (36) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)).
- (37)(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](#).

- (38) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).
  - (39) [52.225-1](#), Buy American Act—Supplies (Feb 2009) ([41 U.S.C. 10a-10d](#)).
  - (40)(i) [52.225-3](#), Buy American Act—Free Trade Agreements—Israeli Trade Act (May 2012) ([41 U.S.C. chapter 83](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, [19 U.S.C. 4001](#) note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, and 112-42).
  - (ii) Alternate I (Mar 2012) of [52.225-3](#).
  - (iii) Alternate II (Mar 2012) of [52.225-3](#).
  - (iv) Alternate III (Mar 2012) of [52.225-3](#).
  - (41) [52.225-5](#), Trade Agreements (MAY 2012) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).
  - X (42) [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).
  - (43) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ([42 U.S.C. 5150](#)).
  - (44) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) ([42 U.S.C. 5150](#)).
  - (45) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).
  - (46) [52.232-30](#), Installment Payments for Commercial Items (Oct 1995) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).
  - X (47) [52.232-33](#), Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) ([31 U.S.C. 3332](#)).
  - (48) [52.232-34](#), Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) ([31 U.S.C. 3332](#)).
  - (49) [52.232-36](#), Payment by Third Party (Feb 2010) ([31 U.S.C. 3332](#)).
  - (50) [52.239-1](#), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](#)).
  - (51)(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) (Sep 2009) ([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 (Sep 2009) ([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 (Feb 2009) ([41 U.S.C. 351](#), *et seq.*).
  - (7) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247).
  - (8) [52.237-11](#), Accepting and Dispensing of \$1 Coin (Sept 2008) ([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 appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

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

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

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

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

(iii) [Reserved]

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

(v) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010) ([38 U.S.C. 4212](#)).

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

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

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

(ix) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

\_\_\_ Alternate I (Aug 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(x) [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.*).

(xi) [52.222-53](#), Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (Feb 2009) ([41 U.S.C. 351](#), *et seq.*).

(xii) [52.222-54](#), Employment Eligibility Verification (JUL 2012).

(xiii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xiv) [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](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

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

(End of clause)

#### **IV. Contract Documents and Attachments**

##### **A. Statement of Work**

###### **1. Background**

To address risks inherent with shipping U.S. food aid to overseas destinations, the Government is seeking to hire a marine cargo survey company to attend, witness, and examine food cargoes, document the count and condition of these food aid shipments and activities related to disposition, and provide a written report. In general, we are seeking an experienced survey firm with a proven performance record conducting like work.

###### **2. Government Contact Information**

Upon contract award the Contractor will be advised of the individual serving as the COTR for the contract and the individual serving as COTR for report and invoice submission, including applicable phone numbers and E-mail addresses.

###### **3. Availability and Notification**

The Contractor shall be available on 48 hour notice of the shipments. Attendance may be required simultaneously at numerous locations.

###### **4. Task Orders**

- a. The Government intends to issue task orders electronically pursuant to 4.b. below; however, it reserves the right to issue task orders orally, by email, or by facsimile, if necessary.
- b. Once the cargo has lifted from a US port, the COTR shall provide the Contractor a task order which will include information detailing the cargo to be surveyed with identifying information, the vessel on which it is shipped, the destination(s) with estimated arrival date, attendance location(s), and contact information. The instructions on the task order will identify the shipment terms (ie: port-to-port or through bill of lading) to define the prices used.
- c. The task order will be issued to the survey contract (country) holder on the basis of where the survey work ends. Shipments for which title transfers at the discharge port will be awarded on the discharge port country survey contract, if one exists. Those shipments considered by USDA to be on a through bill of lading requiring attendance at both the discharge port and inland location(s) will be awarded on the survey country contract of the inland location.

###### **5. Conveyances**

Bulk cargoes will be typically shipped in bulk and tanker vessels; packaged cargoes in bulk or breakbulk vessels, lash barges, or in containers. Cargoes will be shipped port-to-port or on through bills of lading where the cargoes are transported to inland locations.

###### **6. Products**

The products subject to marine cargo discharge/delivery survey service include dry staple foods such as rice, peas, beans, and lentils; dry blended foods such as wheat-soy blend and corn-soy blend; and vegetable oil. This food aid is packaged in polypropylene or paper bags ranging in size from 20 pounds to 50 kilograms, cardboard cartons containing consumer-pack quantities, liquid 20 liter pails, 6/4 liter containers, and 208 liter drums. Bulk grain and oil cargoes may be shipped such as wheat, corn, soybeans, soybean meal and vegetable oil.

###### **7. Communications**

The Contractor shall provide timely replies to inquiries, within seven (7) working days.



## B. Scope of Work

1. The surveyor is required to attend at the discharge and delivery of all food aid cargoes covered by the contract. These locations include:
  - the discharge port (which may be in a different country than the country for which the surveyor has a contract)
  - the delivery location(s), as applicable
  - for containerized shipments, at customs locations outside of port areas where the containers are opened.
2. The table below lists all the countries for which the Government intends to award indefinite delivery requirements contracts. A separate contract will be awarded for each country, with only one contract holder per country. Offerors may submit proposals for more than one country; however, each country offer shall be submitted as a separate proposal, i.e., technical and price proposal specific for each country offer. An offeror may be awarded more than one contract.

Bangladesh	Benin	India	Ivory Coast	South Sudan
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## C. Required Services

The Contractor shall provide all management, supervision, and personnel to provide the following under the contract:

1. A single point of contact, including phone number and e-mail, for all matters under the contract(s).
2. A cargo survey by qualified, experienced surveyors at vessel discharge and, if any, the port customs station, as well as at the ultimate destination(s) for through bills-of-lading shipments.
3. For bulk shipments, at our instruction, a draft survey may be required in place of, or in addition to, a discharge survey.
4. For bulk shipments which require bagging, additional survey reporting will be required which specifies losses and damages resulting from the bagging operation, as well as survey reporting at the ultimate destination(s) for through bill-of-lading shipments.
5. For any containerized cargoes, a survey at discharge and at customs locations between discharge port and at final destination where containers are opened. Also, survey reporting will be required at the ultimate destination(s) for through bill-of-lading shipments.
6. Documentation and evidence of:
  - a. The quantity of cargo discharged/delivered.
  - b. Condition of container seals at discharge/customs/delivery. If broken or additional seals applied, must state where new seals were applied and report both the original seal numbers and new seal numbers.
  - c. Quantity of cargo removed by customs.
  - d. The condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.
  - e. If containerized, the number and condition of containers discharge/delivered.
7. In the event of major loss, the Contracting Officer or COTR is notified immediately.
8. Evidence that written notice of loss was presented to carrier/carrier's representative within three days of discharge/delivery.
9. Observe, and provide documentation and evidence for the disposition of any damaged (including reconstituted) cargo.
10. The names, titles, and organizational affiliations of those present at discharge/customs inspection/delivery/destruction.
11. In the event of damaged cargo, obtain photographs and a representative sample and, subject to separate authorization by the Contracting Officer or COTR, provide timely documentation of the analysis of suspected unfit cargo by an independent third party lab, if local health official is not available.

12. Certifications signed by third parties (vessel personnel, NGO and PVO representatives, and custom representatives) establishing attendance by the Contractor at each location attended.
13. Submission of the preliminary form KC-334 upon completion of discharge/delivery and submission of the final form KC-334 with the survey report.

**D. Deliverables**

1. The Contractor shall liaise with DACO, the applicable vessel agent, and NGO/PVO in order to coordinate on-time attendance and the service to be provided.
2. The Contractor shall attend and observe at the locations stipulated in this RFP.
3. The Contractor shall provide a separate, written survey report and supporting documentation, in English or with translation, for each originating vessel's cargo and destination with sufficient detail and documentation so as to fix responsibility for losses occurring while cargo is under the care, custody, and control of the steamship company transporting the cargo. The report may be electronic or hard copy. A copy of the report should be sent to the receiver.
4. The completed report shall be submitted within 60 days of completion of discharge/delivery. If submission of the report cannot be made within 60 days, a request for extension must be made to the contracting officer by e-mail prior to the 60 day deadline, with justification for the delay and an estimated date of submission. If reconstitution is not expected to be completed within approximately two weeks, the report should still be submitted, with reconstitution documentation to follow upon completion of the process.
5. The Contractor shall provide timely replies to inquiries, within seven (7) working days.
6. Additional information related to deliverables to be provided under the contract:

<b>PERFORMANCE STANDARD</b>	<b>ACCEPTABLE QUALITY LEVEL</b>	<b>MONITORING METHOD</b>
<p>1. For <u>containerized</u> shipments, the following factors must be elements of a written report:</p> <ul style="list-style-type: none"> <li>- the quantity of cargo discharged/delivered</li> <li>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.</li> <li>- check vessel holds before and after discharge</li> <li>- list container numbers and seal numbers at time of discharge/customs/delivery</li> <li>- personally observe discharge/delivery and comment on container conditions and note container defects, if any</li> <li>- signed, legible, accurate original stroke tallies</li> <li>- attendance and reporting on accessing containers at customs locations</li> <li>- report of infestation, if any</li> <li>- photographs of any broken seals on the containers</li> </ul>	Report is sufficient to support the USDA claims recovery process.	USDA review of all Contractor's reports.
<p>2. For <u>breakbulk</u> shipments, the following factors must be elements</p>	Report is sufficient to support the USDA claims	USDA review of all Contractor's reports.

<b>PERFORMANCE STANDARD</b>	<b>ACCEPTABLE QUALITY LEVEL</b>	<b>MONITORING METHOD</b>
<p>of a written report:</p> <ul style="list-style-type: none"> <li>- the quantity of cargo discharged/delivered</li> <li>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.</li> <li>- check vessel holds before and after discharge</li> <li>- personally observe discharge/delivery</li> <li>- signed, legible, accurate original stroke tallies</li> <li>- for TBL shipments, attendance and reporting on loading of land conveyance.</li> <li>- report of infestation, if any</li> </ul>	<p>recovery process.</p>	
<p>3. For <u>bulk</u> shipments, the following factors must be elements of a written report:</p> <ul style="list-style-type: none"> <li>- the quantity of cargo discharged/delivered</li> <li>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.</li> <li>- check vessel holds before and after discharge</li> <li>- conduct draft surveys to establish quantity on free-out shipments, at lightering operations and at ports where scales not available</li> <li>- personally observe and describe in detail the discharge/delivery process</li> <li>- scale information including scale location, scale type, date of last calibration, and other factors affecting scale weight accuracy</li> <li>- for TBL shipments, attendance and reporting on loading of land conveyance</li> <li>- for liquid cargoes and tallow, condition of pumping equipment and shore tanks/tank trucks</li> <li>- provide the actual (or estimated, if actual not available) weight</li> </ul>	<p>Report is sufficient to support the USDA claims recovery process.</p>	<p>USDA review of all Contractor's reports.</p>

<b>PERFORMANCE STANDARD</b>	<b>ACCEPTABLE QUALITY LEVEL</b>	<b>MONITORING METHOD</b>
<p>loss of any shortage, or damaged cargo and the type and severity of damage</p> <ul style="list-style-type: none"> <li>- if bulk cargo is being bagged, observe bagging operation and report the quantity bagged; document the total bag count and weight and the method of such determination; forward original stroke tallies with the survey report to document the quantity of cargo bagged and stacked.</li> </ul>		
<p>4.A. In the event of major loss, the Contracting Officer or COTR is notified immediately.</p>	<p>100 percent compliance</p>	<p>USDA review of all Contractor's reports.</p>
<p>4.B. Evidence that written notice of loss was presented to carrier/ carrier's representative within three days of discharge/delivery.</p>	<p>100 percent compliance when there are losses suffered, if no mitigating circumstances. Determination of mitigation is at the discretion of the Government.</p>	<p>USDA review of all Contractor's reports.</p>
<p>4.C. Observe, and provide documentation and evidence for the disposition of any damaged cargo.</p> <ul style="list-style-type: none"> <li>- Document reconstitution efforts and results</li> <li>- Obtain health officer's certificate for cargoes suspected to be unfit</li> <li>- Provide disposal or destruction documentation</li> <li>- The names of those present at discharge/customs inspection/ delivery/destruction, including names, titles, and organizational affiliations.</li> </ul>	<p>100 percent compliance for observation, if no mitigating circumstances. Determination of mitigation is at the discretion of the Government.</p>	<p>USDA review of all Contractor's reports.</p>
<p>4.D. In the event of damaged and/or out of condition cargo, take photographs and samples and, subject to separate authorization by the Contracting Officer, provide timely analysis of suspected unfit cargo by an independent third party lab, if local health official is not available.</p>	<p>100 percent compliance when local health official is not immediately available, contractor must take representative samples at the time damage is discovered, or commodity is suspected to be unfit.</p> <p>Submit samples for testing within one week of authorization:</p> <ul style="list-style-type: none"> <li>- 100 percent compliance</li> </ul>	<p>USDA review of all Contractor's reports.</p>

PERFORMANCE STANDARD	ACCEPTABLE QUALITY LEVEL	MONITORING METHOD
	when major damage (damage that in the estimation of the surveyor exceeds USD \$20,000) is present - 75 percent compliance when value of the loss is minor	
5. Certifications signed by third parties (vessel personnel, NGO/PVO representatives, customs representatives) establishing attendance by the Contractor at each location attended.	100 percent compliance, if no mitigating circumstances. Determination of mitigation is at the discretion of the Government.	USDA review of all Contractor's reports.

**E. Applicable Documents**

The following legal/regulatory documents may be relevant to this acquisition:

- United States Carriage of Goods by Sea Act (COGSA);
- The Harter Act;
- 22 CFR 211—Transfer of Food Commodities for Food Use in Disaster Relief, Economic Development and Other Assistance;
- 7 CFR 1499—Foreign Donation Programs, Liability For Loss, Damage, Or Improper Distribution Of Commodities--Claims And Procedures;

**F. Exhibits**

The forms included as Exhibits on the following pages shall be used by the contractor in performance of its work under this contract.

# Attachment KC-337 RATE SCHEDULE

See reverse side for Privacy Act, Public Burden and Nondiscrimination Statements.

**KC-337**  
(11-01-2012)

**U.S. DEPARTMENT OF AGRICULTURE**  
Farm Service Agency  
**Rate Schedule**

Country/Region: \_\_\_\_\_ Base Year / Option Year 1 / 2 / 3 / 4 (Circle, as appropriate)

<b>DISCHARGE SURVEYS</b>				
Metric Tons (MT)				
(Rates are per net MT except for Min. Fee)				
Type of Cargo	Up to 999 MT Min. Fee*	1,000 - 5,000 MT	5,001 - 10,000 MT	10,001 MT and above
Bulk-No bagging				
Bulk-Including Bagging				
Breakbulk				

<b>DRAFT SURVEYS</b>
(Cost is separate from your base rates)
Rate for each draft survey:

<b>CUSTOMS LOCATIONS</b>
(Cost shall be expressed per workday)
Rate per workday:

<b>THROUGH BILL OF LADING SURVEYS</b>				
(Rates must include cost to perform surveys at both the discharge and delivery locations.)				
Metric Tons (MT)				
(Rates are per net MT except for Min. Fee)				
Type of Cargo	Up to 999 MT Min. Fee*	1,000 - 5,000 MT	5,001 - 10,000 MT	10,001 MT and above
Bulk-No bagging				
Bulk-Including Bagging				
Breakbulk				

<b>CONTAINERIZED SHIPMENT SURVEYS</b>					
(Rates for shipments delivered inland must cover surveys conducted at both the discharge and delivery locations.)					
Number of Containers					
(Rates are per container except for Min. Fee)					
	Min. Fee*	Min. 10 Max. 25	Min. 26 Max. 50	51 and above	
No Devanning <sup>1</sup>					
Devan at Port <sup>2</sup>					
Devan at Inland Delivery Location <sup>3</sup>					
Devan at Port + Breakbulk Inland Delivery Location <sup>4</sup>					

\* Minimum fee applies only to shipments of less than 1,000 MT or shipments of less than 10 containers.

**Rate schedule must be stated in U.S. currency (\$0.00)**

I certify that this firm has the expertise necessary to perform the survey services required by Commodity Credit Corporation in this country/region. I further certify that this rate schedule is my bid to perform survey services in this country/region for a period of one year from the date the contract is awarded to this firm and that such rate schedule is all-inclusive and will not change during the period under which the contract is effective.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_

<sup>1</sup> Containers are not devanned OR surveyor not a witness to devanning. Container and seal check only. Attendance at port.

<sup>2</sup> Containers are devanned at port (within 25 km radius). Attendance at port.

<sup>3</sup> Containers are transported inland where devanning occurs. Attendance at port and inland delivery location.

<sup>4</sup> Containers are devanned at port, cargo loaded onto conveyance to inland destination for breakbulk survey. Attendance at port and inland delivery location.

# Attachment KC-334 DISCHARGE/DELIVERY SURVEY SUMMARY

See reverse side for Privacy Act, Public Burden and Nondiscrimination Statements.

Form Approved - OMB No. 0560-0177

**KC-334**  
(01-04-07)

U.S. DEPARTMENT OF AGRICULTURE  
Farm Service Agency  
 Preliminary     Final (Check One)  
**DISCHARGE/DELIVERY SURVEY SUMMARY**  
**(For CCC Contracted Surveys)**

PAGE \_\_\_\_\_ of \_\_\_\_\_  
REPORT NUMBER \_\_\_\_\_

SURVEY COMPANY NAME \_\_\_\_\_

NAME OF SUBCONTRACTOR \_\_\_\_\_

PERSON(S) WHO PERFORMED SURVEY \_\_\_\_\_

**SHIPMENT INFORMATION**

VESSEL NAME/VOYAGE #	CCC REFERENCE NUMBER	DESTINATION COUNTRY
DISCHARGE PORT OR INLAND DESTINATION	VESSEL ARRIVAL DATE	VESSEL DISCHARGE COMMENCED/COMPLETED
DELIVERY TO FINAL DESTINATION COMMENCED/COMPLETED	DESTUFFING OF CONTAINERS COMMENCED/COMPLETED	
COMMODITY/PACK SIZE	MANIFESTED UNITS	MANIFESTED WEIGHT (KGS/LBS)

**SURVEY FINDINGS**

DESCRIPTION	UNITS	ACCEPTED WEIGHT (Includes reconstituted/ sound KGS/LBS)	WEIGHT LOSS IN KGS/LBS (Includes unfit losses)
Quantity Discharged Sound			
Torn/Slack/Leaking			
Discharged Empty			
Wet			
Infested			
Moldy			
Other Unfit (i.e., contaminated/caked/ stained)			
<b>TOTAL QUANTITY DISCHARGED</b>			
Short Landed			
Excess Landed			
Sound/recovered Sweepings			

**Additional Comments**

**DOCUMENT CHECKLIST**

<input type="checkbox"/> Tally Sheets	<input type="checkbox"/> 3 day notice to Vessel or Agent of loss	<input type="checkbox"/> Short Landing Certificate
<input type="checkbox"/> Unfit Certificates/Lab Analysis	<input type="checkbox"/> Confirmation of Attendance	<input type="checkbox"/> Photographs
<input type="checkbox"/> Disposition Documentation ( <input type="checkbox"/> sold <input type="checkbox"/> donated <input type="checkbox"/> destroyed/dumped )		

**NOTE:** If no documentation explain disposition in comments

PRINTED NAME OF PREPARER \_\_\_\_\_

PREPARER SIGNATURE \_\_\_\_\_ | DATE \_\_\_\_\_

## V. Solicitation Provisions

### A. 52.212-1 Instructions to Offerors—Commercial Items (Feb 2012)

(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.

[See addendum below for additional submission requirements.](#)

(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 websites:

- (i) ASSIST (<http://assist.daps.dla.mil>).
- (ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).
- (iii) ASSISTdocs.com (<http://assistdocs.com>).

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

- (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 CCR database accessed through <https://www.acquisition.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)

#### **A.1. Addenda to FAR 52.212-1**

- 1. Addendum to paragraph (b) *Submission of offers***. Submission of offers is revised to remove "Offers may be submitted on the SF 1449." The SF 1449 is not being used for this streamlined solicitation. Offerors should submit their signed and dated offers on letterhead stationery.

In addition to items (1) through (11) required by paragraph (b) of FAR clause 52.212-1, the paragraph is further amended to require the inclusion of the following in offerors' proposal packages—

- (12) Offerors shall also identify the specific country(ies) for which they are offering.
- (13) A valid e-mail address for contact purposes
- (14) A completed price rate sheet (Form KC-337 Rate Schedule in Section IV. F) of this solicitation
- (15) A technical proposal addressing staffing, experience, customer service, sample survey report, and past performance
- (16) A statement certifying that the offeror has the capability to utilize standard digital photography to document any issues which might be raised
- (17) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation.

Prior to the deadline stated in Section I, proposal packages may be submitted electronically (Preferred) or via overnight express mail, in accordance with FAR 52.212-1, to the address shown below. Electronic submissions should be sent to: [patsy.carleton@kcc.usda.gov](mailto:patsy.carleton@kcc.usda.gov) and must be in a format compatible with Microsoft Office or Adobe Acrobat.

**CONFIDENTIAL**  
USDA-FSA-DACO  
Beacon Facility - Mail Stop 8738  
Attn: Patsy Carleton  
9240 Troost Ave  
Kansas City, MO 64131-30551

**2. Addendum to paragraph (j) – Data Universal Numbering System (DUNS) Number.**  
Foreign firms are exempted from the requirement to obtain and provide a DUNS number with their offer.

**3. Addendum to paragraph (k)** The Central Contractor Registration system (as well as the Online Representations and Certifications (ORCA) referenced in 52.212-3) has been superseded by the System for Award Management ([www.sam.gov](http://www.sam.gov)) also available from <https://www.acquisition.gov>.

(End of addenda)

## **A.2. Additional Provisions**

### **AGAR 452.219-70 Size Standard and NAICS Code Information (Sep 01)**

The North American Industrial Classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

- Contract line item(s): See Schedule of Services
- NAICS Code 488390
- Size Standard \$35.5 million

(End of provision)

### **4K52.242-01 Contractor Past Performance**

The Government will prepare a past performance evaluation at the time the work under the contract is completed. In addition, interim evaluations may be conducted as to provide current information for source selection purposes, for contracts or orders with a period of performance, including options, exceeding one year. Evaluation will rate performance areas such as quality of product or service, cost control, timeliness of performance, and business relations. The evaluation will be entered into the Contractor Performance Assessment Reporting System (CPARS). Contractor will have an opportunity to comment on the Governments evaluation. Details on access and use of CPARS will be provided to the Contractor at a future date.

The past performance evaluation may be used by the Government to support future award decisions.

(End of provision)

## **B. FAR 52.212-2 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 technical factors shall be used to evaluate offers:

1. **Staffing.** The Government will evaluate proposals on the basis of a firm's staffing to be deployed to cover all anticipated locations in the particular country(ies) or regions given the potential for simultaneous attendance at multiple port and inland locations. If the survey work is to be performed by an affiliated company or subcontractor, the name of that company should be

- provided.
2. **Experience.** This technical factor will be evaluated on the basis of the experience level of the surveyors performing similar work on agricultural products in the pertinent country(ies). Experience of any management staff coordinating the operations should also be included in the proposal.
  3. **Customer Service.** This factor will be evaluated on the basis of the firm's internal management oversight of all aspects of the survey process and its communication framework as it relates to communications with the Government.
  4. **Sample Survey Report.** One (1) sample survey report shall be submitted. The sample should be relevant for an agricultural product. The Government will review the report for content, clarity, and accuracy. It is recognized that a report performed for a third party will not necessarily contain all the components listed in the Deliverables and Required Service sections listed above.
  5. **Past Performance.** The Government shall evaluate proposals on the basis of customer satisfaction on past (within the last three years) or current Government or commercial contracts similar to this Government requirement. Offerors are allowed to submit information on a maximum of five contracts.

Offerors shall provide the following information in its proposal:

1. Contract number
2. Date of contract
3. Customer name
4. Point of contact (name and current phone number)

In rating an offeror's past performance, information in the offeror's proposal will be considered along with information obtained from other sources, such as USDA. The Government reserves the right to contact any and all references to assess the offeror's performance and relative capability related to customer satisfaction, timeliness of performance, and commitment to customer satisfaction. If there is no information on past contract performance of an offeror or past contract performance is not available, the offeror will not be evaluated favorably or unfavorably on this factor, and past performance will be rated as neutral.

(b) The Government is concerned with obtaining superior technical ability rather than making an award to the lowest cost or price in awarding these contracts. Therefore, each of the above factors (Staffing, Experience, Customer Service, Sample Report, and Past Performance) will be given equal weight in the evaluation process, and all, when combined, are significantly more important than price.

(c) Option Years. 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).

(d) The Government may reject any or all proposals, if such action is in the Government's best interest, and may waive information and minor irregularities in proposals received.

(e) 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)

### **C. 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (APR 2012)**

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <https://www.acquisition.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 (o) of this provision.

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

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

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

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

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

“Inverted domestic corporation”, as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at [26 U.S.C. 7874](#).

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

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

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

(3) FSG 88, Live Animals;

(4) FSG 89, Food and Related Consumables;

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

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

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

(8) FSC 9610, Ores;

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

(10) FSC 9630, Additive Metal Materials.

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

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

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

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

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

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

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

(6) Have been voluntarily suspended.

“Sensitive technology”—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

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

(1) Means a small business concern—

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

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

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

“Small business concern” 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.

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

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

“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

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

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

(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 accessed through <https://www.acquisition.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

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

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

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

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It  is,  is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It  is,  is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

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

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

(10) [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 CCR Dynamic Small Business Search database maintained by the Small Business Administration, 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)(10)(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: \_\_\_\_\_.*]

(11) *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 changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It  is,  is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone 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 \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American 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 for other than COTS items, 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, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “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**

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 for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “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, Moroccan, Omani, or Peruvian 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, Moroccan, Omani, or Peruvian End Products) or Israeli End Products:

**Line Item No. Country of Origin**

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, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

**Line Item No. Country of Origin**

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.**

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[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**

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[List as necessary]

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

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, or Peruvian 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, Korean, Moroccan, Omani, or Peruvian End Products) or Israeli End Products:

**Line Item No.    Country of Origin**

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[List as necessary]

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

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

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

Other End Products:

**Line Item No.    Country of Origin**

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[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 (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

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

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

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

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

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

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

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

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

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract 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.

(l) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to 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)*.

- o TIN: \_\_\_\_\_.
- o TIN has been applied for.
- o TIN is not required because:
  - o 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;
  - o Offeror is an agency or instrumentality of a foreign government;
  - o Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

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

(5) *Common parent*.

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

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

(n) *Prohibition on Contracting with Inverted Domestic Corporations*.

(1) *Relation to Internal Revenue Code*. An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code [25 U.S.C. 7874](#).

(2) *Representation*. By submission of its offer, the offeror represents that—

- (i) It is not an inverted domestic corporation; and
- (ii) It is not a subsidiary of an inverted domestic corporation.

(o) *Sanctioned activities relating to Iran*.

(1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

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

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

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

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

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

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

(End of provision)