

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE K	PAGE OF PAGES 1 6	
2. AMENDMENT/MODIFICATION NO. 0001		3. EFFECTIVE DATE March 26, 2004	4. REQUISITION/PURCHASE REQ. NO. N-03-07-424	5. PROJECT NO. (If applicable)	
6. ISSUED BY DEFENSE ENERGY SUPPORT CENTER 8725 JOHN J. KINGMAN ROAD FT. BELVOIR, VA 22060-6200 GHERARDINI/DESC-PEB PH: 703 767-8460 FAX - 703-767-8506 P.P.: 1.3B joan.gherardini@dla.mil		CODE SP0600	7. ADMINISTERED BY (If other than Item 6) CODE		
8. NAME AND ADDRESS OF CONTRACTOR (NO., street, city, county, State, and ZIP Code)			(✓)	9A. AMENDMENT OF SOLICITATION NO.	
			X	SP0600-03-R-0013-0004	
				9B. DATED (SEE ITEM 11) March 24, 2004	
				10A. MODIFICATION OF CONTRACT/ORDER NO.	
CODE			FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS					
<p><input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers [] is extended, [X] is not extended</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:</p> <p>(a) By completing Items 8 and 15, and returning <u>1</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>					
12. ACCOUNTING AND APPROPRIATION DATA (If required)					
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.					
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.					
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)					
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:					
D. OTHER Specify type of modification and authority)					
E. IMPORTANT: Contractor [] is not, [X] is required to sign this document and return <u>1</u> copies to the issuing office.					
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)					
a. The purpose of this amendment is to add the following 3 locations in Viet Nam:					
Continued on Page 2					
Except as provided herein, all terms and conditions of the document referenced in Items 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.					
15A. NAME AND TITLE OF SIGNER (Type or print)			16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) MATTHEW R. SHUSTER		
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED	16B. UNITED STATES OF AMERICA		16C. DATE SIGNED
(Signature of person authorized to sign)			(Signature of Contracting Officer)		

14a. Continued:

B1.04-1 SUPPLIES TO BE FURNISHED (SHIPS' BUNKERS) (DESC APR 2003)

(a) **SHIPS' BUNKERS.** Unless otherwise stated, the supplies shall be furnished f.o.b. destination as ships' bunkers into various types and sizes of U.S. military and federal civilian vessels for immediate consumption by the vessel. Unit prices are for product delivered inclusive of all delivery charges. Depending on the delivery conveyance's size, quantities ordered and delivered by truck or barge (as contracted) may require utilization of more than one truck or barge or return trips to fulfill the ordered fuel quantity.

(b) **REQUIREMENTS.** This is a requirements contract for the supplies or services specified and effective for the period stated in paragraph (i).

(1) The quantities of supplies or services specified in the Schedule are best 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.

(2) Delivery or performance shall be made only as authorized by orders issued in accordance with the ordering provisions herein. Subject to any limitations in the order limitations provisions herein 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 provisions. In addition, if a Government facility is located near the bunkering location, the Government shall only order from the Contractor the Government's fuel requirements that are in excess of its in-house capabilities. In such instances, the estimated quantities specified in the Schedule are estimates of requirements in excess of the quantities that the Government may itself furnish within its own capabilities. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations. 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. The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract. However, the total quantity ordered and required to be delivered by the specified method of delivery during the ordering period may be greater than or less than these total estimated quantities.

(3) 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.

(4) 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 end of the stated delivery period.

(5) The Government agrees to order and the Contractor shall, if ordered, deliver during the contract period, at the unit prices hereunder, adjusted in accordance with the ECONOMIC PRICE ADJUSTMENT – MARKET PRICE INDICATORS (SHIPS' BUNKERS) clause or the ECONOMIC PRICE ADJUSTMENT – ESTABLISHED CATALOG MARKET PRICE – OTHER THAN PUBLICATION (SHIPS' BUNKERS) clause of the contract (if applicable), the total actual requirements for the product(s) at the location(s) listed.

(6) Domestic requirements for ships' bunkers shall include all of the U.S. (including commonwealths and the District of Columbia), its territories, and possessions. Overseas requirements are those outside of the above. Domestic and overseas requirements are classified into separate Purchase Programs (PPs):

Domestic:

PP 3.7A - Pacific, West Coast, Great Lakes, Northeast, and Middle Atlantic States, to include inland river-ways therein.

PP3.7B - Caribbean, Southeast, Southwest, Gulf Coast, and inland river-ways therein.

PP3.7C - State of Alaska.

Overseas:

PP 1.3A - Europe and Middle East.

PP1.3B - Central/South America, Africa, and Far East/Pacific.

OVERSEAS

9140-01-417-6843	COMMERCIAL MARINE GAS OIL (MGO)/61	C16.23-2/52.246-9FAQ
9140-01-417-9723	FUEL OIL, BURNER GRADE #6 (FS6)/64	C16.38/52.246-9FCA
9140-01-417-6645	INTERMEDIATE FUEL OIL 180/62	C36/52.246-9FFE
9140-01-417-6632	INTERMEDIATE FUEL OIL 380/63	C36/52.246-9FFE

NOTE: Delivery of a single order may require multiple vehicles or trips.

The acronym **TK** means tanker, **B** means barge, **TT** or **RTW** means transport truck, **TTR** means truck and trailer, **TW** means tank wagon, **P** means pipeline (ex-pipe/ex-wharf), and **MSS** means Marine Service Station.

14a. Continued:

(c) LINE ITEM SUPPLY SCHEDULE.

THE PREFERRED METHOD IS PIPELINE. SECOND IS BARGE. LAST IS TANK TRUCK. OFFERS WILL BE CONSIDERED IN THAT ORDER.

Item	Supply, Bunker Location and Method of Delivery	ESTIMATED Quantity (Metric Tons)	Unit Price (U. S. Dollars per Metric Ton)
<u>VIET NAM:</u>			
641-61	DA NANG, VIETNAM MARINE GAS OIL (MGO) PIPELINE:	266 MT	\$ _____
	<u>OR:</u>		
641-61	DA NANG, VIETNAM MARINE GAS OIL (MGO) BARGE:	266 MT	\$ _____
	<u>OR:</u>		
641-61	DA NANG, VIETNAM MARINE GAS OIL (MGO) TANK TRUCK:	266 MT	\$ _____
642-61	HAIPHONG, VIETNAM MARINE GAS OIL (MGO) PIPELINE:	266 MT	\$ _____
	<u>OR:</u>		
642-61	HAIPHONG, VIETNAM MARINE GAS OIL (MGO) BARGE:	266 MT	\$ _____
	<u>OR:</u>		
642-61	HAIPHONG, VIETNAM MARINE GAS OIL (MGO) TANK TRUCK:	266 MT	\$ _____
643-61	HO CHI MINH CITY, VIETNAM MARINE GAS OIL (MGO) PIPELINE:	266 MT	\$ _____
	<u>OR:</u>		
643-61	HO CHI MINH CITY, VIETNAM MARINE GAS OIL (MGO) BARGE:	266 MT	\$ _____
	<u>OR:</u>		
643-61	HO CHI MINH CITY, VIETNAM MARINE GAS OIL (MGO) TANK TRUCK:	266 MT	\$ _____

(i) **DELIVERY AND ORDERING PERIODS.** The period during which the Government may order and the Contractor shall deliver, if ordered, will be as specified below unless the Schedule specifies otherwise.

MGO FOR ALL 3 LOCATIONS IN VIET NAM:

- (1) **ORDERS:** The ordering period begins: DATE OF AWARD and ends: OCTOBER 31, 2005.
- (2) **DELIVERIES:** The delivery period begins: DATE OF AWARD and ends: NOVEMBER 30, 2005

14b.

B19.19-1 ECONOMIC PRICE ADJUSTMENT - MARKET PRICE INDICATORS (SHIPS' BUNKERS) (DESC AUG 2000)

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

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

and

(2) The prices to be invoiced hereunder shall be computed in accordance with the provisions of this clause.

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

(1) **Award price** means the original contract price including incremental pricing grids.

(2) **Reference price** means a market price indicator determined by an independent trade association, governmental body, or other third party and reported or made available in a consistent manner in a publication, electronic data base, or other readily accessible form. This price may be either a single reference price or a combination of reference prices for price adjustment for individual

items by product, market area, and publication as specified in the Table in (f) below. The reference price is derived from quotes, assessments, or sales prices in the market place for one or several items or commodity groups as reported in a consistent manner in a publication, electronic data base, or other readily accessible form.

(i) **Base reference price** means the market price indicator shown in the Table in (f) below and is the reference price from which economic price adjustments are calculated pursuant to this clause. This price will be expressed as **Base Ref. Price** in any price adjustment notification issued through contract modifications and/or postings to the DESC web page under the heading **Doing Business with DESC**. The **base reference date** annotated in the Table shall remain unchanged throughout the life of the contract.

(ii) **Adjusting reference price** means the market price indicator in effect in the calendar week of the date of delivery, used to determine the change in reference price. In the event one or more applicable reference prices are not (or were not) published on the date shown, then the term **adjusting reference price** means the preselected market price indicator for an item as published on the date nearest in time **on or prior to** the effective calendar date as expressed in (4) below. It is annotated as **New Ref. Price** in any PA modification issued.

(3) **Current unit price** means the most current price including alpha designated incremental pricing grids in effect for the week that the price adjustment provisions discussed in paragraph (c) below begin. This price, expressed as **Latest Unit Price** in any DESC price adjustment notification issued through contract modifications and/or postings to the DESC web page under the heading **Doing Business with DESC** shall be the unit price charged to the Government for supplies delivered under the contract.

(4) **Date of delivery** means the date and time product is received by the requesting activity/vessel. This constitutes signature of receipt by the Government representative for the entire delivery. A single delivery that began on one date and ended on another date shall be considered as received on the date of completion annotated by the Government on the bunker delivery document. Excusable delays in delivery shall be handled on a case-by-case basis by the Contracting Officer.

(5) **Calendar week** means a consecutive seven-day period, beginning with whichever day of the week is specified in (c)(1) below.

(c) **ADJUSTMENTS.** Subject to the provisions of this clause, the prices payable hereunder shall be determined by adding to the award price the same number of cents, or fraction thereof, that the reference price increases or decreases, per like unit of measure as the award price. All resultant price adjustments shall be issued via notification through contract modification and/or postings to the DESC web page under the heading **Doing Business with DESC**. This will be executed by the Contracting Officer through weekly price adjustment notifications in accordance with the following:

(1) **DAY OF PUBLICATION.** Except for items employing the publications listed in (i), (ii), and (iii) below, the reference price in effect on the date of delivery shall be that item's preselected reference price published on the **Monday** of the calendar week in which the delivery is made, or, in the event there is no publication in that week, it shall be the item's preselected reference price as last previously published.

NOTE 1: Oil Price Information Services' (OPIS) Petroscan data is dated on a Thursday but is incorporated into the Monday "hard copy" publication. The Monday date of the OPIS average city prices shall preside.

NOTE 2: DESC downloads the electronic versions of the price publications (i.e., Platts, OPIS). Occasionally, a slight discrepancy may be noted between the prices posted on the electronic version and the printed (hard copy) version. In such an event, the prices posted in the electronic version shall prevail.

(i) **PLATT'S BUNKERWIRE AND BUNKERFUELS REPORT.** For items employing Platt's Bunkerwire and Bunker Fuels Report, the reference price in effect on the date of delivery shall be that item's preselected reference price effective (and normally published) on the **Tuesday** of the calendar week in which the delivery is made, or, in the event there is no publication on Tuesday of that week, it shall be the item's preselected reference price as last previously published.

(ii) **PLATT'S OILGRAM PRICE REPORT.** For items employing Platt's Oilgram Price Report, Spot Price Assessment, the reference price in effect on the date of delivery shall be that item's preselected reference price officially published on the Tuesday, normally effective on the prior Monday, of the calendar week in which the delivery is made, or, in the event there is no publication on Tuesday of that week, it shall be the item's preselected reference price as last previously published. For items employing Platt's Oilgram Price Report, 5 Day Rolling Average, the reference price in effect on the date of delivery shall be that item's preselected reference price published for 5 days ending Friday prior to the calendar week in which the delivery is made.

(iii) When a combination of two different publications is utilized, the **Monday** date of the calendar week shall control if differing published dates are used.

14b (Continued).

(2) CALCULATIONS.

(i) If averages are published within a given publication, then these averages will be used.

(ii) For prices in U.S. gallons, if averages are not available within a given publication, manually calculated averages, carried to six decimal places, truncated, will be used. For prices in metric tons, if averages are not available within a given publication, manually calculated averages, carried to two decimal places, truncated, will be used. For domestic contract line items, conversions from metric tons to gallons shall be utilized through the CONVERSION FACTORS clause for the applicable publication reference product. Barrels shall be converted using the CONVERSION FACTORS clause for barrels to gallons. The above shall apply unless cited differently in the Table in (f) below. (iii) For domestic contract line items, the final calculated reference price, as well as any intermediary arithmetical calculations, will consist of a number including six decimal places, truncated. For overseas contract line items, the final calculated reference price, as well as any intermediary arithmetical calculations, will consist of a number including two decimal places, truncated.

(iv) For domestic contract line items, the final adjusted unit price will always consist of a number including six decimal places, truncated. For overseas contract line items, the final adjusted unit price will always consist of a number including two decimal places, truncated.

(v) In the event a known applicable tax change occurs, the Government will automatically adjust via contract modification said increase or decrease to the Contractor's escalated contract price, effective on the date said increase or decrease occurred.

(3) 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, or is the result of an allocation made in accordance with the terms of the ALLOCATION clause of this contract, in which case the contract shall be amended to make an equitable extension of the delivery schedule.

(4) UPWARD CEILING ON ECONOMIC PRICE ADJUSTMENTS. The Contractor agrees that the total increase in any contract unit price shall not exceed ____ 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 an 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.

(5) REVISION OF REFERENCE PRICE . In the event--

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

or

(ii) The Contracting Officer determines that the reference price consistently and substantially fails 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 or just prior to 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 the contract.

(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, and 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.

14b (Continued).

(f) **TABLE.** The following publication(s)/date(s) apply:

(DESC 52.216-9FS1)

(1) **Insert the following table when the solicitation does not contain numerous items:**

Item no.	Base reference publication	Base reference heading	Base reference date	Base reference price
641-61,	PLATT OILGRAM PRICE REPORT SINGAPORE		FEB AVG EFF 1 MAR 04	\$284.04 MT
642-61	GAS OIL .5% S, PREVIOUS MONTH AVG			
&				
643-61				

See the EPA clause "Continuation Pages" for (1) a list of applicable publications and effective reference price dates, and (2) market areas and reference publications designated by product, location, and publication reference.

14c.

F3.01 TRANSPORT TRUCK, TRUCK AND TRAILER AND/OR TANK WAGON FREE TIME AND DETENTION RATES (BUNKERS) (DESC MAR 1997)

(a) Upon arrival of Contractor's transport truck, truck and trailer, or tank wagon, the receiving activity shall promptly designate the delivery point into which the load is to be discharged. The Contractor shall be paid for detention beyond free time for delays caused by the Government. A minimum of one hour free time is required per item requiring transport truck, truck and trailer, or tank wagon delivery.

(1) Additional free time per item for unloading a transport truck, truck and trailer, or tank wagon in excess of the required one hour: _____.

(2) Rate per item for detention beyond required, plus any additional, free time: _____.

NOTE: The above will not be considered in the evaluation of offers for award.

(b) Notwithstanding the above, the Government is entitled to at least as much free time as is allowed by the common carrier or that the Contractor normally allows its regular commercial customers, whichever is greater. In addition, the Government will not pay more in detention rates that the actual rate charged by the common carrier or the rate the Contractor normally charges its regular commercial customers, whichever is lower. UNLESS THE OFFEROR OTHERWISE INDICATES IN PARAGRAPH (a)(1) and (2) ABOVE, FREE TIME WILL BE CONSIDERED UNLIMITED.

(c) **DETENTION COSTS.** Detention costs will be the sole responsibility of the activity incurring them. Any invoices for detention costs will be forwarded directly to the activity receiving the product.

(DESC 52.247-9FE1)

14d.

The closing date and time for these items in Viet Nam only has been extended to:

APRIL 30, 2004 at 3:00 P.M. LOCAL FT. BELVOIR TIME.