

DD FORM 1707 (BACK) FEB 2002

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FROM

AFFIX
STAMP
HERE

SOLICITATION NUMBER	
SP0600-04-R-0054	
DATE	LOCAL TIME
FEBRUARY 4, 2003	1:00 P.M.

TO

ATTN: DESC-CPC BID CUSTODIAN RM 3729
DEFENSE ENERGY SUPPORT CENTER
8725 JOHN J KINGMAN RD SUITE 4950
FORT BELVOIR VA 22060-6222
USA

DD Form 1707, Block 7 - ADDITIONAL INFORMATION CONT'D

- c. Offerors are advised to complete and submit with the offer the original plus one copy of all forms contained in the accompanying Offeror Submission Package. Copies of all documents submitted must be exactly the same as original. Certification and Representation clauses should be answered in either the affirmative or negative, as applicable. If a clause does not apply, LEAVE BLANK. (DO NOT state "N/A -Not Applicable.") Please initial all changes and corrections. Offerors must acknowledge receipt and acceptance of all amendments to this solicitation.
- d. SOLICITATION IS RESTRICTED AS SET FORTH BELOW:
LIMITATION OF SOURCES: Deputy Secretary of Defense Paul Wolfowitz issued a Determination and Findings (D&F) on December 5, 2003, under the authority of 41 USC 253(c)(7), 10 USC 2304(c)(7) and FAR 6.302-7, limiting competition for particular procurements of Iraqi Relief and Reconstruction prime contracts to firms from the United States, Iraq, Coalition partners and force contributing nations. A copy of the D&F is at http://www.rebuilding-iraq.net/pdf/D_F.pdf. The listed contracts include the requirement in this solicitation in support of Restore Iraq Oil Services (Southern region). Pursuant to the D&F, competition for award of prime contracts is limited to companies from the United States, Iraq, Coalition partners and force contributing nations listed in Attachment 2 of the D&F. Offers from companies not from the United States, Iraq, Coalition partners and force contributing nations described in Attachment 2 of the D&F will not be considered.
- e. **NOTICE:** Any contract awarded to a contractor who, at the time of award, was suspended, debarred, or ineligible for receipt of contracts with Government agencies, or was in receipt of a notice of proposed debarment from any Government agency, is voidable at the option of the Government.
- f. Offerors are advised that the inclusion of any provision which requires sequential evaluation of individual offers; i.e., offers requiring DESC to obtain more than one computer evaluation in order to evaluate that offer, may result in rejection of the offer. Offerors are encouraged to discuss the intended changes in proposals with DESC in order to identify potentially unacceptable proposals and to determine possible alternatives.
- g. For emergency situations during non-duty hours, the number to contact is (703) 767-8420 at the DESC Operations Center, Contingency Plans and Operations Division (DESC-DL).
- h. In order to be retained on the Southern Iraq bidder's mailing list, you must either respond to the solicitation or return the DD Form 1707 with the appropriate information in Blocks 9, 10, and 11. Failure to do so will result in deletion of your company from the bidder's mailing list. This includes all potential offerors and/or those receiving it for informational purposes only.
- i. **ECONOMIC PRICE ADJUSTMENT (OVERSEAS BULK)** - Initial offer price and base reference price date is January 1, 2004. For initial offers, assume date of lift to be January 1, 2004. The final proposed revision reference price effective date will be the same as the reference price established for initial offers.
- j. With respect to **ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE** - Offerors may elect payment by electronic transfer of funds through the Corporate Trade Payment (CTX) system. Offerors are advised to verify their financial institution's (FI) participation in the CTX system, and the acceptability of their procedures. Firms receiving an award under this solicitation must ensure that the appropriate arrangements are made with their FI prior to submission of the first invoice.
- k. Pursuant to **FACSIMILE PROPOSALS**, offers submitted by facsimile must constitute an offeror's hard copy. It must contain all required representations and certifications as well as all required signatures.
- l. FAR 52.228-3 Workers Compensation Insurance (Defense Base Act), and 52.228-4 Workers Compensation and War-Hazard Insurance Overseas are hereby incorporated by reference.
- m. The following tentative negotiation schedule is provided for planning purposes. Note this schedule is subject to change at any time:

February 4, 2004	Initial Offer Closing Date (1:00 p.m.)
February 9, 2004	Negotiations Open
February 26, 2004	Negotiations Close

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NUMBER SC0600-03-0002/0003/0004		PAGE 4 OF 11	
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER SP0600-04-R-0054		6. SOLICITATION ISSUE DATE January 21, 2004
7. FOR SOLICITATION INFORMATION CALL:		a. NAME E. RALPH/DESC-BZD			b. TELEPHONE NUMBER (<i>no collect calls</i>) (703) 767-9294		8. OFFER DUE DATE/ LOCAL TIME 4 Feb 04 @ 1:00PM
9. ISSUED BY ATTN DESC BZD RM 2954 DEFENSE ENERGY SUPPORT CENTER 8725 JOHN J. KINGMAN RD, SUITE 4950 FORT BELVOIR, VA 22060-6222 SEE BLOCK 6 OF THE DD FORM 1707 FOR ADDRESS TO SEND OFFERS. PPN(S): 2.99			CODE SC0600	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: 324110 SIZE STANDARD:		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE <input type="checkbox"/> 13a. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 700)	12. DISCOUNT TERMS
15. DELIVER TO CODE SEE SCHEDULE			16. ADMINISTERED BY CODE SEE BLOCK 9				HQ0104
17a. CONTRACTOR / OFFEROR CODE		FACILITY CODE	18a. PAYMENT WILL BE MADE BY Defense Finance and Accounting Service Columbus Center Stock Fund Directorate Fuels Accounting and Payments Division Attn: DFAS-BVDFB/CC P.O. Box 182317 Columbus, OH 43218-6250				
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a. UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES SEE PAGE 7 (Use Reverse and/or Attach Additional Sheets as Necessary)			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
25. ACCOUNTING AND APPROPRIATION DATA				26. TOTAL AWARD AMOUNT (For Govt. Use Only) ESTIMATED:			
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED., <input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA <input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.							
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES <input type="checkbox"/> TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: _____ OFFER DATED <input type="checkbox"/> _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES, WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:.			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (<i>SIGNATURE OF CONTRACTING OFFICER</i>)			
30b. NAME AND TITLE OF SIGNER (<i>TYPE OR PRINT</i>)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (<i>TYPE OR PRINT</i>)		31c. DATE SIGNED		
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED							
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE			32c. DATE SIGNED	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE			
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE				32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE			
				32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE			
33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR		36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		37. CHECK NUMBER	
PARTIAL	FINAL						
38. S/R ACCOUNT NUMBER		39. S/R VOUCHER NUMBER	40. PAID BY				
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				42a. RECEIVED BY (<i>Print</i>)			
41b. SIGNATURE AND TITLE OF CERTIFYING			41c. DATE	42b. RECEIVED AT (<i>Location</i>)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

PerFORM (DLA)

STANDARD FORM 1449 (REV. 4/2002)
Prescribed by GSA FAR (48 CFR) 53.212

The following clauses are utilized in lieu of the FAR Commercial Item Clauses cited in 27(A) of the Standard Form 1449.

SEGMENT I

This segment applies to both domestic and foreign concerns offering on this solicitation.

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1. SUPPLIES TO BE FURNISHED

The supplies to be furnished during the contract period under Purchase Program 2.99 and all associated data are as follows:

BASIC REQUIREMENT (DELIVERY PERIOD: APRIL 1, 2004 THROUGH JUNE 30, 2004)

Item	Product/Specification	Estimated Quantity (USG & MT)
0000	Kerosene Product Code: KIQ NSN 9140-01-516-4042	32,453,638 USG
0100	Benzene, Unleaded Gasoline Product Code: GIQ NSN 9130-01-516-4058	57,061,341 USG
0200	Diesel Product Code: DIQ NSN: 9130-01-516-4058	28,649,548 USG
0300	Liquefied Petroleum Gasoline (LPG) Product Code: LPG NSN: 9130-01-516-6109	61,200 MT

Item	Location/activity	Method of delivery	Estimated Quantity (USG or MT)
0001	Diwaniayh, Iraq	TT	7,239,658 USG
0002	Latifiya, Iraq	TT	7,239,658 USG
0003	Rasafa, Iraq	TT	5,242,511 USG
0004	Mushada, Iraq	TT	5,242,511 USG
0005	Al-Ramadi, Iraq	TT	7,489,300USG
0101	Diwaniayh, Iraq	TT	12,553,494USG
0102	Latifiya, Iraq	TT	14,835,949 USG
0103	Rasafa, Iraq	TT	14,835,949 USG
0104	Mushada, Iraq	TT	14,835,949 USG
0201	Al-Ramadi, Iraq	TT	28,649,548 USG
0301	Basra, Iraq	TT	41,400 MT
0302	Umm-Qasr-Khor Al Zubayr Port, Iraq	BG	19,800 MT

OPTION 1 (DELIVERY PERIOD: JULY 1, 2004 THROUGH SEPTEMBER 30, 2004)

Item	Location/activity	Method of delivery	Estimated Quantity (USG or MT)
0001	Diwaniayh, Iraq	TT	7,239,658 USG
0002	Latifiya, Iraq	TT	7,239,658 USG
0003	Rasafa, Iraq	TT	5,242,511 USG
0004	Mushada, Iraq	TT	5,242,511 USG
0005	Al-Ramadi, Iraq	TT	7,489,300USG
0101	Diwaniayh, Iraq	TT	12,553,494USG
0102	Latifiya, Iraq	TT	14,835,949 USG
0103	Rasafa, Iraq	TT	14,835,949 USG
0104	Mushada, Iraq	TT	14,835,949 USG
0201	Al-Ramadi, Iraq	TT	28,649,548 USG
0301	Basra, Iraq	TT	41,400 MT
0302	Umm-Qasr-Khor Al Zubayr Port, Iraq	BG	19,800 MT

OPTION 2 (DELIVERY PERIOD: OCTOBER 1, 2004 THROUGH DECEMBER, 2004)

Item	Location/activity	Method of delivery	Estimated Quantity (USG or MT)
0001	Diwaniayh, Iraq	TT	11,518,717 USG
0002	Latifiya, Iraq	TT	11,518,717 USG
0003	Rasafa, Iraq	TT	8,341,140 USG
0004	Mushada, Iraq	TT	8,341,140 USG
0005	Al-Ramadi, Iraq	TT	11,742,484 USG
0101	Diwaniayh, Iraq	TT	10,837,851 USG
0102	Latifiya, Iraq	TT	12,808,369 USG
0103	Rasafa, Iraq	TT	12,808,369 USG
0104	Mushada, Iraq	TT	12,808,369 USG
0201	Al-Ramadi, Iraq	TT	24,713,372 USG
0301	Basra, Iraq	TT	101,200 MT
0302	Umm-Qasr-Khor Al Zubayr Port, Iraq	BG	46,000 MT

OPTION 3 (DELIVERY PERIOD: JANUARY 1, 2005 THROUGH MARCH 31, 2005)

Item	Location/activity	Method of delivery	Estimated Quantity (USG or MT)
0001	Diwaniayh, Iraq	TT	11,128,005 USG
0002	Latifiya, Iraq	TT	11,128,005 USG
0003	Rasafa, Iraq	TT	8,058,211 USG
0004	Mushada, Iraq	TT	8,058,211 USG
0005	Al-Ramadi, Iraq	TT	11,346,225 USG
0101	Diwaniayh, Iraq	TT	10,489,143 USG
0102	Latifiya, Iraq	TT	12,396,259 USG
0103	Rasafa, Iraq	TT	12,396,259 USG
0104	Mushada, Iraq	TT	12,396,259 USG
0201	Al-Ramadi, Iraq	TT	23,920,853 USG
0301	Basra, Iraq	TT	74,427 MT
0302	Umm-Qasr-Khor Al Zubayr Port, Iraq	BG	45,500 MT

NOTES:

1. All FOB Origin offers of kerosene and unleaded gasoline must be made from a location in Kuwait.
2. All FOB Destination deliveries of kerosene and unleaded gasoline to be made to Al Diwaniyah, Latifiyah, Rasafa, and Mushada, Iraq must meet the U.S. Military at the Kuwaiti Border in order to be escorted as a convoy into Iraq.
3. All FOB Destination deliveries of kerosene and diesel to be made to Al-Ramadi, Iraq must meet the U.S. Military at the Jordanian Border in order to be escorted as a convoy into Iraq.
4. All LPG deliveries to be made to Basra, Iraq must meet the U.S. Military at the Kuwaiti Border in order to be escorted as a convoy into Iraq.

2. REQUIREMENTS FOR OFFERS VIA TANK TRUCK, FOB DESTINATION:**a. General Notes-**

- (1) For product transported from the Kuwaiti border, tank truck drivers shall be Kuwaiti or sponsored by local sponsor.
- (2) Contractor shall provide licensed and responsible drivers per truck and all necessary services and supplies to include necessary equipment and life support for drivers in the execution of this scope of work. Contractor is responsible for arrangements for necessary visas, fees and passports for its drivers. Contractor is responsible for any and all convoy operation, communications, consolidated staging area, convoy line up, ensuing all contractor vehicles are above standards. Contractor is responsible for setting up and operating staging area.
- (3) Contractor shall provide services 24 hours per day and 7 days a week including weekends and holidays.
- (4) Contractor shall perform in accordance with the best industry standards as well as all Local regulatory bodies, laws, codes, ordinances, and regulations.

b. Security Requirements-

- (1) Contractor drivers shall take written or verbal direction from designated contractor personnel and Management Contractor or authorized U.S. Government Representative. Contractor drivers shall follow the security guidance from the military of Management contractor.
- (2) Contractor must provide 7 days a week 24 hours a day security staff to patrol and control all entries of the staging area. Patrol shall provide a safe working area for all personnel, as well as the equipment inside the staging area and the product.
- (3) All security violation must be reported to the U.S. Government authorized personnel within one hour and followed up with a written report within 24 hours.
- (4) A security plan must be submitted for approval.
- (5) U.S. Government or Management Contractor will provide security escort to convoys.

c. Safety Requirements-

- (1) Tank Trucks will comply with local commercial safety regulations.
- (2) All tankers will be parked by product type empty and full of fuel.
- (3) The following markings shall be present on the tanker (left side, right side and back) in English and Arabic;

- (a) No smoking within 50 feet
- (b) Tankers will not be moved from one type of fuel to another
- (c) Danger
- (4) Vehicles shall comply with all mandatory safety requirements of country of operation and loading/offloading facilities as well as comply with safety requirements and regulation of loading and offloading points.
- (5) Full tankers are not to be left in the yard for repairs.

d. Staging Requirements-

- (1) Contractor shall provide the following additional requirements for fuel loading:
 - (a) All hoses, manifolds, etc., required to load fuel.
 - (b) Engineering and technical support services.
 - (c) Liason with Kuwait National Petroleum Company (KNPC) to buy and load fuel.
- (2) Contractor shall provide a portable unit for office space, this unit must be in good conditions with window, air condition and heat, electricity and must be available 24 hours a day, 7 days a week including weekends and holidays. U.S. Government reserves the right to inspect the unit. Staging area entry and exits must require some type of unit to protect personal and documentation from the weather. Staging area must have light around the motor pool area (inside for safety and outside for security).

e. Convoy Requirements:

- (1) No unauthorized stops will be made with any tanker, unless authorized the Management Contractor, U.S. Government, or escort elements assigned by the U.S. Government. (Vehicle breakdowns are an exception).
- (2) Contractor shall provide minimum of one bobtail with each convoy with 20 or less tankers, 2 bobbails with each convoy with 21 or more tankers. Requirement is subject to change as per direction of the U.S. Government.
- (3) Contractor will be responsible for recovery of tractors and tankers. Contractors are responsible for the safeguarding of any and all products (situation depending on the military escorts), and reporting any loss of product within 2 hours.
- (4) Contractor shall provide supervisory vehicle to accompany the convoy.
- (5) Contractor shall provide an English/Arabic translator, capable of reading writing and speaking both languages, to ride with trucks. This individual will serve as the convoy commander and is responsible for the following:
 - (a) The accountability of equipment, personnel, product to be transported, and all forms and reports.
 - (b) Lining up their convoys in the staging area operated by the contractor.
 - (c) Ensuring that all personnel have the proper amount of life support for their mission.
 - (d) Pre-checking their convoys for proper documentation, passports, equipment serviceability, trucks are topped of with class III, unloading documents, and operator's license. The Management Contractor or the U.S. Government will provide a pre-check list for convoy commanders.
 - (e) Ensuring the safeguarding of all documentation, tracking of download documents and consolidation of completed documents that will be provided the Management contractor upon completion of the mission. The Management Contractor will provide a blank Convoy commander's log. Convoy commanders are responsible for completing this form.
 - (f) Ensuring that the time of departure to both the Contractor's operation and the Management Contractor's Logistics Operations (Reporting subject to change) is reported.
 - (g) Ensuring that they check in at all Military/Management Contractor areas when they arrive and depart, as directed by the Management Contractor or the U.S. Government.
- (6) The Management Contractor or the U.S. Government reserves the right to remove any commander not following directions. The contractor shall provide a back-up commander at times of convoy departure.
- (7) Convoys will be lined up as per the Management Contractor's instructions. Convoy supervisors and the Management Contractor will check each vehicle and driver. Convoy supervisors and the Management Contractor will complete all documentation for onward movement.
- (8) Upon completion of all documentation, the Management Contractor and convoy supervisors will conduct a briefing and provide projected timelines.

f. Equipment Requirements-

- (1) Management Contractor or any U.S. Government has the right to refuse any equipment if deemed unsafe or not road worthy. Contractor will replace this vehicle, if identified in a convoy line up, to include the convoy commander's vehicle.
- (2) Maintenance for vehicles shall include repair and replacement of mechanically defective equipment or accident damaged equipment. Contractor shall provide replacement of defective truck and trailer parts.
- (3) Contractor shall provide trucks that are fully operable and supply qualified maintenance personal (tractor, trailer, and fuel tanker) to perform maintenance 7 days a week 24 hours a day. All repairs will be completed within 24 hours. Tankers that need maintenance or are down for ANY reason shall be replaced at no extra cost to the U.S. Government.
- (4) Contractor shall be responsible for all parts maintenance. Staging yard will have common parts stocked.
- (5) Contractor must provide authorized portable-truck mounted transfer pump for the type of product being transferred. Unit will be able to transfer at rate of 1000 of liters per minute (or more). Transfer pump(s) must be fitted with the proper fitting to accommodate the tankers. Portable fire fighting equipment will be available at the site of transfer. Personnel performing the transfer will wear protective clothing (protective eyewear, coveralls, gloves) to perform the transfer.
- (6) Contractor shall provide Level 3A protective vest and Level 3 protective helmet to all its workers working in Iraq. Contract must gain written approval prior to the purchase of the equipment.

g. Additional Documentation Requirements-

- (1) It is the driver's responsibility to perform operation checks before, during and after the trip. A driver's check sheet (form) will be used, a copy will be provided to the Management Contractor upon completion of all missions and or repair. Forms will be developed with the Management Contractor and the U.S. Government in both Arabic and English.
- (2) Contractor shall maintain the driver files at the staging area. These files shall include complete information about the driver, such as copies of passport, Visa, driver's license, training documents and other documentation requested by the Management Contractor.
- (3) Loss of Product: Any loss of product will be reported within one hour and followed up with a written report within 24 hours. Statement will be provided to the Management Contractor by any and all involved within 24 hours upon the convoys return.
- (4) Transfers of product from tanker to tanker must be documented; copies of the transfer are to forward to authorized U.S. Government personnel. These forms must contain tanker numbers, date, and liters, type of product, old delivery note number and new delivery note number, statement on why the product is being transferred.
- (5) Weekly consummation reports must be turned in to the U.S. Government. Reports shall list driver, vehicle ID, date, time, and type of fuel and quantity of fuel in liters/U.S. gallons. Logs must be maintained by type of fuel. These reports are required to provide historical data for the U.S. Government. All vehicles returning from mission must be topped off before parking. No tankers shall be allowed to stop at gas stations for fuel. The U.S. military shall only provide fuel for contractor's vehicles in emergency cases. Emergency cases include: breakdowns, cases when truck is equipped with single tanker, in case more fuel is consumed because of rerouting of the vehicle. Day before any mission the operator must ensure his/hers equipment is topped off and ready for their mission.
- (6) Contractor shall provide delivery receipts for all products delivered. Receipts shall be signed by the Management Contractor or authorized U.S. Government Representative.
- (7) Contractor must provide weekly report on the fleet and changes in the fleet.
- (8) Contractor must maintain control of all documents; contractor will process all bills in accordance with the procedures set forth in the Invoicing and Payment Clause located on Page 14 of the Commercial Package.

3. ECONOMIC PRICE ADJUSTMENT

(a) **WARRANTIES.** The Contractor warrants that--

(1) The unit prices set forth in this offer and/or contract do not include allowances for any portion of the contingency covered by this clause; and

(2) The prices to be invoiced hereunder for listed items shall be computed in accordance with these escalation provisions.

(b) **DEFINITIONS.** As used throughout this clause, the term--

(1) **Base unit price** means the unit price set forth opposite the item in the Schedule.

(2) **Reference price** means the price assessment or formula set forth in the Table in (f) below with which the base unit price is to fluctuate.

(3) **Date of delivery** is defined as follows:

(i) **FOR TANKER OR BARGE DELIVERIES.**

(A) **F.O.B. DESTINATION.** The date and time vessel commences discharging.

((iii) **FOR ALL OTHER TYPES OF DELIVERIES.** The date product is received.

(c) **ADJUSTMENTS.**

(1) The Contractor shall give written notice to the Contracting Officer, Defense Energy Support Center, of any delivery and associated change in the reference price within 15 working days from the date thereof. Contractor failure to timely notify the Contracting Officer of any delivery and associated change in the reference price may result in late or incorrect payment of the relevant invoice.

(2) Subject to the provisions of this clause, the prices payable under this contract shall be the base unit price increased or decreased by the same number of cents, or fraction thereof, that the reference price shall have increased or decreased.

(3) An increase or decrease in any reference price published in a trade price service or in a commercial journal shall apply only to deliveries made on and after the effective date of the price change as stated in the publication.

(4) The Contracting Officer will issue a modification to this contract to reflect any change pursuant to this provision. However, no increase in a contract unit price shall be executed pursuant to this provision until the increase in the applicable published reference price has been verified by the Contracting Officer.

(5) **FAILURE TO DELIVER.** Notwithstanding any other provisions of this clause, no upward adjustment shall apply to product scheduled under the contract to be delivered before the effective date of the adjustment, unless the Contractor's failure to deliver according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of paragraphs (f), Excusable Delays, and (m), Termination for Cause, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract, in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(6) **UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENT.** The Contractor agrees that the total increase in any contract unit price pursuant to these economic price adjustment provisions shall not exceed ___60___ percent of the award price in any applicable program year (whether a single year or a multiyear program), except as provided hereafter.

(i) If at any time the Contractor has reason to believe that within the near future a price adjustment under the provisions of this clause will be required that will exceed the current contract ceiling price for any item, the Contractor shall promptly notify the Contracting Officer in writing of the expected increase. The notification shall include a revised ceiling the Contractor believes is sufficient to permit completion of remaining contract performance, along with appropriate explanation and documentation as required by the Contracting Officer.

(ii) If an actual increase in the reference price would raise a contract unit price for an item above the current ceiling, the Contractor shall have no obligation under this contract to fill pending or future orders for such item, as of the effective date of the increase, unless the Contracting Officer issues a contract modification to raise the ceiling. If the contract ceiling will not be raised, the Contracting Officer shall so promptly notify the Contractor in writing.

(7) **REVISION OF REFERENCE PRICE INDICATOR.** In the event--

(i) Any applicable reference price is discontinued or its method of derivation is altered substantially; or

(ii) The Contracting Officer determines that the reference price consistently and substantially failed to reflect market

conditions--

the parties shall mutually agree upon an appropriate and comparable substitute for determining the price adjustments hereunder. The contract shall be modified to reflect such substitute effective on the date the indicator was discontinued, altered, or began to consistently and substantially fail to reflect market conditions. If the parties fail to agree on an appropriate substitute, the matter shall be resolved in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause of this contract.

(8) **CONVERSION FACTORS.** If this clause requires quantity conversion for economic price adjustment purposes, the conversion factors for applicable products, as specified in the CONVERSION FACTORS provision, apply unless otherwise specified in the Schedule.

(d) **EXAMINATION OF RECORDS.** The Contractor agrees that the Contracting Officer or designated representatives shall have the right to examine the Contractor's books, records, documents, or other data the Contracting Officer deems necessary to verify Contractor adherence to the provisions of this clause.

(e) **FINAL INVOICE.** The Contractor shall include a statement on the final invoice that the amounts invoiced hereunder have applied all decreases required by this clause.

(f) **TABLE.**

ITEM NO. (LISTED ITEMS)	NAME OF PUBLICATION	HEADING UNDER WHICH REFERENCE PRICE IS PUBLISHED AND NAME OF PRODUCT	LOCATION WHERE REFERENCE PRICE IS APPLICABLE
0100-0300	Platt's Oilgram Price Report (U.S. Edition)	Product Price Assessments (Arab Gulf, FOB)	See Below
0400	Platt's LPGaswire	Product Price Assessments (FOB AG Cargoes)	See Below

LINE ITEMS	PRODUCT	REFERENCE PRODUCT (LOCATION)	REFERENCE PRICE/USG or MT EFFECTIVE JANUARY 1, 2004
0100	Kerosene (KIQ)	Kerosene	\$0.848571 per USG
0200	Unleaded Gasoline (GIQ)	95 RON Unleaded	\$0.913393 per USG
0300	Diesel (DIQ)	Gasoil 0.05%S	\$0.85178 per USG
0400	Liquified Propane Gas (LPG)	30% Butane/70% Propane	\$319.72 per MT

NOTE: Product prices will escalate twice monthly based on the average of high and low quotations contained in the Platt's publication during the periods of the 1st through the 15th and the 16th through the 30th/31st (as applicable) of each month in which deliveries are made. Therefore, the effective price for the period of the 1st through the 15th will be the average of the high and low quotations for the previous months prices posted on the 16th through the 30th/31st. Saturdays and Sundays shall be considered as Platt's non-publication days. If prices are not posted by Platt's during the period that delivery was made due to a holiday or another occurrence only the posted prices for that period will be used in the calculation.

4. SPECIFICATIONS:

- (a) Kerosene: Local Commercial Equivalent.
- (b) Unleaded Gasoline Local Commercial Equivalent with a Minimum Octane Number (MON) of 81.
- (c) Diesel: Local Commercial Equivalent to include a Maximum Sulfur Content of 10,000 PPM.
- (d) Liquified Propane Gas: Local Commercial Equivalent to meet a 30/70 Propane/Butane Blend and 220 PSI.

5. CONTRACTOR INSPECTION RESPONSIBILITIES LIQUIFIED PETROLEUM GAS (LPG)

(a) QUALITY CONTROL PLAN.

(1) The Contractor (including sub-contractor operations) is required to provide and maintain an inspection system and a written description (Quality Control Plan (QCP)) acceptable to the Government. The Contractor has the option to provide and maintain an inspection system that, as a minimum, incorporates the requirements of: ISO9002 Quality Systems - Model for Quality Assurance in Production and Installation. If the Contractor chooses to comply with Q92 quality system format, all the specific Quality Assurance Provisions of this contract must be included in the Q92 written quality plan. The QCP shall be established and reviewed for adequacy by the Quality Representative (QR) prior to commencement of production or services. The copy of the QCP provided to the QR shall be in English. An acceptable QCP is required prior to Government inspection and acceptance of supplies or services. The QCP shall be reviewed and updated when deemed necessary. It will be updated anytime that changes are made to the inspection system or as identified by quality problems. The Contractor must sign and date each revision to the QCP and require subcontractors to sign and date each revision to the subcontractor's QCP.

(2) The Contractor shall require subcontractors (unless otherwise instructed by the Government) to provide and maintain inspection systems and QCPs that are acceptable to the Government.

(3) The QCP shall include an identification of key operational positions, a schematic diagram of plant facilities pertinent to the inspection system indicating all inspection points, and a description covering the following operations relating to the supplies to be furnished under the contract:

- (i) **RECEIVING.** Procedures used to assure quality of LPG from source and from the vessel to shore;

- (ii) **SAMPLING.** Procedures for sampling IAW industry standards. Minimum sampling requirements are contained in Table 1. Samples shall be retained for 45 days.
 - (iii) **TESTING.** Types of tests and test methods/procedures to be performed on samples taken from each location identified in (ii) above, and may be incorporated by test method reference in the QCP, if complete reference is available at the place of performance.
 - (iv) **CALIBRATION.** Program for testing and measuring equipment in accordance with ISO 10012-1, "Quality Assurance Requirements for Measuring Equipment, Part 1, or equivalent local regulation as appropriate;
 - (v) **STORAGE AND HANDLING.** Procedures for quality determination and maintenance of physical equipment necessary to ensure product integrity. Includes a description of storage and handling equipment including tanks, lines, valves, and manifolds used; identification of dedicated/common product system including description of line segregation and controls to assure capability for proper measurement, sampling, and any other process/system used in maintaining product integrity during storage and handling;
 - (vi) **LOADING AND SHIPPING.** Procedures used for product movement and related quality/quantity checks from shipping tank(s) to trucks in order to maintain product integrity. Provide description of transfer system from shipping tank to transfer point in order to maintain product integrity. System must be a dedicated or properly isolated common system incorporating blind flanges, spectacle plates, or double valves between them to prevent contamination;
 - (vii) **RECORDS AND REPORTS.** To include at a minimum, test reports, vessel port logs, calibration documents, and the DD Forms 250 (or commercial bill of lading). These records and reports will include by whom, where, and how prepared, and retention information.
 - (xi) **CORRECTIVE ACTION.** Actions to be followed to effect correction of any deficiency affecting product quality or quantity determination, such as handling of off-specification product (waivers, conveyance rejections, etc.). The corrective action procedures shall include notification of the QR.
- (4) The QCP shall identify one individual to serve as a point of contact for quality/quantity matters relating to the inspection system described in the plan.
- (5) The Contractor is responsible for all inspection systems, QCPs, and product quality and quantity.
- (6) The Government QR will be available to review and discuss the Contractor's proposed QCP; however, the Contractor shall remain responsible for developing and describing acceptable quality control procedures.
- (b) The Contractor shall perform all inspection and acceptance tests required by the specifications of the supplies to be furnished under this contract or shall have such tests performed in a laboratory acceptable to the Government. When such tests are performed at origin on supplies to be accepted at destination, documentation that will enable verification of the original test results shall be provided to the Government at the time of acceptance.
- (c) When requested by the U.S. Government, the Contractor shall furnish no more than one cosmodyne sample of LPG from any individual batch or lot of the supplies to be furnished under this contract. Such samples shall be furnished without charge to the Government and shall be packed, marked, and shipped by the Contractor, at its expense.
- (e) The Contractor shall keep all quality and quantity records, including DD Form 250-series documents, complete and available to the Government during the performance of this contract and for three years after final payment under this contract.
- (f) Immediately following award of this contract, the Contractor shall notify the QR of the source or sources of the supplies to be furnished under any item calling for delivery f.o.b. destination. The Contractor shall also notify the QR of any changes in source in sufficient time to permit inspection by the Government.
- (g) The inspection system and related operations provided or performed pursuant to this clause shall be subject to surveillance by the QR.

TABLE I

MINIMUM SAMPLING AND TESTING REQUIREMENTS⁽¹⁾

LOCATION	WHEN SAMPLED	TYPE OF SAMPLE	TYPE OF TEST
1. Origin Terminal	Each Batch Prior to Commencement of Shipping	Single Tank Composite	Full Specification
2. Import Receipt Terminal Loading Line:	Prior to Discharge	Spot Line	Retain only
3. Tanker	Prior to Discharge	Multi-compartment composite	
4. Import Receipt Terminal Storage Tank	After Receipt – each tank	Single Tank Composite	
5. Tank Truck Loading Rack	First truck of the day.	Line	
10. Tank Truck	Prior to discharge at destination depot	Line	

NOTES FOR TABLE I:

- (1) AT THE GOVERNMENT'S OPTION, FULL SPECIFICATION TESTING MAY BE REQUIRED AT THE CUSTODY TRANSFER POINT. IT IS THE CONTRACTOR'S RESPONSIBILITY TO FURNISH THE GOVERNMENT WITH SATISFACTORY EVIDENCE OF SPECIFICATION COMPLIANCE.

6. INSPECTION OF SUPPLIES

(a) **DEFINITION. Supplies**, as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering supplies under this contract and shall tender to the Government, for acceptance, only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Government during contract performance and for as long afterwards as the contract requires. The Government may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under the contract.

(c) The Government has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Government shall perform inspections and tests in a manner that will not unduly delay the work. The Government assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in this contract.

(d) If the Government performs inspection or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Government shall bear the expense of Government inspections or tests made at other than the Contractor's or subcontractor's premises; PROVIDED, that in case of rejection, the Government shall not be liable for any reduction in the value of inspection or test samples.

7. DETERMINATION OF QUANTITY**(a) DETERMINATION OF QUANTITY FOR GASOLINE (BENZENE), KEROSENE, AND DIESEL (RIO PROGRAM)**

(1) **DELIVERIES BY TRUCK.** Quantity shall be determined at the loading point by a calibrated loading rack meter or calibrated scales. This quantity shall be mechanically imprinted on the loading rack meter ticket that is generated by the loading rack meter or calibrated scales. Quantity shall be volume corrected to 15 °C.

(2) **SEALS.** The Contractor shall furnish serially numbered seals and effectively seal all trucks at the loading point. The seal numbers shall be annotated on all shipping documents.

(3) **MEASUREMENT STANDARDS AND CALCULATIONS .** All measurements and calculations made to determine quantity shall be in accordance with the most recent edition of the American Petroleum Institute Manual of Petroleum Measurement Standards (API MPMS) or equivalent national or international standards. When required, volume correction shall be in accordance with API MPMS, Chapter 11.1, Volume Correction Factors, Volumes II (Table 6B), Volume V (Table 24 B) or Volume VII (Table 54B).

(4) **CONVERSION TO GALLONS.** All invoice quantities shall be converted to U.S. gallons. To convert liters to gallons multiply the quantity in liters by 0.264172 gallons per liter (3.78541 liters per gallon). API MPMS, Chapter 11.1, Volume XII, Table 58, shall be used to convert metric tons to US gallons.

(5) **CALIBRATION.** All meters used in determining product volume shall be calibrated using API MPMS, Chapter 4, Proving Systems or equivalent national or international standards. The frequency of calibration shall be as required by local regulation. If no local regulation exists, then the frequency of calibration shall be that recommended by the meter manufacturer or every 6 months, whichever is more frequent.

(b) DETERMINATION OF QUANTITY FOR LPG

(1) **QUANTITY.** The quantity of LPG furnished under this contract shall be determined as follows:

(i) **DELIVERIES BY TRUCK.** The quantity of LPG furnished under this contract shall be determined at origin by calibrated meter or by weighting the conveyance using calibrated scales. Invoice quantities shall be in metric tons (1000 kg equals 1 metric ton).

(ii) **DELIVERIES BY TANKER/BARGE.** The quantity of LPG furnished under this contract shall be determined at destination by calibrated meter. Invoice quantities shall be in metric tons (1000 kg equals 1 metric ton).

(2) **SEALS.** The Contractor shall furnish serially numbered seals and effectively seal all trucks, tankers, and barges (where sea suction and overboard discharge valves exist) at the loading point. The seal numbers shall be annotated on all shipping documents.

(3) **MEASUREMENT STANDARDS AND CALCULATIONS.** All measurements and calculations made to determine quantity shall be in accordance with American Petroleum Institute Manual of Petroleum Measurement Standards (API MPMS) or equivalent national or international standards.

(4) **CALIBRATION.** All meters and scales used to determine LPG quantity shall be calibrated in accordance with API MPMS, Chapter 14, *Natural Gas Fluids Measurement* or equivalent national or international standards. The frequency of calibration shall be as required by local regulation. If no local regulation exists, then the frequency of calibration shall be that recommended by the meter manufacturer or every 6 months, whichever is more frequent.

8. DELIVERY AND ORDERING PERIODS

(a) This clause applies to all modes of delivery, whether origin or destination.

(b) The period of this contract during which the Ordering Officer may order and the Contractor shall deliver, if ordered, shall be as follows unless the item in the Schedule specifies otherwise:

(1) For the basic period: Ordering Period Begins: Date of Award and Ends: June 30, 2004.

(2) For the basic period: Delivery Period Begins: April 1, 2004 and Ends: June 30, 2004.

(3) For option period one: Ordering Period Begins: Date option is exercised and Ends: September 30, 2004.

(4) For option period one: Delivery Period Begins: July 1, 2004 and Ends: September 30, 2004.

(5) For option period two: Ordering Period Begins: Date option is exercised and Ends: December 31, 2004.

(6) For option period two: Delivery Period Begins: October 1, 2004 and Ends: December 31, 2004.

(7) For option period three: Ordering Period Begins: Date option is exercised and Ends: March 31, 2005.

(8) For option period three: Delivery Period Begins: January 31, 2005 and Ends: March 31, 2005.

(c) Notwithstanding the foregoing, deliveries made prior to the delivery period at the option of the Contractor and pursuant to an order by the Government shall be deemed to have been made under this contract at the applicable contract price(s).

(d) Notwithstanding the foregoing delivery period(s), if an order is placed prior to the end of the ordering period that requires delivery within 30 days following the end of the ordering period, the Contractor shall deliver the ordered volume.

(e) Insofar as practicable, the Government will attempt to lift in approximately equal monthly quantities for the life of the contract. However, if the monthly pro rata for tanker lifting is less than the Contractor's maximum parcel size, the Government reserves the right to order volumes equal to the maximum parcel size per delivery.

(f) Unless otherwise specifically stated in this contract, and notwithstanding (e) above, where the total estimated quantity for any individual product or grade of product awarded under this contract is equal to or less than 30,000 barrels, the Government may order, and the Contractor shall deliver, if ordered, the entire quantity in one delivery.

(g) Nothing included in this clause shall restrict the Government's rights under the DELIVERY-ORDER LIMITATIONS - SCOPE OF CONTRACT clause.

9. F.O.B. DESTINATION

(a) The term "f.o.b. destination," as used in this clause, means--

(1) Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity.

(b) The Contractor shall-

(1) (i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;

(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery. FAR 52.247-34)

10. BARGE UNLOADING CONDITIONS

(a) On items calling for delivery f.o.b. destination by means of barge--

(1) The supplies ordered hereunder shall be delivered, all transportation charges paid, to the destination specified in the Schedule. Unless otherwise specified in the Schedule, orders placed under items of the Schedule calling for delivery f.o.b. destination by means of barge will be furnished the Contractor at least 24 hours, plus the normal barge running time from point of loading to the destination, in advance of the date on which delivery is to be made, which date is hereinafter referred to in this clause as the "scheduled delivery date." Each order will specify the quantity to be delivered and the scheduled delivery date. The scheduled delivery date may be changed by the Contractor at any time if the Ordering Officer approves.

(2) Unless otherwise provided in the Schedule, the Government shall be allowed and will complete unloading within 36 hours from mooring alongside. If a delay is caused by the fault of the barge, allowed laytime shall be increased by the duration of such delay; . If regulations of the owner or operator of the barge or Port Authorities prohibit unloading at any time, time so lost shall be added to the amount of such allowed laytime. Laytime shall commence —when the vessel is moored.

(3) For all hours of laytime that elapse in excess of the allowed laytime for unloading provided for by paragraph (3) above, or as otherwise provided for in the Schedule, demurrage will be paid by the Government at the demurrage rate in the charter for the barge unloading, except (i) that such rate shall be reduced by 1/2 if demurrage is incurred due to causes beyond the control and without the fault and negligence of the Government; and (ii) that the demurrage payable by the Government shall in no event exceed the actual demurrage expense incurred by the Contractor under the charter. For purposes of computing demurrage payable by the Government, if the laytime allowed in the charter is a combined total for both loading and discharging, 1/2 thereof shall be allocated to the unloading operation, except when less than a full cargo is unloaded, where such allocation shall be determined on a pro-rata basis.

(45) In the event of breakdown of Contractor's equipment, which will prohibit unloading for at least two hours, the Contractor will be required to remove the equipment from the Government-provided berth, unless permission is granted by the Government to allow the equipment to remain on berth. When the Government grants permission for the Contractor equipment to remain on berth, the Contractor will be responsible to reimburse the Government for any cost incurred by the Government for furnishing personnel to remain with the barge during repair; PROVIDED further, that if the Contractor removes the equipment from the Government provided berth, notice of readiness to unload will be again required as provided in (2) above.

(5) For all deliveries, hoses for unloading a barge will be furnished, connected, and disconnected by the Government.

(6) Title to the supplies delivered, and risk of loss thereof, shall pass from the Contractor to the Government when the supplies pass the permanent hose connections of the barge unloading the supplies.

(7) The term **barge**, as used herein, shall include lake tankers.

(8) Notwithstanding the above, the Government will not pay more than the actual rate charged by the barge carrier or the rate the Contractor normally charges its regular commercial customers, whichever is lower. Free time is in addition to all hours of laytime that elapse in excess of the allowed laytime for unloading as provided in this clause.

11. INVOICING AND PAYMENT

a. INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

b. PAYMENT DUE DATE

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.

c. SUPPLEMENTAL INVOICING INFORMATION

Supplemental information required by the contract as authorized by 5 CFR part 1315.

(1) Description of the item shall include the Government product code, such as DIQ, KIQ, GIQ, etc.

d. SUBMISSION OF INVOICES FOR PAYMENT – COMMERCIAL ITEMS

(1) CERTIFICATION OF RECEIPT.

(i) F.O.B. DESTINATION DELIVERIES.

(a) The Quality Representative (QR) or authorized receiving activity personnel will certify the receipt and forward three copies to the appropriate paying office. If the receiving activity is not a U.S. organization, the authorized U.S. representative, as indicated in the SIOTH, will certify and distribute the receiving documents. One of the copies of the receiving report submitted for payment must contain the original signature of the QR and will have the following information stamped, printed, or typed on it: **“ORIGINAL RECEIVING REPORT FOR PAYMENT OF INVOICE”**. **The receiving report must be signed and certified as received by the DESC Regional Office** prior to submission of the receiving report to the paying office.

(b) The receipt for f.o.b. destination fuel may be one of the following documents:

- (1) The DD Form 250, Material Inspection and Receiving Report;
- (2) The DD Form 250-1, Tanker/Barge Material and Inspection Report; or
- (3) The DD Form 1155, Order for Supplies or Services, or the SF 1449, Solicitation/Contract/Order for Commercial Items.
- (4) **Vendors signed and stamped delivery ticket**

(ii) F.O.B. ORIGIN DELIVERIES.

(a) **The DESC-Regional Office** will certify the receiving report and provide the Contractor with three copies, except for electronic submission, which requires only one copy. One copy must contain the original signature of the **DESC Representative** and will have the following information stamped, printed, or typed on it: **“ORIGINAL RECEIVING REPORT FOR PAYMENT OF INVOICE”**. The receiving report must be signed by the QR to certify acceptance of the product prior to submission of the receiving report to the paying office.

(b) In order to receive payment, the Contractor will mail, three copies (one of which will contain an original signature) of the applicable receiving report to the appropriate paying office, identifying the invoice numbers that are supported by the receiving documents. For electronic submission, the Contractor must maintain the hard copy receiving report for a period of seven years after final payment under this contract and will make it available for inspection by the Government, if requested.

(c) When faxing an invoice, the Contractor shall also submit the applicable original receiving report no later than three days after each delivery. If the hard copy receiving report is not received from the Contractor by the paying office within 90 days of a facsimile receiving report, the provisions of this clause become inoperative and future fax messages will not be acceptable until remedial action is taken by the Contractor.

- (d) The receipt for f.o.b. origin fuel may be one of the following documents:
- (1) The DD Form 250, Material Inspection and Receiving Report;
 - (2) The DD Form 250-1, Tanker/Barge Material and Inspection Report;
 - (3) Vendors signed and stamped delivery ticket; or

(iii) **SUBMISSION OF INVOICES BY MAIL.** Unless otherwise indicated on the face of the DD 1155 or SF 1449, hard copy invoices for product paid for by Defense Logistics Agency/DESC funds should be mailed to the address below:

DEFENSE FINANCE AND ACCOUNTING SERVICE – COLUMBUS CENTER
 STOCK FUND DIRECTORATE
 FUELS ACCOUNTING AND PAYMENT DIVISION
 ATTN DFAS-BVDFB/CC
 PO BOX 182317
 COLUMBUS OH 43218-6250

(iv) **SUBMISSION OF INVOICES BY FACSIMILE.**

(a) Contractors that select the facsimile method of invoicing prior to contract award must do so for all invoices. Failure to comply with the requirements of this clause will result in revocation of the Contractor's right to submit invoices by the fax method.

(b) Contractors shall include their own fax number on each document transmitted.

(c) Fax number for invoices is (614) 693-2473 (DFAS-BVDFB/CC).

(c) Contractors that elect to transmit invoices by fax are responsible for validating receipt of the faxed invoice. Verification can be made by calling Customer Service (DFAS-BVDF/CC) at (800) 756-4571 (Options 2 and 2) between 8 a.m. and 5 p.m. EST/EDT, Monday through Friday, excluding Federal holidays. DFAS-BVDF/CC will not be held accountable for transmissions not received.

(e) After transmitting the original invoice, the Contractor shall mark that invoice “ORIGINAL INVOICE - FAXED” and retain it. The hard copy is not required for payment and shall not be mailed to the payment office unless DFAS-BVDFB/CC specifically requests it.

(v) **SUBMISSION OF INVOICES ELECTRONICALLY.**

(a) **APPLICABILITY.** Electronic submission of invoices applies only to DoD items paid for with DLA/DESC funds by DFAS Columbus, OH.

(b) **REQUIREMENTS.** Prior to submission of electronic invoices via electronic data interchange (EDI) under this clause, the Contractor and DESC must have a signed Trading Partner Agreement (TPA) and Addendum 810, Invoices, and Addendum 824, Invoice Return Notification. Invoices submitted electronically shall be in accordance with the provisions of the signed TPA and Addendum 810. Electronic invoices submitted shall be American National Standards Institute (ANSI) Accredited Standard Committee (ASC) X12 810 Transaction Sets. These 810 Transaction Sets shall follow the AVNET Convention as specified by the Petroleum Industry Data Exchange. The electronic invoice shall contain all fields required by the AVNET Convention, including the contract number, order number, name of tanker and cargo number or shipment number (if applicable), item number, and contract description of supplies, services, sizes, quantities, unit price, and extended total, and, if shipment is made of a Government Bill of Lading, the Bill of Lading number.

(c) **INVOICING ADDRESS.** Electronic invoices for items paid for with DLA/DESC, as cited on the DD 1155 or SF 1449, shall be electronically submitted to DTDN/S39008 or GOVDP/S39008.

(vi) **SUBMISSION OF INVOICES BY COURIER.**

(a) Couriers, acting on the behalf of the Contractor, may deliver Contractor invoices being submitted for payment to the following mailroom street address:

DEFENSE FINANCE AND ACCOUNTING SERVICE – COLUMBUS CENTER
 FUELS ACCOUNTING AND PAYMENTS
 ATTN DFAS-BVDFB/CC
 3990 EAST BROAD STREET, BLDG 21
 COLUMBUS OH 43213-1152

(b) Invoices submitted by courier to the above address will be treated in a timely manner.

(vii) **NOTES.**(a) Invoices will reflect quantities in **whole** numbers.

(b) Unless otherwise expressly specified in the Schedule, payment of invoices will be made in U.S. currency.

(c) **INVOICING FOR DETENTION/DEMURRAGE COSTS.** Invoices for detention/demurrage costs will be submitted by the Contractor directly to the Contracting Officer.**12. CONTRACT TERMS AND CONDITIONS -- COMMERCIAL ITEMS**(a) **INSPECTION/ACCEPTANCE.** See Page 15.(b) **ASSIGNMENT.** The Contractor or its assignee may assign its rights to receive payment due, as a result of performance of this contract, to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Government-wide commercial purchase card), the Contractor may not assign its right to receive payment under this contract.(c) **CHANGES.** See Page 20(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, and unusually severe weather. 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.** 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. **Note:** Contractors are also required to provide additional information in their invoices as specified in the Addendum, as discussed in the SUPPLEMENTAL INVOICING INFORMATION (BULK) clause.(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.** Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and OMB prompt payment regulations at 5 CFR part 1315. 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.(j) **RISK OF LOSS:** See Page 20(l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** The Government reserves the right to terminate this contract, or any part thereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.(m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.(n) **TITLE.** Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.(o) **WARRANTY.** The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.(p) **LIMITATION OF LIABILITY.** Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

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

(r) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986, 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower 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; Invoices; 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) Standard Form 1449.
- (8) Other documents, exhibits, and attachments; and.
- (9) The specification.

13. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS

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

52.233-3, Protest After Award (31 U.S.C. 3553).

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

[X] (24) 52.225-13, Restriction on Certain Foreign Purchases (Oct 2003) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

14. CHANGES

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.
- (2) Method of shipment or packing.
- (3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the DISPUTES clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

15. RISK OF LOSS

a. FOB destination contract provision:

- (1) DESC will assume title and risk of loss for the product at the load point or (*insert location*). The Contractor is also responsible for transporting the product to the destination points. After title passes to the Government, and during transportation of the product, the Contractor shall be liable for loss or damage to the product which results from negligence, or bad faith, or willful misconduct of the Contractor, its employees, or agents for subcontractors. This includes, but is not limited to, short deliveries, theft by employees or agent, losses stemming from tampering with the

trucks or altering measurement devices, or adulteration of fuel, etc. The Government assumes the risk of loss or non delivery of product due to circumstances beyond the control of the Contractor.

- (2) However, the Contractor bears all risk and responsibility for personal injury or death of its employees or agents or subcontractor employees or for any damage to or loss of equipment during transportation of the fuel. These types of claims will not be separately reimbursed under this contract.

16 CHOICE OF LAW

This contract shall be construed and interpreted in accordance with the substantive laws of the United States of America. By the execution of this contract, the Contractor expressly agrees to waive any rights to invoke the jurisdiction of local national courts where this contract is performed and agrees to accept the exclusive jurisdiction of the United States Armed Services Board of Contract Appeals and the United States Court of Federal Claims for the hearing and determination of any and all disputes that may arise under the Disputes clause of this contract.

17. GRATUITIES

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

- (1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and
- (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled--

- (1) To pursue the same remedies as in a breach of the contract; and
- (2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

18. TAXES - FOREIGN FIXED-PRICE CONTRACTS

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

(b) **DEFINITIONS.** As used in this clause—

Contract date means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Country concerned means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

Tax and taxes include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

All applicable taxes and duties means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

After-imposed tax means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

After-relieved tax means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

Excepted tax means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.

(c) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d) The contract price shall be increased by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any penalty refunded to the contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(g) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either was included in the contract price or was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

19. RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

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

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

20. INTEREST

(a) Except as otherwise provided in this contract under a PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA clause or a COST ACCOUNTING STANDARDS clause, all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481) 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 12 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 paragraph (b) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

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

(1) The date fixed under this contract.

(2) The date of the first written demand for payment consistent with this contract, including any demand resulting from a default termination.

(3) The date the Government transmits to the Contractor a proposed supplemental agreement to confirm completed negotiations establishing the amount of debt.

(4) If this contract provides for revision of prices, the date of written notice to the Contractor stating the amount of refund payable in connection with a pricing proposal or a negotiated pricing agreement not confirmed by contract modification.

(c) The interest charge made under this clause may be reduced under the procedures prescribed in 32.614-2 of the Federal Acquisition Regulation in effect on the date of this contract.

21. CONTRACT TYPE

(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 June 30, 2004 with 6 one-month option periods.

22. OPTION TO EXTEND THE TERM OF THE CONTRACT

(a) The Government may extend the term of this contract by written notice to the Contractor within 7 days, provided that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 15 days prior to contract expiration. 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 365 days.

23. ORDERING

(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 the ordering periods specified in DELIVERY AND ORDERING PERIODS on Page 16.

(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.

(d) For product funded and paid for by the Defense Logistics Agency, the Contractor will be furnished with a document entitled "Source Identification and Ordering Authorization." This document is for planning purposes only and does not constitute an order under the contract. This document will also indicate the activity(ies) authorized to place orders under this contract. This document does not in any manner modify or limit Contractor's obligation to deliver pursuant to properly placed orders as provided in the contract.

24. SUBMISSION OF OFFERS

(a) **SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE:** Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(b) **SUBMISSION OF OFFERS IN U.S. CURRENCY:** Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

(c) **FACSIMILE PROPOSALS**

(1) **DEFINITION. Facsimile proposal,** as used in this provision, means a proposal, revision, or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(2) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(3) The telephone number of receiving facsimile equipment is (703) 767-8506.

(4) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document—

(i) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal;

(ii) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the

offeror; and

(iii) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(5) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete original signed proposal.

25. AGENCY PROTESTS

Companies protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the Agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (**NOTE:** DLA procedures for Agency

Level Protests filed under Executive Order No. 12979 allow for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer.) Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

26. F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION

a. Offers are invited on the basis of both f.o.b. origin and f.o.b. destination, and the Government will award on the basis the Contracting Officer determines to be most advantageous to the Government. An offer on the basis of f.o.b. origin only or f.o.b. destination only is acceptable, but will be evaluated only on the basis submitted. For evaluation purposes, the best available transportation and related costs shall be used in the evaluation of f.o.b. origin proposals. The best available transportation rates and related costs in effect or to become effective prior to the expected date of initial shipment shall be used in the evaluation in order to determine the lowest laid down cost to the Government.

b. If the offeror desires to guarantee a rate other than that covered in (a) above, such rate shall be considered in the evaluation of offers and shall become a part of any resultant contract as an f.o.b. destination offer.

27. RIGHT TO APPLY F.O.B. ORIGIN OFFER

The Government reserves the right to apply an f.o.b. origin offer against any destination item for the same product.

28. EVALUATION OF OPTIONS

Except when it is determined in accordance with FAR 17.206(b) not be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

29. EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS)

- (a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.
- (b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination that

either--

- (1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or
- (2) The exception/deviation is acceptable.

(c) If the exception/deviation is in reference to a specification contained in this solicitation and the offeror cannot supply product fully meeting the required specification(s), the product can be offered for consideration provided the offeror clearly indicates, by attachment to the offer, the extent to which any product offered differs from the required specification(s).

(d) If the exception/deviation is in reference to a particular test, inspection, or testing method contained in this solicitation, the offer can be considered provided the offeror clearly indicates, by attachment to the offer, the extent to which its offer differs from those requirements.

(e) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

30. CONVERSION FACTORS

- (a) This provision applies to all products except lubricating oils.
- (b) The offeror should use conversion factors that reflect its product characteristics and submit prices and transportation rates in the requested units. In the event prices or transportation rates are not submitted in the requested units, the following conversion factors based on an assumed density for the product will be used by DESC in the evaluation of the offer.

(1) **TABLE I.**

One Imperial Gallon	=	1.20095 U.S. Gallons at the same temperature
One Liter	=	0.264172 U.S. Gallons at the same temperature
One Cubic Meter (1,000 liters)	=	6.2898 Barrels at the same temperature
One U.S. Barrel	=	42 U.S. Gallons at the same temperature
One Kilometer	=	0.62137 Miles
One Mile	=	1.6093 Kilometers
One Nautical Mile	=	1.15 Statute Miles

(2) **TABLE II.**

	DENSITY TYPICAL					
<u>PRODUCT</u>	@15°C	@60°F				
	BARRELS PER	GALLONS PER	LITERS PER	BARRELS PER	GALLONS PER	

	<u>Kg/m³</u>	<u>API</u>	<u>METRIC TON</u>	<u>METRIC TON</u>	<u>METRIC TON</u>	<u>LONG TON</u>	<u>LONG TON</u>
AUTOMOTIVE GASOLINE (ALL)	744.9	58.4	8.462	355.42	1342.46	8.598	361.12

DIESEL FUELS

DFA	810.5	43.0	7.775	326.54	1233.81	7.900	331.79
DF1	818.9	41.2	7.695	323.17	1122.15	7.818	328.36
DF2/GAS OIL	839.3	37.0	7.507	315.30	1191.47	7.628	320.36