

**INFORMATION TO OFFERORS OR QUOTERS
SECTION A - COVER SHEET**

*Form Approved
OMB No. 9000-0002
Expires Oct 31, 2004*

The public reporting burden for this collection of information is estimated to average 35 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (9000-0002), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person will be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE ADDRESS IN BLOCK 4 BELOW.

1. SOLICITATION NUMBER	2. (X one) <input type="checkbox"/> a. INVITATION FOR BID (IFB) <input type="checkbox"/> b. REQUEST FOR PROPOSAL (RFP) <input type="checkbox"/> c. REQUEST FOR QUOTATION (RFQ)	3. DATE/TIME RESPONSE DUE
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INSTRUCTIONS

NOTE: The provision entitled "Required Central Contractor Registration" applies to most solicitations.

1. If you are not submitting a response, complete the information in Blocks 9 through 11 and return to the issuing office in Block 4 unless a different return address is indicated in Block 7.
2. Offerors or quoters must include full, accurate, and complete information in their responses as required by this solicitation (including attachments). "Fill-ins" are provided on Standard Form 18, Standard Form 33, and other solicitation documents. Examine the entire solicitation carefully. The penalty for making false statements is prescribed in 18 U.S.C. 1001.
3. Offerors or quoters must plainly mark their responses with the Solicitation Number and the date and local time for bid opening or receipt of proposals that is in the solicitation document.
4. Information regarding the timeliness of response is addressed in the provision of this solicitation entitled either "Late Submissions, Modifications, and Withdrawals of Bids" or "Instructions to Offerors - Competitive Acquisition".

4. ISSUING OFFICE <i>(Complete mailing address, including ZIP Code)</i>	5. ITEMS TO BE PURCHASED <i>(Brief description)</i>
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6. PROCUREMENT INFORMATION *(X and complete as applicable)*

<input type="checkbox"/>	a. THIS PROCUREMENT IS UNRESTRICTED
<input type="checkbox"/>	b. THIS PROCUREMENT IS _____ % SET-ASIDE FOR SMALL BUSINESS. THE APPLICABLE NAICS CODE IS: _____
<input type="checkbox"/>	c. THIS PROCUREMENT IS _____ % SET-ASIDE FOR HUB ZONE CONCERNS. THE APPLICABLE NAICS CODE IS: _____
<input type="checkbox"/>	d. THIS PROCUREMENT IS RESTRICTED TO FIRMS ELIGIBLE UNDER SECTION 8(a) OF THE SMALL BUSINESS ACT.

7. ADDITIONAL INFORMATION

8. POINT OF CONTACT FOR INFORMATION

a. NAME <i>(Last, First, Middle Initial)</i>		b. ADDRESS <i>(Include Zip Code)</i>	
c. TELEPHONE NUMBER <i>(Include Area Code and Extension)</i>		d. E-MAIL ADDRESS	

9. REASONS FOR NO RESPONSE *(X all that apply)*

<input type="checkbox"/> a. CANNOT COMPLY WITH SPECIFICATIONS	<input type="checkbox"/> d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
<input type="checkbox"/> b. UNABLE TO IDENTIFY THE ITEM(S)	<input type="checkbox"/> e. OTHER <i>(Specify)</i>
<input type="checkbox"/> c. CANNOT MEET DELIVERY REQUIREMENT	

10. MAILING LIST INFORMATION *(X one)*

WE DO DO NOT DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE INVOLVED.

11a. COMPANY NAME	b. ADDRESS <i>(Include Zip Code)</i>
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c. ACTION OFFICER

(1) TYPED OR PRINTED NAME <i>(Last, First, Middle Initial)</i>	(2) TITLE
-----------------------------------------------------------------------	------------------

(3) SIGNATURE	(4) DATE SIGNED <i>(YYYYMMDD)</i>
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FOLD

FOLD

FROM

AFFIX
STAMP
HERE

SOLICITATION NUMBER	
DATE (YYYYMMDD)	LOCAL TIME

DD Form 1707 (Continued)

- A. Address offers to the issuing office in Block 4. Offers must be received by **3:00 PM local time Fort Belvoir, Virginia, USA on 31 MARCH 2004**. Facsimile proposals/offers are encouraged and should be submitted in accordance with Clause L2.11-2, FACSIMILE PROPOSALS. The facsimile number for receipt of offers is **703-767-8506**.
- B. Please complete OFFER SUBMISSION PACKAGE in its entirety. All clauses, which require offeror fill ins are included in the Offer Submission Package, along with a SCHEDULE OF SUPPLIES, which you may use to submit your offered prices. Please keep the Solicitation Package and a copy of the Offeror Submission Package for your records.
- C. Offers submitted in response to this solicitation must be in the English language and U.S. dollars (Clause L2.10 and L2.10-1). Offers received in other than the English language and U.S. dollars will be rejected.
- D. Please include product specifications with your offer.
- E. **CONTRACT TYPE:** This is a single year solicitation. Contracts awarded as a result of this solicitation will be **“REQUIREMENTS, FIXED PRICE WITH ECONOMIC PRICE ADJUSTMENT”** contracts. Please refer to Clause I84 and I86.06.
- F. **ECONOMIC PRICE ADJUSTMENT:** Please refer to Clause B19.02, ECONOMIC PRICE ADJUSTMENT. Your offer should be based on prices in effect on 01 FEB 04 (Base Reference Date). Contract prices will change monthly based on changes in the publications, not based on your product costs. After award, DESC will post updated monthly contract prices on the DESC homepage at <http://www.desc.dla.mil> under “Doing Business with DESC.”
- G. **BEST OVERALL VALUE:** Be advised that the Government will be awarding contracts to the responsible offeror(s) that represents the **“Best Overall Value.”** The Government will evaluate each offeror’s record of past performance, as well as price and other price related factors. **Please complete the Contractor Performance Data Sheet (last page of Offer Submission Package) as instructed and return with your offer.** Your attention is invited to the following clauses:
- | | |
|----------|-------------------------------------------------------------------|
| L2.01-3 | PROPOSAL PREPARATION INSTRUCTIONS AND PAST PERFORMANCE SUBMISSION |
| M72.03-1 | EVALUATION FACTORS FOR BEST OVERALL VALUE |
- H. **PAPERLESS ORDERING & RECEIPT TRANSACTION SCREENS (PORTS):** The DESC-Balkans Ordering Officer will issue all delivery orders for FOB Destination or FOB Origin items to the Contractor, via the PORTS Internet application, with an electronically signed written order (SF 1449). See Special Note #9 for additional information.
- I. **ACKNOWLEDGMENT OF AMENDMENTS:** You must acknowledge receipt of any amendments to this solicitation. You may do this by signing and returning the amendment with your offer. Failure to do so could result in your offer being considered unacceptable.
- J. **JET FUEL OFFERS:** Offerors are cautioned to review **OFFERS FOR JET FUEL** on page 6 of the solicitation. The Government’s requirement is for **Additized Jet Fuel with Contractor Furnished Additives and Government Provided Equipment** necessary to inject required additives.
- K. Clause L2.05-5 (e) requires that offerors allow the Government **120 days** from the required date of offer submission for the awarding of a contract.
- L. Any contract awarded to an offeror who, at the time of award was suspended, ineligible, or debarred from receipt of contracts with U.S. Government agencies, or in receipt of notice of proposed debarment from any U.S. Government agency, is void-able at the option of the U.S. Government.

M. For clarification, explanation, or additional information, contact Dottie Gheen at (703) 767-9542.

N. DESC contact point and telephone number for emergency situations during non-duty hours is:

Operations Center, Contingency Plans and Operations Division (DESC-DL)
Telephone Number (703) 7657-8420

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30				1. REQUISITION NUMBER SP0600-04-1131		PAGE 1 OF 57	
2. CONTRACT NUMBER		3.AWARD/EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER SP0600-04-R-0072		6. SOLICITATION ISSUE DATE 02 MARCH 2004
7. FOR SOLICITATION INFORMATION CALL:		a. NAME DOROTHY GHEEN (703) 767-9542			b. TELEPHONE NUMBER (no collect calls) PHONE: SEE BLOCK 7(A) FAX: 703 - 767-8506		8. OFFER DUE DATE/ LOCAL TIME 31 MAR 04 @ 3:00 P.M. FT.BELVOIR, VA
9. ISSUED BY DEFENSE ENERGY SUPPORT CENTER DESC-PEA 8725 JOHN J. KINGMAN ROAD, ST. 4950 FT. BELVOIR, VA 22060-6222 FAX: 703-767-9542 BUYER/SYMBOL: DOROTHY GHEEN/PEA PHONE: (703) 767-9542			CODE SP0600	10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE % FOR <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> SMALL DISADV <input type="checkbox"/> 8(A) NAICS: 424720 SIZE STANDARD: 500		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS
15. DELIVER TO SEE SCHEDULE			CODE	16. ADMINISTERED BY SEE BLOCK 9		CODE	
17a. CONTRACTOR / OFFEROR		CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY SEE CLAUSE F30.01			
[] 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 [] SEE ADDENDUM			
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	SEE SCHEDULE					SEE OFFEROR SUBMISSION PACKAGE ATTACHED	SEE OFFEROR SUBMISSION PACKAGE ATTACHED
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
[X] 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA [X] ARE [] ARE NOT ATTACHED. [] 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA [] ARE [] ARE NOT ATTACHED.							
[X] 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES 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: REFERENCE <u> </u> OFFER DATED <u> </u> . YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)		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				33. SHIP NUMBER	34. VOUCHER NUMBER		35. AMOUNT VERIFIED CORRECT FOR
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE				32c. DATE		37. CHECK NUMBER	
32d/eg. PRINTED NAME, TITLE, ADDRESS & EMAIL OF GOV REP.				32f. PHONE # OF GOV REP		40. PAID BY	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				42a. RECEIVED BY (Print)			
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER			41c. DATE	42b. RECEIVED AT (Location)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

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THE FOLLOWING ARE INCLUDED IN THIS SOLICITATION:

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[X]	OFFER SUBMISSION PACKAGE	SEPARATE COVER

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B1.05 SUPPLIES TO BE FURNISHED (OVERSEAS PC&S) (ALASKA) (DESC MAY 1996)

(a) The supplies to be furnished during the period specified in the REQUIREMENTS clause, the delivery points, methods of delivery, and estimated quantities are shown below. The quantities shown are best estimates of required quantities only. Unless otherwise specified, the total quantity ordered and required, to be delivered may be greater than or less than such quantities. The Government agrees to order from the Contractor and the Contractor shall, if ordered, deliver during the contract period all items awarded under this contract. The prices paid shall be the unit prices specified in subsequent price change modifications issued in accordance with the ECONOMIC PRICE ADJUSTMENT clause.

(b) In an emergency, oral orders may be issued and must be confirmed in writing by an SF 1449 or DD Form 1155 within 24 hours.

(c) Offers shall not be submitted for quantities less than the estimated quantities specified below for each line item. Offers submitted for less than the estimated quantities will not be considered for award, except for items specifically designated as 1-year requirements.

(DESC 52.207-9F55)

<u>ITEM CODE</u>	<u>SUPPLIES, DELIVERY POINTS AND METHOD OF DELIVERY</u>	<u>ESTIMATED 1-YEAR QUANTITY</u>
10	GASOLINE, AVIATION (130) Grade 100LL NSN: 9130-00-179-1122 SPECIFICATION: ASTM D 910 or Commercial Equivalent CLAUSE: C16.15	131,000 USG
18	GASOLINE, PREMIUM LEADED (MGB) Automotive Use NSN: 9130-01-424-2525 (FMS) SPECIFICATION: Commercial Equivalent CLAUSE: C16.18-18	16,000 USG
27	GASOLINE, PREMIUM UNLEADED (MUP) Automotive Use NSN: 9130-00-148-7104 SPECIFICATION: EN 228 or Commercial Equivalent CLAUSE: C16.18-19	17,500 USG
29	GASOLINE, PREMIUM UNLEADED (MBP) Automotive Use NSN: 9130-01-423-0939 (FMS) NATO F67 SPECIFICATION: EN 228 or Commercial Equivalent CLAUSE: C16.18-19	168,769 USG
30	DIESEL FUEL #1 (F65) Automotive Use, Arctic (Winter) Class I NSN: 9140-01-440-9736 SPECIFICATION: EN 590 or Commercial Equivalent CLAUSE: C16.26-10	496,000 USG
31	DIESEL FUEL (B65) Automotive Use, Arctic (Winter) Class I NSN: 9140-01-440-9435 (FMS) NATO F54 SPECIFICATION: EN 590 or Commercial Equivalent CLAUSE: C16.26-10	647,727 USG

34	DIESEL FUEL #2 (DF2) Automotive Use, Temperate (Summer) Grade A NSN: 9140-01-286-5294 SPECIFICATION: EN 590 or Commercial Equivalent CLAUSE: C16.26-10	587,000 USG
35	DIESEL FUEL (DB2) Automotive Use, Temperate (Summer) Grade A NSN: 9140-01-423-0988 (FMS) SPECIFICATION: EN 590 or Commercial Equivalent CLAUSE: C16.26-10	448,240 USG
90	TURBINE FUEL, AVIATION (JP8) NSN: 9130-01-031-5816 SPECIFICATION: Defense Standard 91-91/3, DERD 2494 With the following additives: Anti-Oxidant (AO), Fuel System Icing Inhibitor (FSII), Corrosion Inhibitor (CI), and Static Dissipater Additive (SDA) or Commercial Equivalent CLAUSE: C16.08-9 and Special Notes	423,000 USG
91	TURBINE FUEL, AVIATION (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 SPECIFICATION: Defense Standard 91-91/3, DERD 2494 With the following additives: Anti-Oxidant (AO), Fuel System Icing Inhibitor (FSII), Corrosion Inhibitor (CI), and Static Dissipater Additive (SDA) or Commercial Equivalent CLAUSE: C16.08-9 and Special Notes	356,892 USG

INFORMATION TO OFFERORS

All information contained in the below subparagraphs (1) (2) and (3) contain pertinent information regarding costs that should be formed as part of your offered prices, other terms and conditions that would affect how you calculate offered prices. Please read carefully all data.

(1) Offerors are advised that offer prices should include all other costs arising from contractor's performance of the contract. Therefore, transportation, insurance and any other contractor-incurred expenses should be included in the offer price. For FOB Origin for Government pickup at contractor facility, offer prices should include all costs associated with truck or rail loading. Contractor's cost for providing working meters and working pumps shall be included in the contractor's offer price.

(2) Offerors are advised that Croatian (and possibly other nations' as well) customs personnel only permit the transport of petroleum products at certain border crossings. Please review proposed delivery routes to ensure that transit can occur at the desired location. In addition, certain bridges require advance permission for transit. The contractor will arrange all transport. No SFOR escorts will be provided.

(3) Offerors are advised to specify any additional amount of free time in excess of the required (3) hours as stated in Special Note 2 c. Offerors shall also state any demurrage costs in excess of the required (3) hour time period on a per hour basis or fraction thereof.

TO ALL OFFERORS:

OFFERS FOR JET FUEL

1. The Government's requirement is for Additized Jet Fuel with Contractor Furnished Additives and Government Provided Equipment necessary to inject required additives as outlined under paragraph (A). Offer prices should include all necessary costs outlined under paragraph (A) below to ensure product fully meets the required specifications in accordance with Clause C16.08-9, TURBINE FUEL, AVIATION (JET A1) WITH FUEL SYSTEM ICING INHIBITOR (FSII), CORROSION INHIBITOR (CI), AND STATIC DISSIPATER ADDITIVE (SDA) (JP8/JB8) (DESC APR 2003). Required additives will be contractor furnished in accordance with paragraph A.2 below. Please include your product specification with your jet fuel offers.

A. ADDITIZED JET FUEL WITH CONTRACTOR FURNISHED ADDITIVES: The necessary costs to include in your offer on a per gallon basis are outlined below:

1. Additive Injection Equipment: The contractor shall include costs necessary to assure that Government provided additive injection equipment is properly used, maintained and calibrated so that delivered product fully meets required specifications under Clause C16.08-9. If the additive injection equipment is installed at the fill stand area, it is recommended that if feasible the additive injection equipment be installed downstream of the filtration/separation equipment.

2. Additives: The contractor shall furnish Fuel System Icing Inhibitor (FSII), Corrosion Inhibitor (CI), and Static Dissipater Additive (SDA) in accordance with Clause C16.08-9, paragraph C. The proper disposal of all empty additive drums is the Contractor's responsibility.
3. Fuel Filtration/Separation Equipment: The contractor shall include costs necessary to assure that Government furnished fuel filtration/separation equipment is properly used and maintained so that delivered product fully meets required specifications under Clause C16.08-9. Filters shall be changed when the delta pressure reaches a maximum of 20 PSI.
4. Test Equipment: The contractor shall include costs necessary to perform required testing and maintain Government furnished test equipment. Equipment shall be located so that the loading and delivery of conveyances are not unduly delayed.

SPECIAL NOTES

1. **CONTRACT PRICE, TAXES, DUTIES AND FEES:** Pursuant to the Dayton Peace Accord, PFP Status of Forces Agreement (SOFA) and subsequent agreements, all support and supplies for personnel serving under Operation Joint Forge are exempt from all national and/or local taxes, duties and fees. In addition, support and supplies bound for Stabilization Force (SFOR) personnel are to have unimpeded movement throughout Croatia and Bosnia. (For informational purposes, SFOR is a term, which includes both U.S. and Non-U.S. Forces.) All contract prices shall exclude taxes, duties or fees from which the SFOR nations are exempt. However, if the product is supplied from a country where taxes may be applicable (or subject to refund procedures) to SFOR nations, these taxes must be identified in Clause K86, FOREIGN TAXES, and invoiced as a separate line item. If taxes are applicable, the name of the tax and applicable rate must be listed on the contractor's invoice in 1) local currency and U.S. dollars, or 2) as a percentage. Individual line items will be established as necessary to identify the various taxes. A predetermined exchange rate shall be used to convert the taxes to U.S. dollars. Contractors, if requested, shall be cooperative in assisting the U.S. Government in receiving full refunds of any taxes levied on products purchased.

2. DELIVERY CONDITIONS FOR FOB DESTINATION DELIVERY ITEMS:

a. Delivery to FOB Destination points **shall only** be made by Contractor furnished trucks with working calibrated meters, working pumps and a minimum of 15 feet of hose. Truck meters and pumps must be able to function without access to on-site electricity at delivery points. A licensed company operating within the country where trucks are registered/operated must calibrate contractor's truck meters. Contractor shall only use trucks that have been approved by the Contracting Officer or other authorized U.S. Government representative. An authorized U.S. Government representative must approve any change in delivery trucks. Contractor shall have local and international fittings and connectors. A contractor representative will verify that working calibrated meters and working pumps are on the truck designated for loading. Trucks not meeting stated criteria will be rejected. All delivery trucks must have equipment available to prevent and clean up fuel spills and leaks. Additional inspection of Contractor's delivery trucks will include the verification of; 1) previously carried product (contractor may be requested to provide documentation regarding the product previously carried in the trucks to be loaded), 2) safety conditions of delivery trucks, and 3) vehicle integrity. The inspection criteria outlined in Clause E1 (a)(3)(viii) also apply. Contractor will normally not be required to deliver less than a full truckload (8,100 USG). Deliveries that are required to be less than a full truckload are identified in the delivery narrative.

b. All deliveries shall be made on the day specified in the delivery order provided the Contractor shall have received the order at least 72 hours prior to the day so specified. Deliveries must be made between the hours of 0800 – 1600 hours Monday through Saturday to the destination point annotated in the delivery order unless otherwise specified in writing by the Ordering Officer. Any change in delivery date or destination point must be authorized and approved in writing by the Ordering Officer.

c. The Contractor shall provide a minimum of three (3) hours free time for off-loading each delivery truck. Contractor shall present delivery truck and product in such condition at destination point/receiving activity as to permit complete off-loading within the prescribed free time. Contractor trucks arriving outside the established delivery schedule in this contract or the times stated on the order may have to wait, at the contractor's expense, to off-load until the next delivery day. Upon arrival of Contractor's truck, the receiving activity shall promptly designate the delivery point into which the load is to be discharged. Notwithstanding the above required free time, the SFOR nations are entitled to at least the same amount of free time allowed by the common carrier or that the Contractor normally allows its regular commercial customers. Contractor shall be paid for detention/demurrage beyond free time for delays caused by the receiving activity. The U.S. Government will not pay more in detention/demurrage rates than the actual rate charged by the common carrier or the rate the Contractor normally charges its regular commercial customers, whichever is less. Any incurred detention charges shall be submitted to the paying office using line item 8888-88 (U.S. Forces) and 9999-99 (for Non-U.S. Forces). The Contractor's invoices shall clearly state the delivery point where detention/demurrage charges occurred, the number of hours charged, detention/demurrage costs and extended dollar value. All claims for detention/demurrage shall be supported with a copy of the Receiving Report (DD Form 250) clearly indicating times of arrival and departure from destination and signed by the cognizant SFOR representative.

d. The Contractor shall provide properly maintained delivery equipment and properly trained personnel to reasonably assure that delivery can be made without damage to vegetation and pavement adjacent to storage facilities being filled. Contractor delivery personnel who have not exercised reasonable care and delivery equipment that is poorly maintained may be refused entrance to the installation by the installation Commander.

3. FOB ORIGIN ITEMS (PICK UP AT CONTRACTOR'S FACILITY) INTO U.S. GOVERNMENT FURNISHED VEHICLES:

a. SFOR vehicles may include U.S. owned and leased vehicles, vehicles operated by companies on behalf of the U.S. Government or vehicles supplied by other participating SFOR nations. Vehicles may consist of trucks or railcars. Orders shall be provided 72 hours prior to be the designated pick-up date unless otherwise agreed in advance. Delivery orders will specify the date for loading SFOR furnished vehicles. If necessary, contractor representative may be requested to assist U.S. Government representative in identifying and routing railcars to the loading facility. Contractors may also be requested to stage U.S. Government furnished railcars at the contractor's loading facility for a period of up to seven days prior to the scheduled loading. U.S. representatives, when accessing contractor facilities, need to be able to transport necessary equipment to the work site.

b. Contractor personnel shall test product as required by contract or as requested by the U.S. Government representative. The results of these tests shall be used by the U. S. Government representative to inspect and/or accept product prior to loading in accordance with Clause E1, and as noted in paragraph 6 below. Contractor will be responsible for any loss of and/or damage to product occurring before delivery on a FOB Origin basis into U.S. Government furnished trucks or railcars.

c. Contractor will prepare and complete the DD Form 250 using a computer or typewriter with the following information: (1) A description of product being shipped; (2) seal numbers affixed to each loaded conveyance (truck or railcar); and (3) other pertinent information required to effect prompt delivery to receiving activity, including name, delivery address, routing, etc. The DD Form 250 should also include any other information necessary to complete the form.

4. FOR FOB DESTINATION ITEMS AND FOB ORIGIN ITEMS:

a. Contractor is required, if requested, to have designated office space for U.S. Government representatives available at loading facilities. Contractor should have phone and fax capabilities available to U.S. Government representatives available for the routine transmission of information and documents. Contractor will be reimbursed for long distance calls and faxes made by authorized U.S. Government representatives under line item COMM-99. Contractor should supply a phone bill (where technically capable, the contractor should provide an itemized phone bill) on a monthly basis identifying calls made by U.S. Government representatives. U.S. Government representatives, prior to submission of the invoice to DESC-Balkans for payment of telephone and fax expenses, must certify the calls.

b. The contractor shall provide English-speaking personnel at loading and shall designate points of contact with telephone numbers who can be reached in case of emergency. Loading of FOB Destination or Origin trucks shall be allowed during standard hours of operation at all loading facilities. However, the Contractor shall permit loading to take place on weekends, nights and holidays, if necessary, as requested by the Ordering Officer.

5. DETERMINATION OF QUANTITY FOR FOB DESTINATION AND FOB ORIGIN ITEMS:

a. The quantity of supplies furnished under this contract shall be determined as follows:

(1) **FOB ORIGIN** – On items requiring delivery at the Contractor's refinery, terminal, or bulk plant on an FOB Origin basis, the quantity shall be determined (at the Contractor's option) on the basis of calibrated meter or weight, using calibrated scales. The U.S. Government has the right to have a representative present to witness the measurement of quantity.

(2) **FOB DESTINATION** – On items requiring delivery on a FOB Destination basis, the quantity shall be determined at the U.S. Government's option by a calibrated meter on the receiving tank system or by the meter on the transport truck. The Contractor has the right to have a representative present to witness the delivery and measurement of quantity. Every delivery must be free of all water bottoms prior to discharge and the contractor is responsible for their removal and disposal.

b. **VOLUMN CORRECTION** – Volume correction to gallons at 60 degrees Fahrenheit is required for all quantities.

c. **MEASUREMENT STANDARDS** – All measurements and calibrations made to determine quantity shall be in accordance with the API Manual of Petroleum Measurement Standards (MPMS). Outside of the United States, other technically equivalent national or international standards may be used. A licensed company operating with the county where trucks are registered/operated must perform calibration of truck meters. In addition, the following specific standards will be used as applicable:

(1) **API MPMS Chapter 11.1, Volume Correction Factors** (API 2540/ASTM D 1250/IP 200/ISO 91-1) - Either the printed version or the computer subroutine versions of the standard may be used. In case of disputes the computer subroutine shall be the referee method. Use Volume VIII, Tables 53B and 54B to convert observed liters to liters at 15°C. Convert liters at 15°C to cubic meters at 15°C by dividing by 1,000. Volume XII, Table 52, shall be used to convert cubic meters at 15°C to barrels at 60°F. Convert barrels at 60°F to gallons at 60°F by multiplying by 42. If the original measurement is by weight in air, convert kilograms to metric tons by dividing by 1,000 and use Volume XII, Table 58, to convert metric tons to U.S. gallons at 60°F.

(2) **API MPMS Chapter 4, Proving Systems** – All meters used in determining product volume shall be calibrated using this standard with the frequency required by local regulation (foreign or domestic). 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.

6. INSPECTION AND ACCEPTANCE OF PRODUCT FOR FOB DESTINATION OR FOB ORIGIN ITEMS: The terms and conditions of Clause E1, CONTRACTOR INSPECTION RESPONSIBILITIES, apply except as modified below. The contractor will provide commercially acceptable sampling equipment. U.S. representatives, when accessing contractor facilities, need to be able to transport necessary equipment to the work site. The contractor will prepare the DD Form 250, Material Inspection and Receiving Report for both FOB Origin and FOB Destination items. The DD Form 250 quantity will be stated in net gallons at 60° Fahrenheit and shall list the observed and corrected API gravity (or density), and the temperature at which the product was measured at loading. Volume correction standards and factors contained in paragraph 5, Determination of Quantity (above), shall be used to convert to net gallons.

7. SUBMISSION OF INVOICES – In accordance with Clause 150.07-5, SUBMISSION OF INVOICES FOR PAYMENT, the Contractor shall forward invoices and receiving reports together to DESC-Balkans. DESC-Balkans facsimile number is 385-1-390-8520. The mailing address can be found in Clause F30.01. DESC-Balkans will certify that the contractor's invoice quantities are accurate for payment and submit the invoice to the applicable paying office. The payment due date will be determined based on the terms and conditions stated in Clause 150.07-5, paragraph b.

8. SHIPMENT AND ROUTING – Contractor shall provide serially numbered seals at no additional expense to the U.S. Government. The contractor personnel with affix these seals at time of loading. The seal numbers will be recorded on the loading document (DD Form 250). The contractor will insure that the seals are intact when trucks and/or railcars arrive at the destination point specific in the order or depart the Contractor's terminal (FOB Origin). The U.S. Government representative witnessing loading of trucks and/or railcars will provide any required SFOR-specific customs paperwork such as "C Forms."

9. PLACING ORDERS:

a. **CONTRACTOR USER NAME/PASSWORD** – The contractor will furnish an email distribution list to the DESC Contracting Officer providing name(s), email address(s), phone and facsimile number(s) for all those individuals that may need to receive email notification of orders. The DESC Contracting Officer will furnish the Contractor with a user name and password. The Contractor shall use the user name and password to access contract-specific web pages and the Paperless Ordering and Receipt Transaction Screens (PORTS) Internet application. This includes access to electronically signed written orders (SF 1449).

b. **PREPARATION AND TRANSMISSION OF ORDERS**

(1) Orders may be issued orally or in writing. An oral delivery order for fuel shall be considered issued by the Government when it is verbally assigned a delivery order number. For all orders, the DESC Ordering Officer will provide the Contractor, via the PORTS Internet application, with an electronically signed written order, SF 1449, within 24 hours or one business day after issuing the oral order. (Once the Ordering Officer has completed the web page order, an email will be sent to the Contractor to provide notice that the order is available on the contract-specific web page).

(2) The Contractor's non-receipt of a written or electronic confirmation of an oral order against the contract does not itself relieve the Contractor from its obligation to perform in accordance with the terms and conditions of the contract. The Contractor should contact the DESC Ordering Officer or DESC Contracting Officer if problems are experienced with receipt of the electronic or written confirmation.

FOB DESTINATION ITEMS/FOB ORIGIN (ALTERNATE) ITEMS

<u>ITEM NUMBER</u>	<u>SUPPLIES, NATIONAL STOCK NUMBERS METHOD OF DELIVERY AND DELIVERY POINTS</u>	<u>ESTIMATED 1-YEAR QTY</u>
100-10	Gasoline, Aviation (130) NSN: 9130-00-179-1122 FOB Destination TT w/Pump & Meter Into 3/5,000 GL US Military Fuel Tanker or 2/2,500 GL US Military HEMMT Fuel Tanker Top Loading and Bottom Loading to the US Truck With a D-1 Male Fitting or 4-inch US Cam-Lock Connector Skopje, Macedonia For Use by US Forces	114,000 USG
100-105	Gasoline, Aviation (130) NSN: 9130-00-179-1122 FOB Origin TT w/Pump and Meter This is an alternate item to Item 100-10 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
140-31	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump & Meter Divulje Barracks, Croatia For Use by Non-US Forces The average truckload is 2,642 USG	10,567 USG
140-315	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump & Meter This is an alternate item to Item 140-31 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
140-35	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump and Meter Divulje Barracks, Croatia For Use by Non-US Forces The average truckload is 2,642 USG	10,567 USG
140-355	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 140-35 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
145-18	Gasoline, Premium Leaded (MGB) NSN: 9130-01-424-2525 (FMS) FOB Destination TT w/Pump and Meter Bugojno, Bosnia-Herzegovina For Use by Non-US Forces The average truckload is 2,642 USG	8, 000 USG

145-185	<p>Gasoline, Premium Leaded (MGB) NSN: 9130-01-424-2525 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 145-18 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
145-31	<p>Diesel Fuel, (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump and Meter Bugojno, Bosnia-Herzegovina For Use by Non-US Forces</p>	151,427 USG
145-315	<p>Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump and Meter This is an alternate item to Item 145-31 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
145-35	<p>Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump and Meter Bugojno, Bosnia-Herzegovina For Use by Non-US Forces</p>	48,673 USG
145-355	<p>Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 145-35 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
145-91	<p>Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Destination TT w/Pump and Meter Bugojno, Bosnia-Herzegovina For Use by Non-US Forces</p>	121,892 USG
145-915	<p>Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Origin TT w/Pump and Meter This is an alternate item to Item 145-91 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
170-10	<p>Gasoline, Aviation (130) NSN: 9130-00-179-1122 FOB Destination TT w/Pump and Meter Tuzla, Bosnia-Herzegovina For Use by US Forces The average truckload is 3,000 USG</p>	17,000 USG
170-105	<p>Gasoline, Aviation (130) NSN: 9130-00-179-1122 FOB Origin TT w/Pump and Meter This is an alternate item to Item 170-10 to allow pickup At Contractor's terminal For Use by US Forces</p>	0 USG

170-27	Gasoline, Premium Unleaded (MUP) NSN: 9130-00-148-7104 FOB Destination TT w/Pump and Meter Tuzla, Bosnia-Herzegovina For Use by US Forces The average truckload is 5,000 USG	17,500 USG
170-275	Gasoline, Premium Unleaded (MUP) NSN: 9130-00-148-7104 FOB Origin TT w/Pump and Meter This is an alternate item to Item 170-27 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
170-30	Diesel Fuel #1 (DF1) NSN: 9140-01-440-9736 FOB Destination TT w/Pump and Meter Tuzla, Bosnia-Herzegovina For Use by US Forces	334,000 USG
170-305	Diesel Fuel #1 (DF1) NSN: 9140-01-440-9736 FOB Origin TT w/Pump and Meter This is an alternate item to Item 170-30 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
170-34	Diesel Fuel #2 (DF2) NSN: 9140-00-286-5294 FOB Destination TT w/Pump and Meter Tuzla, Bosnia-Herzegovina For Use by US Forces	461,000 USG
170-345	Diesel Fuel #2 (DF2) NSN: 9140-00-286-5294 FOB Origin TT w/Pump and Meter This is an alternate item to Item 170-34 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
170-90	Turbine Fuel, Aviation (JP8) NSN: 9130-01-031-5816 FOB Destination TT w/Pump and Meter Tuzla, Bosnia-Herzegovina For Use by US Forces	423,000 USG
170-905	Turbine Fuel, Aviation (JP8) NSN: 9130-01-031-5816 FOB Origin TT w/Pump and Meter This is an alternate item to Item 170-90 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
180-29	Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0930 (FMS) NATO F67 FOB Destination TT w/Pump and Meter Velika Kladusa, Bosnia-Herzegovina For Use by Non-US Forces	98,769 USG

180-295	<p>Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0939 (FMS) NATO F67 FOB Origin TT w/Pump and Meter This is an alternate item to Item 180-29 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
180-31	<p>Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump and Meter Velika Kladusa, Bosnia-Herzegovina For Use by Non-US Forces</p>	213,783 USG
180-315	<p>Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump and Meter This is an alternate item to Item 180-31 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
180-35	<p>Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump and Meter Velika Kladusa, Bosnia-Herzegovina For Use by Non-US Forces</p>	161,500 USG
180-355	<p>Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 180-35 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
180-91	<p>Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Destination TT w/Pump and Meter Velika Kladusa, Bosnia-Herzegovina For Use by Non-US Forces</p>	200,000 USG
180-915	<p>Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Origin TT w/Pump and Meter This is an alternate item to Item 180-91 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG
195-29	<p>Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0939 (FMS) NATO F67 FOB Destination TT w/Pump and Meter Drvar, Bosnia-Herzegovina For Use by Non-US Forces</p>	23,000 USG
195-295	<p>Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0930 (FMS) NATO F67 FOB Origin TT w/Pump and Meter This is an alternant item to Item 195-29 to allow pickup At Contractor's terminal For Use by Non-US Forces</p>	0 USG

195-31	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump and Meter Drvar, Bosnia-Herzegovina For Use by Non-US Forces	72,950 USG
195-315	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump and Meter This is an alternate item to Item 195-31 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
195-35	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump and Meter Drvar, Bosnia-Herzegovina For Use by Non-US Forces	78,500 USG
195-355	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 195-35 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
200-18	Gasoline, Premium Leaded (MGB) NSN: 9130-01-424-2525 (FMS) FOB Destination TT w/Pump and Meter Zenica, Bosnia-Herzegovina For Use by Non-US Forces The average truckload is 2,642 USG	8,000 USG
200-185	Gasoline, Premium Leaded (MGB) NSN: 9130-01-424-2525 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 200-18 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
200-31	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump and Meter Zenica, Bosnia-Herzegovina For Use by Non-US Forces	33,000 USG
200-315	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump and Meter This is an alternate item to Item 200-31 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
200-35	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump & Meter Zenica, Bosnia-Herzegovina For Use by Non-US Forces	24,000 USG

200-355	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 200-35 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
220-29	Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0939 (FMS) NATO F67 FOB Destination TT w/Pump and Meter Zgon, Bosnia-Herzegovina For Use by Non-US Forces	47,000 USG
220-295	Gasoline, Premium Unleaded (MBP) NSN: 9130-01-423-0939 (FMS) NATO F67 FOB Origin TT w/Pump and Meter This is an alternate item to Item 220-29 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
220-31	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Destination TT w/Pump and Meter Zgon, Bosnia-Herzegovina For Use by Non-US Forces	116,000 USG
220-315	Diesel Fuel (B65) NSN: 9140-01-440-9435 (FMS) NATO F54 FOB Origin TT w/Pump and Meter This is an alternate item to Item 220-31 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
220-35	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Destination TT w/Pump and Meter Zgon, Bosnia-Herzegovina For Use by Non-US Forces	125,000 USG
220-355	Diesel Fuel (DB2) NSN: 9140-01-423-0988 (FMS) FOB Origin TT w/Pump and Meter This is an alternate item to Item 220-35 to allow pickup At Contractor's terminal For Use by Non-US Forces	0 USG
220-91	Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Destination TT w/Pump and Meter Zgon, Bosnia-Herzegovina For Use by Non-US Forces	35,000 USG
220-915	Turbine Fuel, Aviation (JB8) NSN: 9130-01-423-0736 (FMS) NATO F34 FOB Origin TT w/Pump and Meter This is an alternate item to Item 220-91 to allow pickup At Contractor's terminal	0 USG

For Use by Non-US Forces

290-30	Diesel Fuel #1 (F65) NSN: 9140-01-440-9736, Arctic Winter Class 1 FOB Destination TT w/Pump and Meter Kaposvar, Hungary For Use by US Forces	162,000 USG
290-305	Diesel Fuel #1 (F65) NSN: 9140-01-440-9736, Arctic Winter Class 1 FOB Origin TT w/Pump and Meter This is an alternate item to Item 290-30 to allow pickup At Contractor's terminal For Use by US Forces	0 USG
290-34	Diesel Fuel #2 (DF2) NSN: 9140-00-286-5294, Temperate Summer Grade A FOB Destination TT w/Pump and Meter Kaposvar, Hungary For Use by US Forces	126,000 USG
290-345	Diesel Fuel #2 (DF2) NSN: 9140-00-286-5294, Temperate Summer Grade A FOB Origin TT w/Pump and Meter This is an alternate item to Item 290-34 to allow pickup At Contractor's terminal For Use by US Forces	0 USG

REQUIRED REGULATORY COMMERCIAL ITEM PROVISIONS AND CLAUSES

PRE-AWARD

K1.05 OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (NOV 1995)

(a) **DEFINITIONS.** As used in this clause--

(1) **Foreign person** means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) **United States person** is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.** By submitting this offer, the offeror, if a foreign person, company, or entity, certifies that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(DFARS 252.212-7000, **tailored**)

L2.05-5 INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS (PC&S) (DESC AUG 2001)

(a) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(b) **MASTER SOLICITATION.**

(1) This solicitation is a master solicitation for the BOSNIA PC&S Purchase Program. If this is a master solicitation, it will contain the terms and conditions for this solicitation and for future supplemental solicitations in the program year. Each supplemental solicitation will incorporate by reference the same terms and conditions as this master solicitation, except as specifically stated in that

supplemental solicitation. The identical terms and conditions will not be repeated. (Therefore, if this is a master solicitation, it should be retained for the duration of the program.) However, each supplemental solicitation will be considered a separate and individual solicitation.

(2) The initial opening/closing date for the solicitation is 31 MARCH 2004. Subsequent openings/closings for future requirements will be on an as-required basis starting with the first supplemental solicitation and thereafter until the end of the program ordering period as stated in the solicitation.

(c) SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF OFFERS.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, signed and dated offers and modifications thereto shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror at or before the exact time specified in this solicitation. Offerors using commercial carriers should ensure that the offer is marked on the outermost wrapper with the information in subdivisions (i) and (ii) above. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation.

(2) The first page of the offer must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) Include name, title, and signature of person authorized to sign the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(iv) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(v) Terms of any express warranty;

(vi) Price and any discount terms; and

(vii) A completed copy of the representations and certifications in the Offeror Submission Package.

(3) IFB's ONLY.

(i) Facsimile bids are authorized for this solicitation.

(ii) **EVALUATION - Net Payment Terms.** Offers under an IFB that include net payment terms less than 120 days will be determined non-responsive.

(iii) Prices shall be offered on an economic price adjustment basis only. Firm prices will be non-responsive and will be rejected.

(iv) The prices set forth on the Price Data Sheet in the block marked "Bid Price" will be a per gallon price. These prices shall not exceed six digits to the right of the decimal (e.g., \$1.030454).

(4) RFPs ONLY.

(i) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or that reject the terms and conditions of the solicitation may be excluded from consideration.

(ii) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(d) NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE AND SMALL BUSINESS SIZE STANDARD. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern that submits an offer in its own name, but which proposes to furnish an item that it did not itself manufacture, is 500 employees.

(e) PERIOD FOR ACCEPTANCE OF OFFERS. The offeror agrees to hold the prices in its offer firm for 120 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(f) PRODUCT SAMPLES. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during pre-award testing.

(g) MULTIPLE OFFERS. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(h) LATE SUBMISSIONS, MODIFICATIONS, REVISIONS, AND WITHDRAWALS OF OFFERS.

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

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

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

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

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

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

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

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

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

(i) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(j) Proposals submitted in response to this solicitation shall be in English and in U.S. dollars unless otherwise permitted by the solicitation.

(k) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(l) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(m) **CONTRACT AWARD.**

(1) **RFPs ONLY (not applicable to IFBs).**

(i) While the Government intends to evaluate offers and award a contract without discussions, it reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary.

(ii) If the Contracting Officer determines that negotiations are necessary, the Government will then evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(iii) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(2) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the Government, cost or price and other factors (including sub-factors) specified elsewhere in this solicitation, considered.

(3) The Government may reject any or all offers if such action is in the Government's interest.

(4) The Government may waive informalities and minor irregularities in offers received.

(5) The Government may accept any item or group of items of a proposal, unless the offeror qualifies the proposal by specific limitations. Unless otherwise provided in the Schedule, proposals may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(6) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time specified in the offer shall result in a binding contract without further action by either party.

(7) The Government may disclose the following information in post-award debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

- (ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;
- (iii) A summary of the rationale for award; and
- (iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(n) AVAILABILITY OF REQUIREMENTS DOCUMENTS CITED IN THE SOLICITATION.

(1) (i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA, FEDERAL SUPPLY SERVICE SPECIFICATIONS SECTION
 470 EAST L'ENFANT PLAZA SW, SUITE 8100
 WASHINGTON, DC 20407
 TELEPHONE: (202) 619-8925
 FAX: (202) 619-8978

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the address in (i) above. Additional copies will be issued for a fee.

(2) The DoD Index of Specifications and Standards (DoDISS) and documents listed in it may be obtained either through the Defense Standardization Program Internet website at <http://www.dsp.dla.mil> or from the--

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DODSSP)
 BUILDING 4, SECTION D
 700 ROBBINS AVENUE
 PHILADELPHIA, PA 19111-5094
 TELEPHONE: (215) 697-2179
 FAX: (215) 697-1462

- (i) Automatic distribution may be obtained on a subscription basis.
- (ii) Order forms, pricing information, and customer support information may be obtained--
 - (A) By telephone at (215) 697-2179; or
 - (B) Through the DoDSSP Internet site at <http://assist.daps.mil>.

(3) Non-government (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(o) DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER. (Applies to offers exceeding \$25,000.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" followed by the DUNS number that identifies the offeror's name and address. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet to obtain one at no charge. An offeror within the United States may call **1-800-333-0505**. The offeror may obtain more information regarding the DUNS number, including locations of local Dun and Bradstreet Information Services offices for offerors located outside the United States, from the Internet home page at <http://www.customerservice@dnb.com>. If an offeror is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at globalinfo@mail.dnb.com.

(FAR 52.212-1, **tailored**/DESC 52.212-9F20)

POSTAWARD

11.03-3 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (PC&S) (NON-PORTS INTERNET APPLICATION) (DESC SEP 2002)

(a) INSPECTION/ACCEPTANCE.

(1) The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (i) within a reasonable time after the defect was discovered or should have been discovered; and (ii) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(2) Also see the REQUESTS FOR WAIVERS AND DEVIATIONS clause in the Addendum.

(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 a 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.** Changes in terms and conditions of this contract may be made only by written agreement of the parties.

(d) **DISPUTES.** This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, DISPUTES, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) **DEFINITIONS.** The clause at FAR 52.202-1, DEFINITIONS, is incorporated herein by reference.

(f) **EXCUSABLE DELAYS.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) **INVOICE.** The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date and number;
- (3) Contract number, contract line item number, and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price, and extended price of the item delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice, and
- (9) **Taxpayer Identification Number (TIN).** The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(10) **Electronic funds transfer (EFT) banking information.**

(i) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(ii) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer - Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer - Other Than Central Contractor Registration), or applicable agency procedures.

(iii) EFT banking information is not required if the Government waived the requirement to pay by EFT.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) **PATENT INDEMNITY.** The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) **PAYMENT.** 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 purposes 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 was made.

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

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b.

destination.

(k) **TAXES.** See Addendum 2.

(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 and conditions 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.

(FAR 52.212-4, **tailored**/DESC 52.212-9F50)

11.04 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (OCT 2003)

(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:

[Contracting Officer shall check as appropriate.]

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Jul 1995), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

- [] (2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).
- [] (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 1999) (if the offeror elects to waive the preference, it shall so indicate in its offer.) (15 U.S.C. 657a).
- [] (4) (i) 52.219-5, Very Small Business Set-Aside (Jun 2003) (Pub. L. 103-403, section 304, Small Business Reauthorization and Amendments Act of 1994).
 - [] (ii) Alternate I (Mar 1999) of 52.219-5.
 - [] (iii) Alternate II (Jun 2003) of 52.219-5.
- [] (5) (i) 52.219-6, Notice of Total Small Business Set-Aside (Jun 2003) (15 U.S.C. 644).
 - [] (ii) Alternate I (Oct 1995) of 52.219-6.
- [] (6) (i) 52.219-7, Notice of Partial Small Business Set-Aside (Jun 2003) (15 U.S.C. 644).
 - [] (ii) Alternate I (Oct 1995) of 52.219-7.
- [] (7) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2) and (3)).
- [] (8) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2002) (15 U.S.C. 637 (d)(4)).
 - [] (ii) Alternate I (Oct 2001) of 52.219-9.
 - [] (iii) Alternate II (Oct 2001) of 52.219-9.
- [] (9) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- [] (10) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Jun 2003) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - [] (ii) Alternate I (Jun 2003) of 52.219-23.
- [] (11) 52.219-25, Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (Oct 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- [] (12) 52.219-26, Small Disadvantaged Business Participation Program – Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- [] (13) 52.222-3, Convict Labor (Jun 2003) (E.O. 11755).
- [] (14) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (Sep 2002) (E.O. 13126).
- [] (15) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- [] (16) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).
- [] (17) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).
- [] (18) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).
- [] (19) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212).
- [] (20) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Aug 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).
 - [] (ii) Alternate I (Aug 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

- (21) 52.225-1, Buy American Act – Supplies (Jun 2003) (41 U.S.C. 10a-10d).
- (22) (i) 52.225-3, Buy American Act – North American Free Trade Agreement – Israeli Trade Act (Jun 2003) (41 U.S.C 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note).
 - (ii) Alternate I (May 2002) of 52.225-3.
 - (iii) Alternate II (May 2002) of 52.225-3.
- (23) 52.225-5, Trade Agreements (Oct 2003) (19 U.S.C 2501, et seq., 19 U.S.C. 3301 note).
- (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).
- (25) 52.225-15, Sanctioned European Union Country End Products (Feb 2000) (E.O. 12849).
- (26) 52.225-16, Sanctioned European Union Country Services (Feb 2000) (E.O. 12849).
- (27) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (28) 52.232-30, Installation Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (29) 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).
- (30) 52.232-34, Payment by Electronic Funds Transfer – Other Than Central Contractor Registration (May 1999) (31 U.S.C. 3332).
- (31) 52.232-36, Payment by Third Party (May 1999) (31 U.S.C. 3332).
- (32) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- (33) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. 1241 and 10 U.S.C. 2631).
 - (ii) Alternate I (Apr 1984) of 52.247-64.

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

[Contracting Officer shall check as appropriate.]

- (1) 52.222-41, Service Contract Act of 1965, as Amended (May 1989) (41 U.S.C. 351, et seq.).
- (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (3) 52.222-43, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (4) 52.222-44, Fair Labor Standards Act and Service Contract Act – Price Adjustment (Feb 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
- (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (May 1989) (41 U.S.C. 351, et seq.).

(d) **COMPTROLLER GENERAL EXAMINATION OF RECORD.** The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, AUDIT AND RECORDS -- NEGOTIATION.

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

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

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

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

(i) 52.219-8, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans, (Dec 2001) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(v) 52.222-41, Service Contract Act of 1965, as Amended (May 1989), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et. seq.).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Apr 2003) (46 U.S.C. Appx. 1241 and 10 U.S.C.2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(FAR 52.212-5)

11.05 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (OCT 2003)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which if checked is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked is included in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components.

252.205-7000 Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).

252.219-7003 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).

252.219-7004 Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).

252.225-7001 Buy American Act and Balance of Payments Program (APR 2003) (41 U.S.C. 10a-10d,

E.O. 10582).

- [] 252.225-7012 Preference for Certain Domestic Commodities (FEB 2003) (10 U.S.C. 2533a).
- [] 252.225-7014 Preference for Domestic Specialty Metals (APR 2003) (10 U.S.C. 2533a).
- [] 252.225-7015 Restriction on Acquisition of Hand or Measuring Tools (APR 2003) (10 U.S.C. 2533a).
- [] 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (APR 2003);
([] Alternate I (APR 2003)) (10 U.S.C. 2534 and Section 8099 of Pub. L. 104-61
and similar sections in subsequent DoD appropriations acts).
- [] 252.225-7021 Trade Agreements (AUG 2003) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
- [] 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).
- [] 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- [] 252.225-7036 Buy American Act – North American Free Trade Agreement Implementation Act – Balance
of Payments Program (APR 2003); ([] Alternate (APR 2003)) (41 U.S.C. 10a-10d and
19 U.S.C. 3301 note).
- [] 252.225-7038 Restriction on Acquisition of Air Circuit Breakers (APR 2003) (10 U.S.C. 2534(a)(3)).
- [] 252.227-7015 Technical Data-- Commercial Items (NOV 1995) (10 U.S.C. 2320).
- [] 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- [] 252.232-7003 Electronic Submission of Payment Requests (MAR 2003) (10 U.S.C. 2227).
- [] 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- [] 252.247-7023 Transportation of Supplies by Sea (MAY 2002); ([] Alternate I (MAR 2000));
([_] Alternate II (MAR 2000)); ([_] Alternate III (MAY 2002)) (10 U.S.C. 2631).
- [] 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS -- COMMERCIAL ITEMS clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- [] 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- [] 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- [] 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(DFARS 252.212-7001)

ADDENDUM #1

OTHER REGULATORY AND LOCAL SOLICITATION PROVISIONS

PRE-AWARD SOLICITATION PROVISIONS

K15 RELEASE OF UNIT PRICES (DESC OCT 2002)

The Defense Energy Support Center (DESC) will continue to release unit prices of successful offerors after the contract award pursuant to 10 U.S.C. 2305(g)(2), FAR 15.606(d)(2) and 32 CFR 286h-3. Unit prices are the bottom-line price per unit of product and may include the total contract price. They do not include any breakout of costs, such as transportation or overhead, and do not disclose the offeror's anticipated profit or any pricing factors.

(DESC 52.224-9F25)

L2.01-3 PROPOSAL PREPARATION INSTRUCTIONS AND PAST PERFORMANCE SUBMISSION (OVERSEAS) (DESC JUL 2001)

(a) **THE OFFER.** The offer (proposal) shall consist of the following items:

(1) **Standard Form (SF) 1449**, Solicitation/Contract Order for Commercial Items, Blocks 12, 17 through 24, and 30.

(2) **Schedule clause.** The offeror shall insert its proposed unit prices for each contract line item in the spaces provided in the SUPPLIES TO BE FURNISHED clause or as specified in the solicitation.

(3) **Offeror Submission Package.** The offeror shall complete the representations and other statements of offerors contained in the Offeror Submission Package enclosed with this solicitation. The clauses/provisions found in the Offeror Submission Package are duplicated in the basic solicitation.

(4) **Other Required Documents.** The offeror shall submit all other documents required by the terms and conditions of this solicitation.

(5) **Exceptions.**

(i) Any exceptions the offeror takes to the terms and conditions of the solicitation must be submitted with the offer.

Only exceptions detailed in the offer will be treated as exceptions to the terms and conditions of the solicitation. Any exceptions taken by the offeror will be considered by the Government and either accepted or rejected. Exceptions that are accepted by the Government will be incorporated into any resultant contract; exceptions that are rejected by the Government must be withdrawn by the offeror or the offer will be rejected.

(ii) If the offeror does not take any exceptions, completion of blocks 12, 17 through 24, and 30 of the SF 1449 signifies the offeror's agreement to the terms and conditions contained in the solicitation.

(b) **PAST PERFORMANCE SUBMISSION.**

(1) In addition to its offer, each offeror must complete the Contractor Performance Data Sheet (CPDS) (Attachment A).

The contracts and/or subcontracts submitted on the CPDS should be similar in nature to the solicitation requirements and completed within the last 3 years. All contracts/subcontracts submitted should have a minimum of one year's performance history. The Government reserves the right to consider contracts still in progress and to consider contract and/or subcontract information outside the specified time periods. The contracts may include efforts undertaken on behalf of the Defense Energy Support Center, other Federal agencies (including those performed for non-DoD activities), quasi-government organizations, State or local governments, and/or private industry. By submitting the CPDS, the offeror agrees to permit the Government's representatives to contact the references listed and inquire as to the past performance of the offeror.

(2) If the offeror determines that it has not performed any contracts or subcontracts for the same or similar work required by the solicitation, the offeror should indicate this on the CPDS by marking the appropriate box.

(DESC 52.215-9F76)

L2.10 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(FAR 52.214-34)

L2.10-1 SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991)

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.

(FAR 52.214-35)

L2.11-2 FACSIMILE PROPOSALS (OCT 1997)

(a) **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.

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

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

(d) 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—

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

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

(3) 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.

(e) 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.

(FAR 52.215-5)

L5.01-1 AGENCY PROTESTS (SEP 1999) - DLAD

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.

(DLAD 52.233-9000)

L115 F.O.B. ORIGIN AND/OR F.O.B. DESTINATION EVALUATION (APR 1984)

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.

(FAR 52.247-45)

M3.01 EVALUATION OF OFFERS WHERE UNCOMMON ESCALATORS ARE USED (DESC JAN 1998)

(a) **FOR EVALUATION PURPOSES ONLY**, an evaluation factor will be applied to the Final Proposal Revision (FPR) prices of those items in which uncommon escalators are proposed as a basis for economic price adjustments. The evaluation factor will establish a commonality among the different postings or publications offered in order to ensure that all offerors are evaluated on an equal basis.

(b) The offeror's margin (plus or minus) will be established as the difference between the FPR price and the Final Revised reference price. The margin will then be added to the 12-month average of the posting or publication being proposed to determine the evaluated price. The 12-month average will be calculated over the most recent complete 12-month period prior to the established reference date (i.e., if reference date is August 22, 1994, then the 12-month period would be August 1993 - July 1994).

(DESC 52.216-9F60)

M55 CONVERSION FACTORS (DESC APR 1998)

(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.

PRODUCT	DENSITY TYPICAL		BARRELS PER METRIC TON	GALLONS PER METRIC TON	LITERS PER METRIC TON	BARRELS PER LONG TON	GALLONS PER LONG TON
	@15°C @60°F						
	Kg/m ³	API					
<u>AUTOMOTIVE</u>							
GASOLINE (ALL)	744.9	58.4	8.462	355.42	1342.46	8.598	361.12
<u>AVIATION</u>							
GASOLINE (ALL)	716.3	66.0	8.801	369.66	1396.06	8.943	375.59
<u>BURNER FUEL OILS</u>							
FUEL OIL NO. 1	812.8	42.5	7.753	325.61	1230.31	7.877	330.83
FUEL OIL NO. 2	846.9	35.5	7.440	312.49	1180.78	7.560	317.51
FUEL OIL NO. 4	914.2	23.2	6.891	289.44	1093.85	7.002	294.09
<u>FUEL OIL</u>							
NO. 5 LIGHT	954.2	16.7	6.602	277.27	1048.00	6.707	281.71
<u>FUEL OIL NO.</u>							
5 HEAVY 960.7	15.7	6.557	275.39	1040.91	6.662	279.81	
FUEL OIL NO. 6	976.6	13.3	6.450	270.90	1023.96	6.554	275.25
<u>DIESEL FUELS</u>							
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
<u>INTERMEDIATE FUEL OILS</u>							
IFO 60	947.2	17.8	6.651	279.33	1055.74	6.757	283.81
IFO 180	965.3	15.0	6.526	274.09	1035.95	6.630	278.48
IFO 220	967.9	14.6	6.508	273.34	1033.16	6.612	277.72
IFO 380	973.9	13.7	6.468	271.65	1026.68	6.572	276.01
<u>JET FUELS</u>							
JP4/JET B	764.6	53.5	8.243	346.22	1307.87	8.376	351.78
JP5	819.9	41.0	7.686	322.80	1219.66	7.809	327.98
JP8/JET A1	805.9	44.0	7.820	328.42	1240.85	7.945	333.69
JET A	814.2	42.2	7.739	325.04	1228.20	7.863	330.26
<u>KEROSINES (ALL)</u>							
MARINE GAS OIL	839.3	37.0	7.507	315.30	1191.47	7.628	320.36
NAPHTHA	731.1	62.0	8.623	362.16	1367.80	8.761	367.97
<u>NAVAL DISTILLATE</u>							

FUEL (F76)							
AND DFW (F75)	844.3	36.0	7.463	313.43	1184.41	7.582	318.46

(3) **TABLE III.**

<u>PRODUCT</u>	<u>ASSUMED DENSITY</u> <u>20 deg C/20 deg C</u>		
	<u>g/mL</u>	<u>lb/gal</u>	<u>Kg/gal</u>
	FSII DIEGME	1.025	8.561

(DESC 52.215-9FA1)

M72 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 1997)

- (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.

(DESC 52.209-9F45)

M72.03-1 EVALUATION FACTORS FOR BEST OVERALL VALUE (OVERSEAS) (DESC JAN 2001)**(a) BASIS OF AWARD.**

(1) The Government will award contracts to the responsible offeror(s) whose offer conforms to the solicitation and that represent the best overall value. The Government will determine best overall value on the basis of an integrated assessment of the following evaluation factors:

- (i) Past performance; and
(ii) Price.

Offerors are advised that the Government is more interested in obtaining quality performance than lowest price. However, the Government will not pay a price premium that it considers disproportionate to the benefits associated with the offeror's record of past performance.

(2) In determining best overall value, the Government will evaluate and rate each offeror's past performance based on preestablished standards. The offer(s) selected as best value will represent the best tradeoff to the Government between past performance and price.

(b) **ACCEPTABILITY OF OFFERS.** An offer will be considered acceptable if, and only if, an offeror agrees to the terms and conditions in the solicitation, or if the Government has accepted any exceptions submitted with the offer.

(c) EVALUATION OF PAST PERFORMANCE.

(1) The Government will evaluate, based on preestablished standards, the quality the offeror's past performance. This may include any aspect of past performance that is related to this solicitation. The assessment of the offeror's past performance will be used as a means of evaluating the offeror's ability to meet the solicitation requirements. A record of poor performance may be considered an indication that the offeror has failed to conform to contract requirements and/or to standards of good workmanship, adhere to contract schedules, including the administrative aspects of performance; provide reasonable and cooperative behavior and commitment to customer satisfaction; and/or display a business-like concern for the interests of the customer. Offerors shall be afforded an opportunity to address unfavorable reports of past performance, and the offeror's response, or lack thereof, will be taken into consideration. Recent contracts may be examined to

ensure that corrective action measures have been put in place to prevent the recurrence of past performance problems. Prompt actions taken to correct performance problems may be considered a reflection of management concern for customer satisfaction; however, such action may not mitigate all negative performance trends. Additionally, a record of satisfactory or exceptional past performance will not result in a favorable assessment of an otherwise unacceptable proposal. Offerors lacking relevant past performance history or for which past performance information is not available will not be evaluated favorably or unfavorably on past performance.

(2) The Government reserves the right to consider any information available to it in evaluating an offeror's past performance. This includes information obtained from the offeror's references, past and present customers, subcontractors, and any other sources that may have useful information. However, the Government reserves the right not to contact all of the references listed by the offeror. The Government also reserves the right to assess the offeror's past performance based solely on the offeror's performance under an existing DESC contract or a previous DESC contract for work similar to that required by the solicitation.

(3) The sub factors listed below are equal to one another in importance and will be used to evaluate past performance:

(i) **Quality of Product and Service.** Assessment of the offeror's ability to conform to contract requirements, specifications, and standards of good workmanship.

(ii) **Schedule.** Assessment of the offeror's ability to meet delivery schedules, to respond to administrative issues in a timely manner, and to complete a contract.

(iii) **Business Relations.** Assessment of the offeror's commitment to maintaining an acceptable level of performance, customer satisfaction, and meeting small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned business participation goals, as applicable. This includes the offeror's history of reasonable and cooperative behavior, participation in problem identification, and corrective action measures.

(d) **BEST VALUE DETERMINATION.** After the past performance ratings are determined, a series of paired comparisons will be made between competing offerors for each line item. In making these paired comparisons, the Government will determine the difference in past performance and price. If, in any paired comparison, one offeror is superior in past performance and offers the lowest price, then the Government will consider that offeror to represent the better value. But, if the offeror with the superior past performance offers a higher price than the competing offeror, the Government will decide whether the superior performance merits the higher price. If so, then the Government will consider the offeror with superior past performance at a higher price to represent the best value. Otherwise, the Government will consider the competing offeror with the lower price and lower past performance rating to represent a better value. The Government will continue to make paired comparisons in this manner until it has identified the offeror that represents the best value based on past performance and price. In the event of a tie among all factors and subfactors between two or more offerors considered to represent the best value, the final award decision shall be made by a drawing by lot limited to those offerors. The drawing shall be witnessed by at least three persons, with the names and addresses of the witnesses and supervising official documented in the contract file.

(DESC 52.209-9F75)

ADDENDUM #2

OTHER REGULATORY AND LOCAL CLAUSES

POSTAWARD CONTRACT CLAUSES

B19.02 ECONOMIC PRICE ADJUSTMENT (OVERSEAS) (DESC MAR 2003)

(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 contract.

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

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

(2) **Reference price** means the independent index or established price set forth in this clause with which the award price is to fluctuate. The reference price should be a price for the same or similar product(s) as the item being purchased.

(3) **Independent index** means an index measuring the general rate and direction of price movements for a commodity within a market, which is beyond the control of the Contractor. Examples of such indices would include a wholesale price index such as that published by the Bureau of Labor Statistics.

(4) **Established price** means one that is an established catalog or market price for a commercial item as defined in FAR 2.101, Definitions.

(5) **Date of delivery** means--

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

(A) **F.O.B. ORIGIN.** The date and time vessel commences loading;

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

and (ii) **FOR PIPELINE DELIVERIES.** The date and time product commences to move past the specified f.o.b. point;

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

(c) **ADJUSTMENTS.** The prices payable under this contract shall be the award price increased or decreased by the amount, determined according to the following formula, that the reference price shall have increased or decreased, to and including the date of delivery.

(1) The amount of increase or decrease in the award price shall be--

(Buyer - Check appropriate box and complete applicable blanks.)

The same number of cents, or fraction thereof, that the reference price increases or decreases per like unit of measure.

The number of cents, or fraction thereof, determined by the ratio of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

The number of cents, or fraction thereof, at the rate of \$_____ per gallon for each \$_____ per barrel that the reference price increases or decreases.

(2) The reference price with which the award price for the listed item is to fluctuate (and which is more fully defined in the Table below) is--

(i) The low price published in _____.

(name of publication)

(ii) The average of the prices published in **Platt's Oilgram Price Report.**

(name of publication)

(iii) The established price posted by _____.

(name of company)

and published in _____.

(name of publication)

(3) **COMMERCIAL.** For price adjustments utilizing **commercial** publications such as Platt's Oilgram, etc., the reference price in effect on the date of delivery shall be that item's pre-selected reference price that is published as dated in the Table below. 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 or after the effective date of such trade price service or commercial journal.

(4) **NONCOMMERCIAL (NOTIFICATION).** For price adjustments utilizing a reference price indicator **other than commercial** publications such as Platt's Oilgram, the Contractor shall notify the **Contracting Officer – DESC-PEA** of any changes in the reference price in writing within 15 calendar days from the date thereof.

(i) **INCREASES.** Any increase in unit price as a result of an increase in reference price shall apply only to deliveries made on or after the date of receipt by the Contracting Officer of a written notification from the Contractor of such increase. However, the prices payable under this contract shall in no event exceed the Contractor's posted or established selling price in effect on the date of delivery for the product supplied in the form of delivery made at the point of delivery. Also, no notification incorporating an increase in a contract unit price shall be executed pursuant to this clause until the increase has been verified by the Contracting Officer.

(ii) **DECREASES.** If the Contractor fails to notify the Contracting Officer of any decrease in the reference price, within the allotted 15-day period, such decrease shall apply to all deliveries made on or after the effective date of such decrease. However, if any overpayment is made to the Contractor as a result of the Contractor's failure to give timely notice to the Contracting Officer of any decrease in the established price, the Contractor shall be charged interest on such overpayment from the date of the overpayment to the date of reimbursement by the Contractor for the overpayment in accordance with the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(5) Where the reference price is an established price (see (c)(2)(iii) above), the Contractor warrants that the product selected is one for which, except for modification required by the specifications of this contract, the Contractor has an established price. Such price is the net price after applying any applicable standard trade discounts offered by the Contractor for his catalog, list, or schedule price. The Contractor further warrants that, as of the current date, any differences between the unit prices of the line items identified in the Schedule and the Contractor's established price for like quantities of the nearest commercial equivalents of such contract items are due to compliance with contract specifications and to compliance with any requirements that this contract may contain for preservation, packaging, and packing beyond standard commercial practice.

(d) **MODIFICATIONS.** Any resultant price changes shall be provided via notification through contract modifications and/or postings to the DESC web page under the heading **Doing Business with DESC.**

(e) **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 the Excusable Delays and Termination for Cause paragraphs of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of the 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.

(f) **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 during the first program year or of the unit price in effect as of the start of any subsequent program year (if this is a long-term or multiyear program), except as provided hereafter:

(1) 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.

(2) 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.

(g) **REVISION OF REFERENCE PRICE INDICATOR.** In the event—

- (1) Any applicable reference price is discontinued or its method of derivation is altered substantially;
- (2) The reference price is an average of published or posted prices, and any one price ceases to be published or posted;
- (3) The reference price is published in a trade price service or commercial journal and such publication ceases to publish said reference price or changes its method of quoting prices; or

(4) 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 adjustment described 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 the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(h) **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 clause, apply unless otherwise specified in the Schedule.

(i) **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.

(j) **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.

(k) **TABLE.**

I	II	III	IV	V	VI	VII
Item No. (listed items)	Name of company/publication (identify by number from (c)(2) above)	If company - name of product; If publication - heading under which reference price is published and name of product	Location where reference price is applicable	Method of delivery applicable to the reference price	Reference price as of 01 Feb 04 (date) (exclude all taxes	Maximum price payable under this contract (includes any tax included in the award price
10 (AVGAS Grade 100LL	Platt’s	Cargoes CIF NWE Prem. Unleaded	Bosnia, Croatia Hungary, Macedonia		\$0.9252	

18 (Gasoline Prem. Leaded, MGB)	Platt's	Cargoes, CIF NWE Prem. Leaded	Bosnia, Croatia Hungary	\$0.9252
27 (Gasoline Prem. Unl. MUP)	Platt's	Cargoes CIF NWE Prem. Unleaded	Bosnia, Croatia Hungary	\$0.9252
29 (Gasoline Prem. Unl. MBP)	Platt's	Cargoes CIF NWE Prem. Unleaded	Bosnia, Croatia Hungary	\$0.9252
30 (Diesel Fuel #1, Winter F65)	Platt's	50% Cargoes CIF NWE Gasoil EN 590 + 50% Cargoes CIF NWE Jet	Bosnia, Croatia Hungary	\$0.9615
31 (Diesel Fuel, Winter B65)	Platt's	50% Cargoes CIF NWE Gasoil EN 590 + 50% Cargoes CIF NWE Jet	Bosnia, Croatia Hungary	\$0.9615
34 (Diesel Fuel #2, Summer DF2)	Platt's	Cargoes CIF NWE Gasoil EN 590	Bosnia, Croatia Hungary	\$0.9326
35 (Diesel Fuel, Summer DB2)	Platt's	Cargoes CIF NWE Gasoil EN 590	Bosnia, Croatia Hungary	\$0.9326
90 (Turbine Fuel, Aviation JP8)	Platt's	Cargoes CIF NWE Jet	Bosnia, Croatia Hungary	\$0.9970
91 (Turbine Fuel, Aviation JB8)	Platt's	Cargoes CIF NWE Jet	Bosnia, Croatia Hungary	\$0.9970

The above escalators are based on Platt's Oilgram European Monthly Average and are to be calculated using the average of the prices listed under the appropriate heading of the European Monthly Average as published. The prices will be effective on the first of each month. The prices used will be derived from the previous month's listing (an example is the prices effective for February 2004 would come from the European Monthly Average Prices for January 2004).

(DESC 52.216-9F24)

C1 SPECIFICATIONS (DESC JAN 1997)

Product to be supplied shall fully meet the requirements of the applicable specification(s) as indicated in the Supply Schedule, except as modified elsewhere in this contract. Unless otherwise indicated by the Contractor, prior to award and in accordance with the EVALUATION OF OFFERS clause, the product offered will be assumed to fully meet the applicable specification(s).

(DESC 52.246-9FT5)

C1.02 DODISS SPECIFICATIONS (DESC OCT 2000)

Unless otherwise specified, the issues of Federal and Military specifications, standards, and related standardization documents and those non-Government standards adopted for Department of Defense use, which are cited in this solicitation/contract, are those listed in the most recent Department of Defense Index of Specifications and Standards (DODISS) and any applicable supplement. The basic DODISS

is issued on July 1st every year; supplementals thereto are issued every other month thereafter, those dates being September 1st, November 1st, January 1st, March 1st, and May 1st.

(DESC 52.246-9FT1)

C16.08-9 TURBINE FUEL, AVIATION (JET A1) WITH FUEL SYSTEM ICING INHIBITOR (FSII), CORROSION INHIBITOR (CI), AND STATIC DISSIPATOR ADDITIVE (SDA) (JP8/JB8) (DESC APR 2003)

Aviation Turbine Fuel, Jet A1, shall conform to Defence Standard 91-91, Issue 4, dated June 14, 2002, except as modified

below:

(a) **APPEARANCE.** The appearance requirement of Table 1 is deleted and replaced with the following: "At the time of Government acceptance, the finished fuel shall be visually free from undissolved water, sediment, or suspended matter and shall be clear and bright when tested in accordance with ASTM D 4176, Procedure 1. In case of dispute, the fuel shall be clear and bright at 21 degrees Celsius (70 degrees Fahrenheit) and shall contain no more 1.0 mg/L of particulate matter."

(b) **CLEANLINESS.** Test limits for particulate matter and filtration time shall be as specified in MIL-DTL-83133E, Table I. The test procedure for assessing these properties shall be MIL-DTL-83133E, Appendix A. The maximum particulate content must be 1.0 mg/L. The maximum filtration time shall be 15 minutes. A minimum sample size of 3.79 liters (1 U.S. Gallon) must be filtered. Alternative methods for determination of particulate contamination shall be ASTM D 5452 or ASTM D 2276.

(c) **ADDITIVE REQUIREMENTS (The Contractor shall furnish and inject the following additives, as required).**

(1) Immediately after processing, antioxidant shall be added to hydrotreated fuels. Antioxidants and concentrations listed in Defense Standard 91-91, Issue 4, will be added to a fuel (or a fuel component) that has been hydroprocessed. This must be done immediately after hydroprocessing and prior to the product or component being passed into storage, in order to prevent peroxidation and gum formation after manufacture.

(2) Corrosion Inhibitor/Lubricity Improver (CI/LI) additive(s) shall be added of the type and concentration cited by QPL 25017-19, dated March 15, 2001. Only the following CI/LI additives are approved for shipment to NATO countries:

<u>INHIBITOR</u>	<u>CONCENTRATION, GRAMS/CUBIC METER</u>
Apollo PRI-19	18 - 22.5
Octel DCI-4A	9 - 22.5
Hitec 580	15 - 22.5
Nalco/Exxon 5403	12 - 22.5
Mobilad F800	12 - 22.5
Tolad 4410	9 - 22.5
Tolad 4445	19 - 22.5

(3) Fuel System Icing Inhibitor (FSII), Diethylene Glycol Monomethyl Ether (DiEGME), in accordance with MIL-DTL-85470, shall be added at a concentration of 0.10 - 0.15 volume percent.

(4) Static Dissipator Additive (SDA) shall be added to the fuel to impart electrical conductivity in accordance with Def Stan 91-91/4. However, the conductivity level shall be between 150 and 450 pS/m.

(DESC 52.246-9FMW)

C16.15 GASOLINE, AVIATION (GRADES 80/100LL) (DESC MAR 2000)

(a) Specification ASTM D 910 applies.

(b) Test Method ASTM D 3237 is an acceptable alternative to ASTM D 3341, and ASTM D 5059 for determining the lead content in aviation gasoline.

(c) For product shipped to a U.S. Navy-owned or -operated terminal, send one copy of each DD Form 250-1 covering marine movements, or for laboratory analysis reports covering rail, truck, or pipeline shipments, to--

NAVY PETROLEUM OFFICE
8725 JOHN J. KINGMAN ROAD, SUITE 3719
FORT BELVOIR, VA 22060-6224

(DESC 52.246-9FJW)

C16.18-18 GASOLINE, AUTOMOTIVE, LEADED (PREMIUM) (DESC FEB 2001)

(a) Automotive gasoline shall conform to the following specification:

<u>TEST</u>	<u>LIMITS Applicable Year-Round</u> ¹		<u>METHOD</u> ^{2/3}
Color	Report		Visual
Existent gum (washed), mg/100ml	5 max.		ASTM D 381
Oxidation stability, minutes	360 min		ASTM D 525
Sulfur, total, mass %	0.10 max.		EN ISO 8754 ASTM D 1266
Copper Corrosion, 3 hrs at 50 °C	1 max.		ASTM D 130
Lead content, g/l	0.05 - 0.5		ASTM D 3341
Octane number			
research method	96.0 min		ASTM D 2699
motor method	86.0 min		ASTM D 2700
Oxygenates, mass %	1 max.		ASTM D 4815 ⁴
Benzene content, volume %	5.0 max.		EN 12177 ASTM D 3606 ASTM D 4420
Density at 15 °C, kg/m ³	720-780		ASTM D 1298

<u>TEST</u>	<u>SEASONAL LIMITS</u> (Note 1)				<u>METHOD</u> ^{2/3}
	<u>Summer Grades</u>		<u>Winter Grades</u>		
	1	2	3	4	
Distillation, % v/v					(Note ⁴)
% evaporated at 70°C	10 - 45	10 - 45	15 - 47	15 - 47	ASTM D 86
% evaporated at 100°C	38 - 65	38 - 65	43 - 70	43 - 70	
% evaporated at 180°C	85 min.	85 min.	85 min.	85 min.	
Final boiling point, °C	215 max.	215 max.	215 max.	215 max.	
Residue	2 max.	2 max.	2 max.	2 max.	
Vapor pressure (Reid), kPa	35 - 70	45 - 80	55 - 90	60 - 95	ASTM D 323
Vapor Lock Index (VLI)	900 max.	1000 max.	1100 max.	1200 max.	(Note 5)

NOTES:

1/ The above requirements are absolute and not subject to correction for tolerance of test methods.

2/ Technically equivalent National methods may be used in lieu of the ASTM methods given above, but in cases of dispute, the specified ASTM methods shall be used.

3/ The test methods shall be the latest published editions.

4/ Summer is the period from May 1 to September 30 and Winter is the period from November 1 to March 31. During the transition periods of April and October, either the Summer or Winter grades may be supplied. Grade Number 1 or 2 shall be supplied in the Summer and Grade Number 3 or 4 shall be supplied in the Winter.

5/ The VLI is derived from the equation $VLI = RVP + 7$ (E70) where RVP = Reid Vapor Pressure in kPa (kPa x 10) and E70 is % v/v evaporated at 70°C.

(b) **APPEARANCE.** At the time of Government acceptance, the finished fuel shall be visually free from undissolved water, sediment, and suspended matter and shall be clear when tested in accordance with ASTM D 4176, Procedure 1. In case of dispute, the fuel shall be clear and bright at 21°C (70°F) and shall contain no more than 0.01 percent volume maximum sediment and water when tested in accordance with ASTM D 2709.

(c) **MATERIALS.** The gasoline shall consist essentially of volatile hydrocarbons containing antiknock compounds of the lead alkyl type together with other additives blended so that the product complies with the requirements of this specification. Approved antioxidants and metal deactivators are provided in (d) below.

(d) **APPROVED ADDITIVES.** The following materials are approved for use in gasoline supplied to meet this requirement. Commercial additives containing the active ingredients listed below dissolved in organic diluents at the maximum practical concentration may be included in offered gasoline.

(1) **ANTIKNOCK COMPOUNDS.** These shall be of the lead alkyl type containing stoichiometric quantities of scavenger compounds of bromine, chlorine, or admixtures thereof, together with the necessary solvents.

(2) **ANTIOXIDANTS.** Only the following inhibitors may be used at a concentration of not more than 43 grams of inhibitor (active ingredient basis) per cubic meter of gasoline:

- (i) NN'-disecundary-butyl-para-phenylenediamine.
- (ii) 2, 6-ditertiary-butyl-phenol.
- (iii) 2, 6-ditertiary-butyl-4-methyl-phenol.
- (iv) 2, 4-dimethyl-6-tertiary-butyl-phenol.
- (v) Mixed tertiary-butyl-phenols.

(3) **METAL DEACTIVATORS.** Only the following inhibitors may be used at a concentration of not more than 8.6 grams of inhibitor (active ingredient basis) per cubic meter of gasoline:

- (i) NN'-disalicylidene-propylene diamine.
- (ii) NN'- disalicylidene-methylamine-dipropylene-triamine.

(DESC 52.246-9FGW)

C16.18-19 GASOLINE, AUTOMOTIVE, UNLEADED (PREMIUM) (NATO F67) (DESC MAR 2000)

(a) Premium gasoline shall conform to specification EN 228:1999.

(b) Product volatility shall conform to the requirements of volatility class A, B, C, or C1 during the period May 1 to September 30; product volatility shall conform to the requirements of volatility class D1 or E1 during the period November 1 to March 31. During the transition periods of April and October, volatility classes A through E1 are acceptable.

(c) Product appearance shall be as described below:

At the time of Government acceptance, the finished fuel shall be visually free from undissolved water, sediment, and suspended matter and shall be clear when tested in accordance with ASTM D 4176, Procedure 1. In case of dispute, the fuel shall be clear and bright at 21 degrees Celsius (70 degrees Fahrenheit) and shall contain no more than 0.01 percent volume maximum sediment and water when tested in accordance with ASTM D 2709.

(d) **MATERIALS.** The gasoline shall consist essentially of volatile hydrocarbons together with other additives blended so that the product complies with all requirements of this clause. Approved antioxidants and metal deactivators are listed in paragraph (e) below.

(e) **APPROVED ADDITIVES.** The following materials are approved for use in gasoline supplied to meet this requirement. Commercial additives containing the active ingredients listed below dissolved in organic diluents at the maximum practical concentration may be included in offered gasoline.

(1) **ANTIOXIDANTS.** Only the following inhibitors may be used at a concentration of not more than 43 grams of inhibitor (active ingredient basis) per cubic meter of gasoline:

- (i) NN'-disecundary-butyl-para-phenylenediamine.
- (ii) 2, 6-ditertiary-butyl-phenol.
- (iii) 2, 6-ditertiary-butyl-4-methyl-phenol.

- (iv) 2, 4-dimethyl-6-tertiary-butyl-phenol.
- (v) Mixed tertiary-butyl-phenols.

(2) **METAL DEACTIVATORS.** Only the following inhibitors may be used at a concentration of not more than 8.6 grams of inhibitor (active ingredient basis) per cubic meter of gasoline:

- (i) NN'-disalicylidene-propylene diamine.
- (ii) NN'-disalicylidene-methylamine-dipropylene-triamine.

(DESC 52.246-9FJA)

**C16.26-10 FUEL OIL, DIESEL - SUMMER (TEMPERATE) AND WINTER (ARCTIC) GRADES (BOSNIA)
(DESC FEB 2002)**

(a) Summer (Temperate) Grade Diesel conforming to EN 590:1999, Grade A (CFPP plus 5 degrees Celsius maximum) is required from May 1st to September 30th for U.S. forces and non-U.S. forces.

(b) Winter (Arctic) Grade Diesel conforming to EN 590:1999, Arctic Class 1 is required from October 1st to April 30th for U.S. forces and non-U.S. forces.

(1) If the Contractor wishes to meet this requirement by blending two different finished distillate fuel grades, one or more of which does not meet all requirements of EN 590:1999, Arctic Class 1, the offeror shall, prior to production of the blend--

- (i) Provide full specification test data on a representative hand blend of the two grades;
- (ii) Identify the approximate percentage by volume of each component used to achieve the results obtained above;**
- (iii) Provide documentation indicating the specification controlling each of the two distillate fuel grades used as**

blending components; and

- (iv) Identify the type and concentration of any additives included in the hand-blend.

(2) In addition, the following information shall be annotated on each test report for conforming Arctic Class 1 diesel batches produced by the procedure noted above:

- (i) The percentage of each product grade included in the blend; and
- (ii) The type and concentration of additives included in the blend.**

(3) Contractors using the approach outlined in (b)(1) and (b)(2) above must ensure that the resulting blend meets all requirements of EN 590:1999, Arctic Class 1.

(c) APPLICABLE TO ALL DIESEL GRADES.

(1) The following additional tests will be performed and results reported:

Color	ISO 2049 / ASTM D 1500
Acid Number	ISO 6618 / ASTM D 974

(2) In addition to the EN 590 specification requirement for water content of 200 mg/kg maximum, and particulate content of 24 mg/kg maximum, the diesel fuel shall be visually free of undissolved water and sediment with a maximum haze rating of 2 when tested in accordance with ASTM D 4176, Procedure 2. In case of dispute, the haze rating shall be determined at 25 degrees Celsius (77 degrees Fahrenheit) with a maximum haze rating of 2 and shall contain no more than 24 mg/kg sediment and no more than 200 mg/kg water.

(DESC 52.246-9FCK)

E1 CONTRACTOR INSPECTION RESPONSIBILITIES (DESC AUG 2000)

(a) QUALITY CONTROL PLAN.

(1) The Contractor is required (unless otherwise instructed by the Government) 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: Q91 (ISO9001) Quality Systems - Model for Quality Assurance in Design/Development, Production Installation, and Servicing, or Q92 (ISO9002) Quality Systems - Model for Quality Assurance in Production and Installation. If the Contractor chooses to comply with Q91 or Q92 quality system format, all the specific Quality Assurance Provisions of this contract must be included in the Q91, 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 additives blended into product supplied under this contract;
- (ii) **BLENDING AND COMPOUNDING.** Identification of component base stocks used to produce finished product.

Procedures to be used for adding, prior to batching, all required additives at all locations. When procedures for in-line blending of non-aviation products in accordance with the IN-LINE BLENDING OF NON-AVIATION PETROLEUM PRODUCTS clause are used, the QCP will provide for establishing blend ratios, and identify the responsible personnel within the Contractor's organization authorized to establish the blend ratios. When procedures for line injection of additives for products in accordance with a clause that contains LINE INJECTION OF ADDITIVES as used, the QCP will provide procedures for proportionately injecting additives throughout the entire loading process to ensure the additive is homogeneously blended into the jet fuel, procedures for maintaining recordings evidencing the homogeneous blending of all line injected additives. Prior to shipment, a procedure for a laboratory hand blend of jet fuel with all additives required by the contract shall be tested to verify compliance with the required specification;

(iii) **SAMPLING.** Procedures for sampling additives, blend tanks, shipping tanks, lines, and conveyances/containers in accordance with API Manual of Petroleum Measurement Standards (MPMS), Chapter 8, Section 1, (ASTM D 4057) Sampling of Petroleum and Petroleum Products, and/or Section 2, (ASTM D 4177), Automatic Sampling of Petroleum and Petroleum Products. Procedures include location of sample taken, frequency, quantity; minimum tests required on sample, and sample retention procedures. NOTE: For f.o.b. origin tanker, barge, and pipeline shipments, a flow-proportional sample taken in accordance with MPMS Chapter 8.2, Automatic Sampling is required at the custody transfer point. For other than f.o.b. origin shipments, Automatic In-Line Sampling is preferred at the custody transfer point, but representative samples taken in accordance with MPMS Chapter 8, Section 1, are acceptable. See Table I, Minimum Sampling and Testing Requirements, and Table II, Sample Retention, below;

(iv) **TESTING.** Types of tests and test methods/procedures to be performed on samples taken from each location identified in (iii) above, and may be incorporated by test method reference in the QCP, if complete reference is available at the place of performance. See Table III, "Definition of Test Series." below;

(v) **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; and, a program for meters used to determine quantity complying with the American Petroleum Institute Manual of Petroleum Measurement Standards, Chapters 4, 5, and 6, or equivalent foreign standard. For items not covered by ASTM, API or IP publications, the applicable manufacturer's recommended calibration method, or methods outlined in the applicable industry publication, shall be used if acceptable to the Government;

(vi) **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 gauging, sampling, draining of water, filtration, circulation, drying; and identification of any other process/system used in maintaining product integrity during storage and handling;

(vii) **LOADING AND SHIPPING, GENERAL.** Procedures for product movement and related quality/quantity checks from shipping tank(s) to custody transfer point 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. Single valves designed to provide the same protection are also acceptable if positive isolation is assured. Systems with single valve (excluding twin seal single valves) isolation require specific procedures be included in the QCP to assure product integrity after the last single valve and prior to the acceptance point. When single valves are present in the system, the Contractor shall provide their quality control procedures from the first single valve to the custody transfer point at time of bid to the contracting officer for determination of acceptability. Procedures for conditioning and testing of improperly isolated systems to the custody transfer point (including loading arm and hoses used). For in-line blending of non-aviation products, where approved in this contract, requirements must comply with the IN-LINE BLENDING OF NONAVIATION PETROLEUM PRODUCTS clause;

(viii) **LOADING AND SHIPPING - TANK CARS, TANK TRUCKS, AND INTERMODAL CONTAINERS.** Inspect conveyances prior to loading to determine quality/quantity suitability to load as follows: All compartments have been prepared in accordance with Table IV, Conversion Chart for Tank Cars, Tank Trucks, and Intermodal Containers, below. Preparation requirements include hoses. Conveyances carrying lubricating oil will be dry and free from loose rust, scale, and dirt. Conveyances carrying other products will be dry and substantially free from loose rust, scale and dirt. (Procedures to confirm, prior to loading, quality and quantity of product in conveyance when requested by the ordering office to "load on top." Reject conveyance if product cannot be identified or product on board does not meet specification of intended load product. Provide for documentation of load on top occurrences for volume of product prior to

load, loaded quantity, and total volume on board the conveyance. Confirm quality and quantity of loaded conveyance.) Provide for investigating discrepancies in either recorded quality or quantity. When required by the contract, seal conveyance and record seal numbers on the DD Form 250. Strainers and filters shall be located as near the loading or filling point as practicable and shall be used as outlined below for all deliveries except deliveries into tanker, barge, or pipeline.

(A) All aviation fuel shall be passed through strainers of 100 meshes or finer screen;

(B) All lubricating oil products, including preservatives, having a kinematic viscosity at 100°F of 20.0 centistokes or less shall be passed through a 100 meshes or finer screen;

(C) All lubricating oil products, including preservatives, having a kinematic viscosity greater than 20.0 centistokes at 100°F, but less than 22.0 centistokes at 210°F, shall be passed through a 60 mesh or finer screen; and

(D) The Contractor shall furnish and periodically inspect strainers and filters pursuant to this paragraph to determine condition and perform maintenance as necessary, keeping a written record thereof.

(ix) **LOADING AND SHIPPING - TANKERS AND BARGES.**

(A) **For f.o.b. destination Contractor-supplied tankers/barges.** State procedures to be used to ensure vessels are suitable to load the intended product.

(B) **For f.o.b. origin Government supplied tanker/barges.** Procedures for maintaining time log of all significant events/delays including vessel notice of readiness, vessel arrival, docking, vessel deballasting, and conditioning of cargo tanks, inspections, hoses connected, starts, stops, release, or any other event that affects laytime of the vessel. Procedures for assuring condition of loading line (full of tested product, all air bled and pressure packed) and gauging shore tanks, both before and after loading. Procedures for preload discussion between Contractor, vessel, and QR to include, but not be limited to, prior three cargoes, cleaning procedures, loading plan, loading rates, sampling requirements, and after loading sampling and gauging. (Prior to loading - sample, gauge and test intransit cargoes designated for load on top. Sample (1 gallon), gauge, and retain any other product on board, except for JP-7 or JP-TS.) All cargo quantities will be calculated and volume corrected both before and after loading. Procedures for commencement of loading into one tank (up to 3 feet). Then switching to at most two other vessel tanks during sampling and testing (Table I). Procedures for the transportation of samples from vessel to the testing facility. Monitoring the loading from source to vessel, investigating irregularities immediately, stopping loading if necessary. Procedures for investigating discrepancies in quality (mandated if off-specification or out of testing tolerance) and quantity (mandated if ship to shore variance is greater than 0.5 percent or figures suspect) on loaded conveyance.

(C) **For both f.o.b. origin and destination supplied tankers/barges.** Procedures for immediately notifying the QR when irregularities occur or are suspected and on all occasions when loading is interrupted. Procedures for completing and distributing required documentation prior to release of the vessel. Documentation includes DD Form 250-1 and DD Form 250-1 continuation sheet, ullage reports, bills of lading, customs documentation, and results of quality/quantity investigations. **Authority to release a Government furnished vessel rests with the Government QR after compliance and completion by the Contractor of all required operations, including the preparation of the DD Forms 250-1.**

(x) **RECORDS AND REPORTS.** To include at a minimum, test reports on product and additives, additive blending and/or injection records, vessel port logs, vessel notice of readiness, calibration documents, and the DD Forms 250 and 250-1 and continuation sheet(s). These records and reports will include by whom, where, and how prepared, and retention information. The DD Form 250-1 and DD Form 250-1 continuation sheet(s) will be signed by the Contractor in the appropriate block before presenting to the QR). The DD Form 250 and DD Form 250-1 shall identify type, brand name, and amount of additive(s).

(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) The Contractor may inspect Government-furnished tankers and barges prior to loading unless specifically prohibited by the Government QR. All other shipping conveyances, exclusive of tankers or barges, shall be inspected by the Contractor prior to loading to determine suitability for loading. If the Contractor and the QR disagree as to the suitability for loading of Government furnished conveyance for supplies to be accepted at origin, the determination of the QR shall govern. If the SHIPMENT AND ROUTING clause is included in the contract, Government-furnished transportation equipment that is unsatisfactory for loading shall be reported by the Contractor in accordance

with the provisions contained in that clause. Procedures to determine suitability to load tank trucks and tank cars shall include but not be limited to visual inspection of interior compartments to assure cleanliness and dryness. Manifolds must be drained and be clean and dry for intended product.

(d) When requested by the U.S. Government, the Contractor shall furnish no more than five (ten in the case of jet fuel) 1-gallon samples of liquid product or five 1-pound samples of solid or semi-solid product 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.

E1 CONT'D**TABLE I****MINIMUM SAMPLING AND TESTING REQUIREMENTS⁽¹⁾**

LOCATION	WHEN SAMPLED	TYPE OF SAMPLE	TYPE OF TEST
1. Refinery/Terminal Shipping Tank	Each Batch Prior to Commencement of Shipping	All Level or Single Tank Composite	A (2)
2. Shipping Line (All Modes): Dedicated Line Common Line	Prior to Loading/Shipping	Line	C B
3. Custody Transfer Point	Immediately After Start of Shipment	Line	C
4. Tanker/Barge/Pipeline Custody Transfer Point	During Loading/Shipment	Representative Sample See Note, paragraph E1.a.(iii)	Retain Only
5. Tanker/Barge/Pipeline Custody Transfer Point	Hourly	Line	Visual (3) plus additive analysis for FSII & SDA, if line injected
6. Tanker/Barge First-In	After maximum of 3 feet loaded	Spot	C - plus Particulate and additive analysis for FSII & SDA, if line injected
7. Tanker/Barge	After Loading	Each Compartment	Workmanship, Density
8. Tanker/Barge	After Loading	Multi-Tank Composite of Each Product Loaded	B
9. Tank Car/Truck Loading Rack	After change of source tank.	Line	C - plus additive analysis for FSII & SDA, if line injected
10. Tank Cars/Truck/ Intermodal Containers	After Filling	All-Level	Workmanship: C - When loading lubes and FSII

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.
- (2) AFTER A TYPE C TEST ON AN UPPER, MIDDLE, AND LOWER SAMPLE VERIFIES BATCH CONFORMANCE TO HOMOGENEITY REQUIREMENT. HOMOGENEITY REQUIREMENT IS DEFINED AS WHEN THE UPPER, MIDDLE, AND LOWER SAMPLE TEST RESULTS (MINIMUM - DENSITY/API GRAVITY) FALL WITHIN THE REPRODUCIBILITY LIMIT ESTABLISHED BY THE TEST METHOD.
- (3) CONTINUOUS IN-LINE ANALYZERS (I.E., DENSITY AND/OR FLASH POINT) ARE ACCEPTABLE, IN LIEU OF HOURLY EVALUATIONS, IF QUALITY IS ASSURED. WHEN CONTINUOUS IN-LINE ANALYZERS ARE PRESENT IN THE SYSTEM, THE CONTRACTOR SHALL PROVIDE ITS QUALITY CONTROL PROCEDURES AT TIME OF OFFER TO THE CONTRACTING OFFICER FOR DETERMINATION OF ACCEPTABILITY.

E1 CONT'D**TABLE II****SAMPLE RETENTION**

TYPE OF SAMPLE	MINIMUM QUANTITY	RETENTION PERIOD
Bulk Additives	2 Liters	Until Receipt and Quality Verification of New Lot/Batch
Drummed Additives	1 Liter	When Stocks Exhausted
Shipping Tank(s)	20 Liters - for Aviation Fuels and Lubricating Oils 10 Liters - for all other Fuels	45 Days
Composite Line (Tanker/Barge)	20 Liters - for Aviation Fuels and Lubricating Oils 10 Liters - for all other Fuels	45 Days
Composite Line (Pipeline)	20 Liters - for Aviation Fuels and Lubricating Oils 10 Liters - for all other Fuels	45 Days
Tank Truck/Car, Intermodal Container	1 Liter	15 Days (Lubes - 45 days)
Tanker/Barge Composite	20 Liters - for Aviation Fuels and Lubricating Oils 10 Liters - for all other Fuels	45 Days
Tanker/Barge Each Compartment	0.5 Liter	45 Days

E1 CONT'D

TABLE III
DEFINITIONS OF TEST SERIES

- I. TYPE A: Includes all specification quality conformance tests plus any additional contractual requirements.
- II. TYPE B & C: As shown in the table below for each product. Properties and test methods will be in accordance with the product specification for each grade identified in the solicitation/contract.

TEST PROPERTIES	AVGAS		TURBINE FUELS		MOGAS		DIESELS/ KEROSENE		BURNER FUELS		LUBES		FSII
	B	C	B	C	B	C	B	C	B	C	B	C	C
Appearance	*	*	*	*	*	*	*	*			*	*	*
Particulate content	*		*								*		
Filtration Time			*										
Color	*	*	*	*	*	*	*	*			*	*	
Density <i>or</i> API Gravity Or Specific Gravity	*	*	*	*	*	*	*	*	*	*	*	*	*
Distillation	*		*		*		*						
Corrosion, Copper Strip	*		*		*								
Existent Gum	*		*		*								
Carbon Residue							*		*				
Lean or Rich Ratings	*												
Reid Vapor Pressure	*		*		*								
Water Reaction			*										
Lead Content	*												
Freeze Point			*										
Flash Point			*	*			*	*	*	*	*	*	
FSII Content			*										
Microseparator			*										
Conductivity			*										
Sediment & Water									*	*			
Viscosity									*		*	*	
Water Content									*		*	*	*
Foam Test											*	*(1)	

E1 CONT'D

* THE PROCEDURE TO BE USED FOR CONDUCTING THESE TESTS WILL BE AS STATED IN THE APPROPRIATE PRODUCT SPECIFICATION AND/OR CONTRACT.

(1) Only ASTM D 892 sequences 1 and 2 will be performed.

TABLE IV**CONVERSION CHART FOR TANK CARS, TANK TRUCKS, AND INTERMODAL CONTAINERS⁽¹⁾**

LAST PRODUCT CARRIED (2)	PRODUCT TO BE LOADED				
	JET FUEL JP-4 JET B MOGAS AVGAS	JET FUEL JP-5 JP-8 JET A/A1 DF-A, DL-A DFW KSN, KS1	DIESEL FUEL F76 (B) DF-1, 2 DL-1, 2	LUBRICATING OILS	FSII
AVGAS MOGAS JP-4 JET B	DRAIN EMPTY	STEAM DRY	STEAM DRY	STEAM DRY	STEAM DRY
JP-8, JP-5 JET A/A1 DF-A, DL-A DFW, KSN, KS1	DRAIN EMPTY (B)	DRAIN EMPTY (B)	DRAIN EMPTY (C)	STEAM DRY (B)	STEAM DRY (B)
F-76 DF-1, -2 DL-1, -2 ASTM D 975 NO. 1D, 2D ASTM D 396 NO. 1, 2	STEAM DRY (B)	DRAIN EMPTY (B)	DRAIN EMPTY (C)	STEAM DRY (B)	STEAM DRY (B)
ASTM D 396 NO. 4L, 4, 5L, 5H, 6 IFOs ASTM D 975 NO. 4D	NO LOAD	NO LOAD	NO LOAD	NO LOAD	NO LOAD
LUBRICATING OILS	NO LOAD	NO LOAD	STEAM DRY	DRAIN EMPTY (A)	NO LOAD
JET FUEL JPTS, JP-7	DRAIN EMPTY	DRAIN EMPTY	DRAIN EMPTY	STEAM DRY	STEAM DRY
FSII	DRAIN EMPTY	DRAIN EMPTY	DRAIN EMPTY	STEAM DRY	DRAIN EMPTY

NOTES FOR TABLE IV:

(1) When required, drain and empty includes the pump(s), filter(s), meter(s), and hose(s) as applicable.

(2) If a product is not listed in this column, permission to load and conveyance preparations require a waiver.

(A) Applicable only when loading the same specification lubricating oils; otherwise, steam and dry.

(B) If previous cargo contained dye marker, all traces of color must be removed.

(C) If product to be loaded does not contain dye, the vehicle must not contain any traces of dye prior to loading.

(DESC 52.246-9F75)

E5 INSPECTION OF SUPPLIES - FIXED-PRICE (AUG 1996)

(a) **DEFINITION. Supplies**, as used in this clause, include but are 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.

(e) (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) The Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest necessary.

(f) The Government has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. The Government may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and, when required, shall disclose the corrective action taken.

(h) If the Contractor fails to promptly remove, replace, or correct rejected supplies that are required to be removed or to be replaced or corrected, the Government may either (1) by contract or otherwise, remove, replace, or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i) (1) If this contract provides for the performance of Government quality assurance at source, and if requested by the Government, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract and (ii) when the supplies will be ready for Government inspection.

(2) The Government's request shall specify the period and method of the advance notification and the Government representative to whom it shall be furnished. Requests shall not require more than 2 workdays of advance notification if the Government representative is in residence in the Contractor's plant, nor more than 7 workdays in other instances.

(j) The Government shall accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Government failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability on the Government, for nonconforming supplies.

(k) Inspections and tests by the Government do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(l) If acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the Government, in addition to any other rights and remedies provided by law, or under other provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; PROVIDED, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or nonconformance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Government shall have the right by contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby.

(FAR 52.246-2)

E12 POINT OF ACCEPTANCE (DESC MAY 1969)

On f.o.b. origin deliveries, acceptance of the supplies furnished hereunder will take place at origin, notwithstanding that inspection by the Government may take place elsewhere prior to acceptance. On f.o.b. destination deliveries, acceptance of the supplies furnished hereunder will take place at destination, notwithstanding that inspection by the Government may take place elsewhere prior to acceptance.

(DESC 52.246-9FQ1)

E21.01 SUPPLEMENTAL INSPECTION (OVERSEAS) (DESC JUL 1999)

(a) Inspection responsibility is assigned to the cognizant office specified in the LIST OF INSPECTION OFFICES FOR OVERSEAS PETROLEUM PRODUCT CONTRACTS or the QUALITY REPRESENTATIVE clause of this contract, whichever is applicable.

(b) On items calling for f.o.b. origin delivery, inspection and acceptance will be performed at the point of delivery.

(c) On items calling for f.o.b. destination delivery, preliminary inspection for quality will be performed at the product source, with final inspection and acceptance at destination except that--

(1) On all bulk fuels, other than aviation, that are delivered via TT/TW to U.S. Government installations for their use and consumption, Government inspection for identity and quantity will be performed by the receiving activity at point of acceptance.

(2) If there is evidence that product deliveries are not in conformance with the contract, assistance, if required, should be solicited from the cognizant inspection office.

(3) The Government reserves the right to perform quality inspection at all times and places if warranted.

(d) On items calling for delivery of drummed or packaged products, either f.o.b. origin or f.o.b. destination, inspection for product quality will be performed at the point of manufacture or blending. If the point of blending is different from the point of manufacture of component stocks, preliminary inspection of component stocks may be performed at their point of manufacture. Quality verification and inspection for proper filling and packaging will be performed at the point of filling. Final inspection and acceptance will be at the point of delivery.

(e) Whenever the item calls for delivery into or by tanker, either f.o.b. origin or f.o.b. destination, the Contractor shall keep the Inspector informed of the loading date and source of supply and any changes thereto as far in advance of the loading date as is possible to permit necessary inspection by the Government.

(f) When the item calls for delivery f.o.b. origin into Government-furnished tanker and the Contractor has the option to designate the loading point(s), the Contractor shall notify the Inspector and the Ordering Officer of the designated loading point(s) at least 14 days in advance of the scheduled delivery date. When the item calls for f.o.b. destination delivery and the Contractor has the option to designate the loading point(s), the Contractor shall notify the Inspector and the Ordering Officer of the designated loading point(s) as far in advance of the loading date as is possible.

(DESC 52.246-9F80)

E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992)

The Quality Office assigned inspection responsibility under this contract is **DESC-EUROPE, ATTN: QUALITY MANAGER, CMR 443, BOX 5000, APO AE 09096-5000, PHONE: 49-611-580-7413/7541, FAX: 49-011-580-7406.**

(DESC 52.246-9F35)

E35 NONCONFORMING SUPPLIES AND SERVICES (DESC JAN 2004)

(a) The Government may, at its discretion, accept nonconforming supplies or services. In such cases, the Contractor must obtain a deviation or waiver from the Contracting Officer prior to acceptance.

(b) The following procedures shall be used to request a deviation or waiver to the applicable nonconformance(s). A deviation is a request by a Contractor to deviate from the contract requirements after contract award, but prior to initial production of each product (for the duration of the contract). A waiver is a request by a Contractor to deviate from the contract requirements after initial production of each product (on a case-by-case basis or for a set period).

(1) Requests for deviations and waivers, shall be submitted by the Contractor to the Contracting Officer with a copy to the Quality Representative (QR). Each request shall provide the following information: Contractor name; contract number; contract line item and product, if applicable; clause number, paragraph and subparagraph, as appropriate; the nature of the request; the reason for the request; the corrective action being taken by the Contractor to correct and prevent recurrence of the condition(s) causing the nonconformance; and equitable price adjustment offered over the administrative fee. In extraordinary situations, the Contractor may initially submit the request for a waiver, not a deviation, through the cognizant QR to the Contracting Officer or the Contracting Officer's Representative (COR) in the Quality Operations Division (DESC-BQ) of the Defense Energy Support Center (DESC). Extraordinary situation requests shall be submitted formally to the Contracting Officer prior to close of business of the next normal DESC workday (0800 to 1630 hours EST, Monday through Friday, Federal Holidays excluded). As used in this clause, the term extraordinary situation means the matter cannot await resolution until the next normal DESC workday. In addition, if either the Contracting Officer or the COR cannot be reached, the Duty Officer shall be contacted and provided the necessary information to forward to the proper individuals as soon as possible. The Duty Officer's telephone number is **(800) 286-7633** or **(703) 767-8420; (DSN) 427-8420.**

(2) If a deviation or waiver is granted, the contract will be modified to provide an equitable price reduction or other adequate consideration commensurate with the deviation or waiver being granted. If the situation dictates, a deviation or waiver, may be granted without prior agreement on price adjustment or other consideration subject to agreement by the Contractor, or its representative, to subsequent negotiation. Such agreement shall be documented on the receiving document or other appropriate correspondence. After negotiations, failure to agree on adequate consideration shall be a dispute concerning a question of fact within the meaning of the Disputes paragraph of the CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause of this contract.

(3) If a deviation or waiver is granted and the nonconforming supplies are accepted, then in no event will consideration be less than \$250 to cover administrative costs, plus any additional cost of Government re-inspection or retest, if necessary.

(4) If a deviation or waiver is granted modifying this contract but the supplies accepted are subsequently determined to be in conformity with contract specifications, the Contractor shall still be obligated to pay the consideration originally agreed upon in support of the deviation or waiver. If, however, this consideration exceeds \$500, a second contract modification shall be issued reducing the Contractor's obligation to \$500 (the administrative cost of issuing the two required modifications).

(c) When notification of nonconforming supplies is received after the supplies have been accepted, and the Government determines not to exercise its right to reject or to require correction under the INSPECTION OF SUPPLIES – FIXED-PRICE, INSPECTION AND ACCEPTANCE OF SUPPLIES (SHIPS' BUNKERS), or CONTRACT TERMS AND CONDITIONS – COMMERCIAL ITEMS clause, then in no event will consideration be less than \$250 to cover administrative costs. This \$250 fee is in addition to—

(1) Consideration commensurate with the extent of nonconforming supplies; and

(2) Cost of Government re-inspection or retest, if necessary.

The administrative fee will apply to each claim letter issued for off-specification product delivered to an activity.

(d) Contractors shall be held responsible for payment of any fines or penalties imposed on a receiving activity by an environmental enforcement agency, resulting from the delivery of nonconforming supplies under a DESC contract.

(e) Repeated tender of nonconforming supplies or services, including those with only minor defects, will be discouraged by appropriate actions, including, but not limited to rejecting the supplies or services whenever feasible and documenting the Contractor's performance records.

(DESC 52.246-9FQ5)

F4 DELIVERY AND ORDERING PERIODS (DESC JUN 2002)

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

(1) Ordering period begins: **Date of Award** and ends: **30 JUNE 2005**.

(2) Delivery period begins: **01 JULY 2004** and ends: **30 days after end of ordering period**.

(b) Notwithstanding the foregoing, deliveries prior to the delivery period, made 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).

(DESC 52.242-9F75)

F30.01 ORDERING AND PAYING OFFICERS (OVERSEAS PC&S) (DESC APR 1998)

(a) Ordering and Paying Officers under the contract are as indicated below:

<u>ITEM NO.</u>	<u>ORDERING OFFICER</u>	<u>PAYING OFFICER</u>
All Items	DEFENSE ENERGY SUPPORT CENTER BALKANS OPERATION JOINT FORGE APO AE 09789 ZAGREB, CROATIA PHONE: 385-1-390-8512/8511/8510 FAX: 385-1-390-8520	DEFENSE FINANCE AND SERVICE COLUMBUS CENTER ATTN: DFAS-BVDFP/CC P. O. BOX 182317 COLUMBUS, OH 43218-62527 FAX: 614-693-2537

(b) The Commanding Officer or his designated representative of the cognizant requiring activity is authorized to make any necessary changes to this listing, or make additional assignments for requirements not covered by the foregoing. Such changes or assignments shall be made by written notification to the Contractor, with a copy to the Contracting Officer.

(c) If Ordering and Paying Officers cannot be ascertained under (a) or (b) above, the following activities, as applicable, should be contacted:

DEFENSE ENERGY SUPPORT CENTER ATTN: DESC-PEA 8725 JOHN J. KINGMAN ROAD FT. BELVOIR, VA 22060-6222 PHONE: 703-767-9542 FAX: 703-767-8506	DEFENSE ENERGY SUPPORT CENTER-EUROPE AUGUSTA STRASSE NO. 6 65189 WIESBADEN, GERMANY PHONE: 49-611-380-7544 FAX: 49-611-380-7406
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(DESC 52.216-9FB1)

F105 VARIATION IN QUANTITY (APR 1984)

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to--

- 10 Percent increase
- 10 Percent decrease

This increase or decrease shall apply to **each delivery order**.

(FAR 52.211-16)

G3 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.

(DESC 52.211-9FH5)

G3.01 PAYMENT DUE DATE (DESC OCT 1988)

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. (DESC 52.232-9F45)

G9.09-1 PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)**(a) METHOD OF PAYMENT.**

(1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either-

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend payment due dates until such time as the Government makes payment by EFT

(but see paragraph (d) of this clause).

(b) MANDATORY SUBMISSION OF CONTRACTOR'S EFT INFORMATION.

(1) The Contractor is required to provide the Government with the information required to make contract payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information no later than 5 days after award. If not otherwise designated in the contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated payment office(s).

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the designated office. However, EFT information supplied to a designated office shall be applicable only to contracts that identify that designated office as the office to receive EFT information for that contract.

(c) **MECHANISMS FOR EFT PAYMENT.** The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal Payments through the ACH are contained in 31 CFR Part 210.

(d) SUSPENSION OF PAYMENT.

(1) The Government is not required to make any payment until after receipt, by the designated office, of the correct EFT information from the Contractor. Until receipt of the correct EFT information, any invoice or contract-financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of any delays in accrual of interest penalties apply.

(2) If the EFT information changes after submission of correct EFT information, the Government shall begin using the changed EFT information no later than the 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Contractor may request that no further payments be made until the changed EFT information is implemented by the payment office. If such suspension would result in a late payment under the prompt payment terms of this contract, the Contractor's request for suspension shall extend the due date for payment by the number of days of the suspension.

(e) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provision of paragraph (d) shall apply.

(f) **EFT AND PROMPT PAYMENT.** A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) **EFT AND ASSIGNMENT OF CLAIMS.** If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall provide the EFT information required by paragraph (j) of this clause to the designated office, and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) **LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes to EFT information provided by the Contractor's financial agent.

(i) **PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address in the contract.

(j) **EFT INFORMATION.** The Contractor shall provide the following information to the designated office. The Contractor may supply this data for multiple contracts (see paragraph (b) of this clause). The Contractor shall designate a single financial agent per contract capable of receiving and processing the EFT information using the EFT methods described in paragraph (c) of this clause.

(1) The contract number (or other procurement identification number).

(2) The Contractor's name and remittance address, as stated in the contract(s).

(3) The signature (manual or electric, as appropriate), title, and telephone number of the Contractor official authorized to provide this information.

(4) The name, address, and 9-digit Routing Transit Number of the Contractor's financial agent contract, and account number at the Contractor's financial agent.

(5) The Contractor's account number and the type of account (checking, savings, or lockbox).

(6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the Contractor's financial agent.

(7) If applicable, the Contractor shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the Contractor's financial agent is not directly on-line to the Fedwire Transfer System and, therefore, not the receiver of the wire transfer payment.

(FAR 52.232-34)

G9.11 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (MAY 1999)

(a) As provided in paragraph (b) of the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) **DESIGNATED OFFICE.**

Name: Defense Energy Support Center
Mailing Address: ATTN: DESC-PEA
8725 John J. Kingman Road, Suite 4950
Ft. Belvoir, Virginia 22060-6222

Telephone Number(s): 703-767-9542

Person(s) to Contact: Dorothy Gheen

Electronic Address: Dorothy.gheen@dla.mil

(FAR 52.232-35)

G18 ACCOUNTING AND APPROPRIATION (DESC FEB 1968)

The account for which material is ordered will determine the appropriation or fund to be charged with the cost of the material in each case. The appropriation or fund as applicable in each case will be conspicuously shown on each order issued hereunder.
(DESC 52.232-9F50)

G150.06-2 SHIPMENT NUMBER TO BE IDENTIFIED ON INVOICES (PC&S) (DESC OCT 2001)

(a) For purposes of this clause and the contract, "**shipment number**" for PC&S deliveries is defined as a seven position Alphanumeric number.

(1) All invoices processed electronically using the PAPERLESS ORDERING RECEIPTS TRANSACTION SCREENS (PORTS) for PC&S deliveries will contain a Julian date shipment number. A Julian date is defined as **Position one (1) is the year and the last three (3) digits are the day of the year (i.e., 1159 represents June 8, 2001)**. The electronic system will automatically generate the Julian date shipment number based on the **date shipped** inserted by the Contractor.

(i) The **date shipped** for all f.o.b. destination contract line items must be the date fuel was actually **received** by the activity. The date should never be the date the Contractor loaded its delivery conveyance unless the **activity receives the product** on the same day.

(ii) *For f.o.b. origin items, the Julian date shipment number will be the date the activity picked up product from the Contractor's f.o.b. origin point/terminal.*

(2) *All invoices processed manually must contain a Julian date shipment number based on the provisions stated in subparagraphs (i) and (ii) above.*

(b) The first three positions of the Julian date shipment number shall always consist of the alpha characters "PCS". The remaining four positions shall consist of the Julian date based on the provisions stated in subparagraphs (i) and (ii) above.

(c) The Contractor must identify the shipment number on each invoice submitted for payment. The **SAME** shipment number shall be used for multiple deliveries under the same contract line item on the same calendar day. The Contractor shall convey the appropriate shipment number to the receiving activity.

(DESC 52.232-9F85)

G150.07-5 SUBMISSION OF INVOICES FOR PAYMENT (PC&S) (BOSNIA) (DESC APR 1998)

(a) **PREPARATION OF INVOICE.** Upon acceptance of supplies, the Contractor shall prepare an invoice in accordance with the terms and conditions of this contract. The Contractor shall invoice all products using U.S. gallons. Invoices should reflect quantities in whole numbers. A copy of the signed DD Form 250 shall be submitted with the Contractor's invoice as evidence of delivery. Invoices and supporting DD Forms 250 shall be forwarded to the applicable ordering office via facsimile in accordance with instructions contained on the order. The Contractor shall mail hard copies of the DD Form 250 if requested by the ordering office.

(b) **CERTIFICATION OF INVOICE.** The Contractor agrees that submission of an invoice to the Government for payment is a certification that the invoiced quantities have been delivered in accordance with instructions issued by the Ordering Officer. The ordering office will verify and certify that the invoice quantities are accurate for payment. Upon certification, the ordering office will submit the invoice via facsimile to the applicable paying office. The payment due date will be 30 days after the ordering office has received the invoice. If the designated ordering office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice.

(c) Notwithstanding any other provision of this contract, the Government may consider early payment if the Contractor offers a prompt payment discount rate in its offer or on each individual invoice. Discount periods offered shall not be less than 15 days and the rate of interest for taking the discount shall meet or exceed the official rate established by the U.S. Government Treasury Rate, effective on the date of proper invoice.

(d) Payment shall be made in U.S. dollars.

(DESC 52.232-9FB8)

11.01-1 DEFINITIONS (DESC FEB 1998)

As used throughout this contract, the following terms shall have the meanings set forth below.

(a) **Quality Representative (QR)** includes the terms Quality Assurance Representative (QAR) and Quality Surveillance Representative (QSR).

(1) The QAR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing petroleum products and services.

(2) The QSR is a Government Representative authorized to represent the Contracting Officer to assure the Contractor complies with the contractual requirements in furnishing services.

(b) **Ordering Officer** means whichever of the following or their designated representatives is applicable: (1) the Commander, Defense Energy Support Center; (2) the Commander, Defense General Supply Center; (3) the Commander, U.S. Army Petroleum Center; (4) the Commanding Officer, U.S. Navy Petroleum Office; (5) the Director of Air Force Aerospace Fuels; (6) the Chief of the Air Force Aerospace Fuels Office; (7) the Officer in charge of the Federal Government activity encompassing any delivery point indicated in the Schedule; (8) the Commanding Officer or the Master of the vessel to be bunkered; (9) any Government Contractor furnishing evidence of authority to order under this contract; (10) the head of any Federal Government agency; (11) the pilot, the flight commander, the aircraft commander or the crew chief of the U.S. designated aircraft authorized to place orders against into-plane contracts; (12) the Contracting Officer; (13) the individual in charge of ordering coal at the receiving Government activity; (14) the driver of a Federal vehicle or boat, or the pilot of a Federal aircraft authorized to place orders under a service station contract; (15) the Navy Fleet Commanders; (16) the Defense Attaché Officer; (17) the authorized ship manager (contractor) for the Maritime Administration who is ordering ships' bunkers on behalf of Maritime Administration vessels; (18) the ships' husbanding agent, furnishing evidence of contractual authority, who passes the order (verbal or written) on behalf of the requesting government vessel.

(c) The acronym **TK** means tanker, **B** means barge, **TC** means tank car, **T** means truck, **TT** means transport truck, **TTR** means truck and trailer, **TW** means tank wagon, **P** means pipeline, and **MSS** means Marine Service Station. The acronyms or terms **TT** or **transport truck** and **TTR** or **truck and trailer** mean tank truck equipment, whereas the acronym or term **T** or **truck** means truck equipment for hauling drummed or packaged supplies. The acronym **SW** means supplier's works, **CFD** means Contractor-furnished drum, and **GFD** means Government-furnished drum.

(DESC 52.202-9F10)

II.22-1 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a Contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract;

or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsection 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(FAR 52.203-8)

II.1.01-2 ADMINISTRATIVE COST OF TERMINATION FOR CAUSE -- COMMERCIAL ITEMS (DESC FEB 1996)

(a) In the event this contract is terminated for cause, in whole or in part, the Government will incur administrative costs.

(b) The Contractor agrees to pay all administrative costs associated with a contract termination action. The minimum amount the Contractor shall pay for each termination action is \$500. This payment for administrative costs is in addition to any excess procurement costs and any other remedies or damages resulting from the termination.

(c) The term **termination action**, as used herein, means the termination for cause, including any associated procurement effort, involving--

(1) Any single order or any group of orders terminated together;

(2) Any item or group of items terminated together; or

(3) The entire contract.

(DESC 52.249-9F20)

I11.04 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract. (FAR 52.242-13)

I27 GRATUITIES (APR 1984)

(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.

(FAR 52.203-3)

I28.21 TAXES - FOREIGN FIXED-PRICE CONTRACTS (JUN 2003)

(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.

(FAR 52.229-6)

I33 INTEREST (JUN 1996)

(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.

(FAR 52.232-17)

I84 REQUIREMENTS (OCT 1995)

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

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

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

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

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

(f) Any order issued, during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; PROVIDED, that the Contractor shall not be required to make any deliveries under this contract after 30 days after the of the ordering period.

(FAR 52.216-21)

I86.06 DELIVERY-ORDER LIMITATIONS (OVERSEAS PC&S) (DESC AUG 1990)

(a) **MINIMUM ORDER.** The Contractor shall not be obligated to furnish supplies and/or services under this contract in an amount less than the minimum established in the Schedule of a single item for delivery to a single delivery point. In the event the prices established under this contract vary based upon the liter quantity of an individual delivery, the Government reserves the right to withhold ordering, without prejudice, until the individual delivery quantity required reaches a level, as determined by the Ordering Officer, that minimizes the per liter cost to the Government.

(b) **MAXIMUM ORDER.** Unless otherwise stated in the Schedule, the Contractor shall not be obligated to honor--

(1) Any order for a single item for a single delivery point in excess of twenty (20) percent of the total estimated 1-year requirement;

(2) Any order for a combination of items for a single delivery point in excess of twenty (20) percent of the total estimated 1-year requirement; or

(3) A series of orders from the same ordering office in the course of seven days that together call for quantities of items that total in excess of the limitation provided in (1) or (2) above.

(c) The Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum order limitations in (b) above.

(d) Notwithstanding the foregoing, the Contractor shall honor any order exceeding the maximum order limitations set forth above unless the Contractor verbally notifies the Ordering Officer within two workdays after verbal notification of an order or two workdays after receipt of a written order, followed by the return of the written orders to the ordering office, that he does not intend to make shipment of the items called for and the reasons therefor. When the Government has received this verbal notice, the Government may acquire the supplies from another source.

(DESC 52.216-9FK5)

I179 ALLOCATION (DESC JUL 1995)

(a) **REDUCED SUPPLIES.** If, for any cause beyond the control and without the fault or negligence of the Contractor, the total supply of crude oil and/or refined petroleum product is reduced below the level that would have otherwise been available to the Contractor, the Contractor allocates to its regular customers its remaining available supplies of crude oil or product, then the Contractor may also allocate to the U.S. Government supplies to be delivered under this contract, PROVIDED--

(1) Prompt notice of and evidence substantiating the necessity to allocate and describing the allocation rate for all the Contractor's customers are submitted to the Contracting Officer;

(2) Allocation among the Contractor's regular customers is made on a fair and reasonable basis (except where allocation on a different basis is required by a governmental authority, agency, or instrumentality); and

(3) Reduction of the quantity of product due the Government under this contract shall not exceed the pro rata amount by which the Contractor reduces delivery to its other customers similarly situated.

(b) **ADDITIONAL SUPPLIES.** If, after the event causing the shortage of crude oil and/or refined petroleum product as described in (a) above, additional supply becomes available to the Contractor, the Contracting Officer may choose any one of the following three possible courses of action:

(1) Accept an updated pro rata reduction as outlined in (a) above;

(2) Determine that continuance of the contract with the quantities as originally stated in the Schedule is in the best interests of the Government; or

(3) Terminate the contract as permitted in (d) below.

(c) **REDUCED DELIVERIES.** If the Contractor believes that a law, regulation, or order of a foreign government requires the Contractor to deliver less than the quantity set forth in the Schedule for any location within that country, the Contractor may request allocation in accordance with (a) above. In addition to the criteria in (a) above, the Contractor's request shall cite--

- (1) The law, regulation, or order, furnishing copies of the same;
- (2) The authority under which it is imposed; and
- (3) The nature of the Government's waiver, exception, and enforcement procedure.--

The Contracting Officer will promptly review the matter and advise the Contractor whether or not the need to allocate has been substantiated. If the law, regulation, or order requiring the Contractor to reduce deliveries ceases to be effective, the Contractor shall resume deliveries in accordance with the original Schedule.

(d) If, as a result of reduced deliveries permitted by (a), (b), or (c) above, the Contracting Officer decides that continuation of this contract is no longer in the best interests of the Government, the Government may terminate this contract or any quantity there under, by written notice, at no cost to the Government. However, the Government shall not be relieved of its obligation to pay for supplies actually delivered to and accepted by it.

(e) Except as otherwise stated in (b) above, any volumes omitted pursuant to (a) or (b) above shall be deleted from this contract, and the Contractor shall have no continuing obligation, so far as this contract is concerned, to make up such omitted supplies.

(f) For Posts, Camps, and Stations contracts, Department of Energy priority orders and allocation regulations will take precedence over any conflicting provisions of this clause.

(g) For Bulk Fuels contracts, the provisions contained in (a) above shall be inoperative when the Secretary of Defense makes a written determination that it is essential to the National Defense that the Defense Energy Support Center be provided contract volumes exceeding the amount of product to which it would otherwise be entitled.

(DESC 52.249-9F05)

I186 PROTECTION OF GOVERNMENT PROPERTY AND SPILL PREVENTION (DESC MAY 1978)

(a) The Contractor shall use reasonable care to avoid damaging or contaminating existing buildings, equipment, asphalt pavement, soil, or vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to use reasonable care and damages or contaminates any such buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities, he shall replace the damaged items or repair the damage at no expense to the Government and to the satisfaction of the Government. Further, if, as a result of the failure of the Contractor to comply with the requirements of this contract, Government buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities become damaged or destroyed, the Contractor shall replace or repair the damage at no expense to the Government, and to the satisfaction of the Government. Should the Contractor fail or refuse to make such repairs or replacements, the Government may have the said repairs or replacement accomplished, and the Contractor shall be liable for the cost thereof which may be deducted from the amounts which become due under this contract. Informal agreement with the Contractor upon replacement, repairs, or costs to be deducted shall first be attempted by the Installation Commander or Ordering Officer. If disagreement persists, the matter shall be referred to the Contracting Officer. Unless approved by the Contracting Officer, no costs shall be deducted from amounts due or owing without the Contractor's consent.

(b) The Contractor shall take all measures as required by law to prevent oil spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping into or onto any land or water). In the event the Contractor spills any oil (including, but not limited to, gasoline, diesel fuel, fuel oil, or jet fuel), the Contractor shall be responsible for the containment, cleanup, and disposal of the oil spilled. Should the Contractor fail or refuse to take the appropriate containment, cleanup, and disposal actions, the Government may do so itself. The Contractor shall reimburse the Government for all expenses incurred including fines levied by Federal, State, or local Governments.

(DESC 52.223-9F10)

I190.06 MATERIAL SAFETY DATA SHEETS -- COMMERCIAL ITEMS (DESC MAR 2000)

(a) The Contractor agrees to submit to the Contracting Officer, upon request, a Material Safety Data Sheet (MSDS) that meets the requirements of 29 CFR 1910.1200(g) and the latest revision of Federal Standard No. 313 for all requested contract items. MSDSs must cite the contract number, the applicable CAGE code of the manufacturer, and, where so identified, the National Stock Number (NSN).

(b) The data on the MSDSs must be current and complete, reflecting the final composition of the product supplied. Should the description /composition of the product change in any manner from a previously submitted MSDS, the Contractor shall promptly provide a new MSDS to the Contracting Officer.

(DESC 52.223-9F06)

I209.09 EXTENSION PROVISIONS (DESC APR 2003)

(a) The DESC Contracting Officer reserves the right to unilaterally extend this contract on the same terms and conditions one or more times for a total of no more than six months. Notice of contract extension will be furnished to the Contractor 30 days prior to expiration of this contract or any extension thereof. However, nothing in this clause precludes the Contractor from agreeing to an extension of the contract if the DESC Contracting Officer fails to issue the notice within the 30-day time frame.

(b) The foregoing, extension may be exercised by the DESC Contracting Officer where continued performance is required until a follow-on contract is awarded or, in the event a follow-on contract has been awarded, until a succeeding Contractor is positioned to commence performance.

(c) Extension of this contract shall be, considered to have been, accomplished at the time the DESC Contracting Officer provides written notification to the Contractor by facsimile or by mail.

(DESC 52.217-9F20)

I211 ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through 30 June 2005.

(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.

(FAR 52.216-18)