**Solicitation Number: AG-INTS-S-12-014**

# United States Department of Agriculture

## Farm Service Agency
**Kansas City Commodity Office**
**Kansas City, Missouri**

The USDA requests quotes from responsible sources to provide marine cargo discharge/delivery survey services in Somalia. The service will include surveys of containerized, and/or breakbulk, and/or bulk food aid cargoes.

Separate firm, fixed-price requirements contracts to provide survey services for food aid shipments to Somalia are contemplated.

## Issue Date: June 13, 2012

## Table of Contents

**Section A. Solicitation Form** ..... **3**
**Section B. Contract Clauses and Addenda** ..... **6**
**Section C. Contract Documents and Attachments** ..... **12**
**C.1.1 Background** ..... **12**
**C.1.2 Scope of Work** ..... **12**
**C.1.3 Applicable Documents** ..... **12**
**C.1.4 Required Services** ..... **13**
**C.1.5 Deliverables** ..... **14**
**Attachment KC-334** ..... **18**
**Section D. Solicitation Provisions** ..... **19**

**Section A. Solicitation Form**

1. This is a combined synopsis/solicitation for commercial items prepared in accordance with the format in Subpart 12.6, as supplemented with additional information included in this notice. This announcement constitutes the only solicitation; proposals are being requested and a written solicitation will not be issued.

2. Solicitation Number: AG-INTS-S-12-014. This is a Request for Quotation.

3. The solicitation document and incorporated provisions and clauses are those in effect through Federal Acquisition Circular 2005-58.

4. Solicitation Issue Date: June 13, 2012

5. This Acquisition is: unrestricted

6. Contract Line Items: Marine cargo discharge/delivery services are anticipated to be required for the following countries:

- Somalia

The Government intends to award a firm, fixed-price requirements contract for each country listed above. The term of the contracts will be one base year with four (4) option years.

7. Description of requirements: See Section C

8. Date(s) and place(s) of delivery and acceptance: See Section B.1.2.5

9. The provision at 52.212-1, Instructions to Offerors—Commercial, applies to this acquisition: See Section D.2 for provision and addenda.

10. The provision at 52.212-2, Evaluation—Commercial Items applies to the acquisition: See Section D.3.

11. The provision at 52.212-3, Offeror Representations and Certifications—Commercial Items, is required with this acquisition. See Section D.4.

12. The clause at 52.212-4, Contract Terms and Conditions—Commercial Items, applies to this acquisition: See Section B.2 and B.2.1 for clause and addenda.

13. The clause at 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items, applies to this acquisition. See Section B.3 for the specific FAR clauses within 52.212-5 that are applicable to the acquisition.

14. See Section B for the other contract clauses applicable to this acquisition.

15. Offer Due Date/Local Time: June 25, 2012, 9:00 A.M. CT

16. Contact information regarding this solicitation:
Name: George Pryor
Telephone: 816-823-1592
E-mail: george.pryor@kcc.usda.gov
Completed solicitations should be submitted via e-mail to the e-mail address above.

17. Solicitation issued and administered by:

USDA-Farm Service Agency
Kansas City Commodity Office (KCCO)
International Procurement Division
Beacon Facility- Mail Stop 8738
P.O. Box 419205
Kansas City, MO 64141-6205

18. Submit invoices to:

Kansas City Commodity Office
International Procurement Division
Procurement Support Branch
USDA-Farm Service Agency
Beacon Facility- Mail Stop 8738
P.O. Box 419205
Kansas City, MO 64141-6205

For express mail:

Kansas City Commodity Office
International Procurement Division
Procurement Support Branch
USDA-Farm Service Agency
Beacon Facility- Mail Stop 8738
9240 Troost Ave
Kansas City, MO 64131-3005

For questions concerning invoices contact George Pryor at 816-823-1592.

19. USDA Contracting Officer:
George Pryor, Contracting Officer
Telephone: 816-823-1592
E-mail: george.pryor@kcc.usda.gov

*See reverse side for Privacy Act, Public Burden and Nondiscrimination Statements.* Form Approved - OMB No. 0560-0177

**KC-337**
(12-14-06)

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

# Rate Schedule

Country/Region: _____ ☐ Base Year and/or any Option Years: ☐1 ☐2 ☐3 ☐4

| DISCHARGE SURVEYS | | | | |
|---|---|---|---|---|
| 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 | | | | |

* Minimum fee applies only to shipments of less than 1,000 MT.

| DRAFT SURVEYS<br>(Cost is separate from your base rates) |
|---|
| Rate for each draft survey: |

| CUSTOMS LOCATIONS<br>(Cost shall be expressed per workday) |
|---|
| Rate per workday: |

| THROUGH BILL OF LADING SURVEYS<br>(Rate must include cost to perform survey at both discharge and delivery) | | | | |
|---|---|---|---|---|
| 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 | | | | |
| Number of Containers (Rates are per container except for Min. Fee) | | | | |
| | Min. Fee* | Min. 10 Max. 25 | Min. 26 Max. 50 | 51 and above |
| Non-refrigerated | | | | |
| Refrigerated | | | | |

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

**Rate schedule must be stated in U.S. currency**

*I certify that this firm has the expertise necessary to perform the survey services required by Commodity Credit Corporation in this country. I further certify that this rate schedule is my bid to perform survey services in this country 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:** _____

**Fax Number:** _____

**E-Mail:** _____

## Section B. Contract Clauses and Addenda

### B.1 452.211-74 Period of Performance (Feb 1988)

The period of performance of this contract is from April 1, 2012, through the later of the end of the base year, or the end of an option year if the option year is exercised.

(End of Clause)

### B.2 52.212-4 Contract Terms and Conditions—Commercial Items. (Feb 2012)

#### B.2.1 Addenda to Clause 52.212-4

**B.2.1.1 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, Kansas City Commodity Office, 6501 Beacon Drive, Kansas City, Missouri, 64133- 4676.

**B.2.1.2 Addendum to paragraph (b) – *Assignment***

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

**B.2.1.3 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.

**B.2.1.4 Addendum to paragraph (t) – *Central Contractor Registration* (CCR)**

Foreign firms are exempted from the requirement to be registered in the CCR.

**B.2.1.5 Addendum to paragraph (u) – *Submission of deliverables***

All survey reports and related survey documentation shall be submitted concurrently with the associated invoice to address in Section A Solicitation/Contract Form, Block 9. Deliverables and invoice may be submitted electronically to the COTR.

(End of clause addenda)

### B.3 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Feb 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 (Jul 2010) (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). (Applies to contracts over $30,000). (Not applicable to subcontracts for the acquisition of commercially available off-the-shelf items).

__ (7) 52.219-3, Notice of Total HUBZone Set-Aside or Sole-Source Award (Jan 2011) (15 U.S.C. 657a).

__ (8) 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).

__ (9) [Reserved]

__ (10)(i) 52.219-6, Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).

__ (ii) Alternate I (Oct 1995) of 52.219-6.

__ (iii) Alternate II (Mar 2004) of 52.219-6.

__ (11)(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.

__ (12) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).

__ (13)(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.

__ (14) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).

__ (15) 52.219-16, Liquidated Damages—Subcon-tracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

__ (16)(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.

__ (17) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Apr 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

__ (18) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

__ (19) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004) (15 U.S.C. 657 f).

__ (20) 52.219-28, Post Award Small Business Program Rerepresentation (Apr 2009) (15 U.S.C. 632(a)(2)).

__ (21) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

__ (22) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).

__ (23) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

__ (24) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

__ (25) 52.222-35, Equal Opportunity for Veterans (Sep 2010)(38 U.S.C. 4212).

__ (26) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

__ (27) 52.222-37, Employment Reports on Veterans, (Sep 2010) (38 U.S.C. 4212).

__ (28) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

__ (29) 52.222-54, Employment Eligibility Verification (JAN 2009). (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.)

__ (30)(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.)

__ (31) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).

__ (32)(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.

**X** (33) 52.223-18, Contractor Policy to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).

__ (34) 52.225-1, Buy American Act—Supplies (Feb 2009) (41 U.S.C. 10a-10d).

__ (35)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (June 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, and 110-138).

__ (ii) Alternate I (Jan 2004) of 52.225-3.

__ (iii) Alternate II (Jan 2004) of 52.225-3.

__ (36) 52.225-5, Trade Agreements (AUG 2009) (19 U.S.C. 2501, *et seq*., 19 U.S.C. 3301 note).

X_ (37) 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).

__ (38) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

__ (39) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

__ (40) 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)).

__ (41) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

**X**_ (42) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

X_ (43) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

__ (44) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

__ (45) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

__ (46)(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) (41 351, *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 (JAN 2009).

(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)

**B.4 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 contract award through the later of the end of the base year or the option year, if exercised..

(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)

**B.5 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 2,500 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], 20,000 metric tons [for breakbulk], or 25,000 metric tons [for bulk cargoes];

(2) Any order for a combination of items in excess of 450 ocean containers [for containerized cargoes], 20,000 metric tons [for breakbulk], or 25,000 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 two days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

**B.6. 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 the later of 60 days past the end of the contract's base year or the option year, if exercised.

(End of clause)

**B.7. FAR 52.217-8 Option to Extend Services (Nov 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)

**B.8. 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.

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

(End of clause)

**B.9. 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, 2012. 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, 2012 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)

**B.10 52.247-5 Familiarization with Conditions (Apr 1984)**

**B.11 52.252-2 Clauses Incorporated by Reference (Feb 1998)**

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

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

(End of clause)

## Section C. Contract Documents and Attachments

### C. 1 Performance Work Statement

#### C.1.1 Background

To address risks inherent with shipping U.S. food aid to overseas destinations, the Government is seeking to hire marine cargo survey company to attend in Ghana at:

- the discharge and/or delivery of containerized cargoes where they may be accessed
- the discharge of breakbulk cargoes, and
- the discharge of bulk cargoes

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. (Section A, Solicitation/Contract Form, Blocks 20 and 21 for details on location and tonnage.) The survey reports issued by the Contractors will be used by the Government to fix responsibility for loss and damage to the food aid.

In general, we are seeking an experienced survey firm with a proven performance record conducting like work.

#### C.1.2 Scope of Work

The surveyor is required to attend discharge and delivery of bulk grain vessels, breakbulk cargoes, and shipping containers, at the following locations in Somalia:

| | |
|---|---|
| **Discharge Port(s):** | Berbera (primary port – Mogadishu and possibly others) |
| **Discharge Country:** | Somalia |
| **Destination Country:** | Somalia |

**Discharge ETA:** Various

**Commodity:** The products subject to Marine Cargo discharge/delivery survey service include dry staple foods such as rice, peas, beans, and lentils; dry blended/fortified 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 and 208 liter drums. Bulk grain cargoes may be shipped such as wheat, corn, and soybeans in bulker or tanker vessels.

**Quantity:** All Food AID purchased for USAID and FAS by DACO-Kansas City Commodity Office.

For containerized shipments, survey attendance may be required at customs locations outside of port where containers are opened.

### C.1.3 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;

### C.1.4 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 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 samples and, subject to separate authorization by the Contracting Officer or COTR, provide timely 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 representatives, customs 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.

### C.1.5 Deliverables

1. The Contractor shall liaise with the KCCO, the applicable vessel agent, and NGO 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 RFQ.
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. Timely means within seven (7) working days.
6. Additional information related to deliverables to be provided under the contract:

| PERFORMANCE STANDARD | ACCEPTABLE QUALITY LEVEL | MONITORING METHOD |
|---|---|---|
| 1. For containerized shipments, the following factors must be elements of a written report:<br><br>- the quantity of cargo discharged/delivered<br>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.<br>- check vessel holds before and after discharge | Report is sufficient to support the USDA claims recovery process. | USDA review of all Contractor's reports. |

| PERFORMANCE STANDARD | ACCEPTABLE QUALITY LEVEL | MONITORING METHOD |
|---|---|---|
| - list container numbers and seal numbers at time of discharge/customs/delivery<br>- personally observe discharge/delivery and comment on container conditions and note container defects, if any<br>- signed, legible, accurate original stroke tallies<br>- attendance and reporting on accessing containers at customs locations | | |
| 2. For breakbulk shipments, the following factors must be elements of a written report:<br><br>- the quantity of cargo discharged/delivered<br>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.<br>- check vessel holds before and after discharge<br>- personally observe discharge/delivery<br>- signed, legible, accurate original stroke tallies<br>- for TBL shipments, attendance and reporting on loading of land conveyance. | Report is sufficient to support the USDA claims recovery process. | USDA review of all Contractor's reports. |
| 3. For bulk shipments, the following factors must be elements of a written report:<br><br>- the quantity of cargo discharged/delivered<br>- the condition of cargo discharged/delivered, including a complete description of the type and severity of the damage, and give probable cause of damage.<br>- check vessel holds before and after discharge<br>- conduct draft surveys to establish quantity on free-out shipments, at lightering operations and at ports where scales not available<br>- personally observe and describe in detail the discharge/delivery | Report is sufficient to support the USDA claims recovery process. | USDA review of all Contractor's reports. |

| PERFORMANCE STANDARD | ACCEPTABLE QUALITY LEVEL | MONITORING METHOD |
|---|---|---|
| process<br>- scale information including scale location, scale type, date of last calibration, and other factors affecting scale weight accuracy<br>- for TBL shipments, attendance and reporting on loading of land conveyance<br>- for liquid cargoes and tallow, condition of pumping equipment and shore tanks/tank trucks<br>- provide the actual (or estimated, if actual not available) weight loss of any shortage, or damaged cargo and the type and severity of damage<br>- if cargo 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.<br>- | | |
| 4.A. In the event of major loss, the Contracting Officer or COTR is notified immediately. | 100 percent compliance | USDA review of all Contractor's reports. |
| 4.B. Evidence that written notice of loss was presented to carrier/carrier's representative within three days of discharge/delivery. | 100 percent compliance when there are losses suffered, if no mitigating circumstances. Determination of mitigation is at the discretion of the Government. | USDA review of all Contractor's reports. |
| 4.C. Observe, and provide documentation and evidence for the disposition of any damaged cargo.<br><br>- Document reconstitution efforts and results<br>- Obtain health officer's certificate for cargoes suspected to be unfit<br>- Provide disposal or destruction documentation<br>- The names of those present at discharge/customs inspection/delivery/destruction, including names, titles, and organizational affiliations. | 100 percent compliance for observation, if no mitigating circumstances. Determination of mitigation is at the discretion of the Government. | USDA review of all Contractor's reports. |
| 4.D. In the event of damaged cargo, take samples and, subject to separate authorization by the Contracting Officer, provide timely analysis of suspected unfit cargo by an | 100 percent compliance when local health official is not immediately available, contractor must take representative samples at | USDA review of all Contractor's reports. |

| PERFORMANCE STANDARD | ACCEPTABLE QUALITY LEVEL | MONITORING METHOD |
|---|---|---|
| independent third party lab, if local health official is not available. | the time damage is discovered, or commodity is suspected to be unfit.<br><br>Initiate analysis of samples within one week of authorization:<br>- 100 percent compliance when major damage (damage that in the estimation of the surveyor exceeds USD $20,000) is present<br>- 75 percent compliance when value of the loss is minor | |
| 5. Certifications signed by third parties (vessel personnel, NGO 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. |

## Attachment KC-334

*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) | | | |
| **TOTAL QUANTITY DISCHARGED** | | | |
| Short Landed | | | |
| Excess Landed | | | |
| Sound/recovered Sweepings | | | |

**Additional Comments**

**DOCUMENT CHECKLIST**

| | | |
|---|---|---|
| ☐ Tally Sheets | ☐ 3 day notice to Vessel or Agent of loss | ☐ Short Landing Certificate |
| ☐ Unfit Certificates/Lab Analysis | ☐ Confirmation of Attendance | ☐ Photographs |

☐ Disposition Documentation ( ☐ sold ☐ donated ☐ destroyed/dumped )

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

PRINTED NAME OF PREPARER

PREPARER SIGNATURE | DATE

## Section D. Solicitation Provisions

### D.1 452.204-70 Inquiries (Feb 1988)

Inquiries and all correspondence concerning this solicitation should be submitted in writing to the Contracting Officer. Offerors should contact only the Contracting Officer issuing the solicitation about any aspect of this requirement prior to contract award.

(End of provision)

### D.2 52.212-1 Instructions to Offerors – Commercial Items (Feb 2012)

#### D.2.1 Addenda to Provision 52.212-1

**D.2.1.1 Addendum to paragraph (b) – *Submission of Offers*.**

Offeror shall submit its rate quotation using the form KC-337 provided in Section A.

The Government will evaluate RFQ's on the basis of price and past performance. Past performance information from the last three years on current Government or commercial contracts, similar to this Government requirement, should be submitted by offerors along with the KC-337 and will be considered during evaluation.

Offerors shall also provide an e-mail address for contact purposes.

Foreign firms are exempted from the requirement to provide a copy of the representations and certifications at 52.212-3.

**D.2.1.2 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.

**D.2.1.3 Addendum to paragraph (k) – Central Contractor Registration.**

Foreign firms are exempted from the requirement to register in the Central Contractor Registration database unless contract payments are made within the United States.

(End of addenda)

### D.3 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. In general, we are seeking an experienced survey firm with a proven performance record conducting like work. The following factors shall be used to evaluate offers (and are listed in descending order of importance):

1. Price
2. Past performance

Past performance, information from the last three years on current Government or commercial contracts will be considered in addition to other available sources. If no past performance information is available, the offeror will be rated as neutral.

(b) 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.

(c) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(End of provision)

**D.4 52.212-3 Offeror Representations and Certifications—Commercial Items. (Jan 2011)**

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

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

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

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

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

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

"Inverted domestic corporation" 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).

"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.

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

(1) Means a small business concern—

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

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

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

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

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

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

(2) The management and daily business operations of which are controlled by one or more veterans.

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

"Women-owned small business concern" means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

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

(b)

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

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

[*Offeror to identify the applicable paragraphs at (c) through (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 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 o is, o 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 o is, o 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 o is, o 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 o is, o 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 o is, o is not a women-owned small business concern.

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

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

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

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

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

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

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(*Check one of the following*):

| **Number of Employees** | **Average Annual Gross Revenues** |
|---|---|
| __ 50 or fewer | __ $1 million or less |
| __ 51–100 | __ $1,000,001–$2 million |
| __ 101–250 | __ $2,000,001–$3.5 million |
| __ 251–500 | __ $3,500,001–$5 million |

__ 501–750 __ $5,000,001–$10 million

__ 751–1,000 __ $10,000,001–$17 million

__ Over 1,000 __ Over $17 million

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

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

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

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

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

(i) It o is, o 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 o is, o is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for 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 o has, o has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It o has, o has not filed all required compliance reports.

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

(i) It o has developed and has on file, o 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 o 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** |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[*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** |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[*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** |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[*List as necessary*]

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

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

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

Canadian End Products:

| **Line Item No.** |
|---|
| _____ |
| _____ |
| _____ |

[*List as necessary*]

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

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

Canadian or Israeli End Products:

| **Line Item No.** | **Country of Origin** |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

[*List as necessary*]

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

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

Other End Products:

| **Line Item No.** | **Country of Origin** |
|---|---|
| _____ | _____ |

_____ _____

_____ _____

[*List as necessary*]

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

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

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

(2) o Have, o 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) o Are, o 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) o Have, o 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) o 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) o 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 o does o 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 o does o 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*. A foreign entity that is treated as an inverted domestic corporation for purposes of the Internal Revenue Code at 26 U.S.C. 7874 (or would be except that the inversion transactions were completed on or before March 4, 2003), is also an inverted domestic corporation for purposes of 6 U.S.C. 395 and for this solicitation provision (see FAR 9.108).

(2) *Representation*. By submission of its offer, the offeror represents that it is not an inverted domestic corporation and is not a subsidiary of one.

(o) Sanctioned activities relating to Iran.

(1) Unless a waiver is granted or an exception applies as provided in paragraph (o)(2) of this provision, by submission of its offer, the offeror 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 of 1996.

(2) The certification requirement of paragraph (o)(1) of this provision does 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)

**D.5 452.216-72 Evaluation Quantities--Indefinite Delivery Contract (FEB 1988)**

To evaluate offers for award purposes, the Government will apply the offeror's proposed fixed-prices/rates to the estimated quantities included in the solicitation, and will add other direct costs if applicable.

(End of Provision)

**D.5 52.252-1 Solicitation Provisions Incorporated by Reference (Feb 1998)**

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

https://www.acquisition.gov/far/

http://www.usda.gov/procurement/policy/agar.html

(End of provision)