

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEM <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NUMBER 4200373737		PAGE OF 1 43		
2. CONTRACT NO.		3. AWARD/ EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER NND11373737R		6. SOLICITATION ISSUE DATE 05/26/2011	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME Andrea Basham			b. TELEPHONE NUMBER (No collect calls) 661 276-6126		8. OFFER DUE DATE/LOCAL TIME 06/24/2011 1400 PT	
9. ISSUED BY NASA/Dryden Flight Research Center P.O. Box 273 M/S 1422 Edwards CA 93523-0273			CODE DFRC	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SOLE SOURCE NAICS: 541712 SIZE STANDARD: 1000 <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A)				
11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b. RATING		
15. DELIVER TO Andrea Basham/Contract Specialist NASA Dryden Flight Research Center Building 4876, Warehouse 6 M/S 1422 Edwards CA 93524		CODE A	16. ADMINISTERED BY NASA/Dryden Flight Research Center P.O. Box 273 M/S 1422 Edwards CA 93523-0273					
17a. CONTRACTOR/OFFEROR		CODE	FACILITY CODE		18a. PAYMENT WILL BE MADE BY			
TELEPHONE NO.					18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO.		20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
001		The purpose of this contract is to acquire commercial flight and payload integration services to fly technology payloads on suborbital reusable launch vehicles. INCO TERMS 2: Destination Flight and Payload Integration Services for Suborbital Reusable Launch Vehicles Continued ... <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>						
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)		
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA				<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.				
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA				<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.				
<input type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 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 SPECIFIED HEREIN.					<input type="checkbox"/> 29. AWARD OF CONTRACT REF. _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (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		
				Brian Bowman				

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT

32a. QUANTITY IN COLUMN 21 HAS BEEN RECEIVED INSPECTED NOTED: _____ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____ 32c. DATE _____ 32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____ 32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____
 32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE _____

33. SHIP NUMBER _____ 34. VOUCHER NUMBER _____ 35. AMOUNT VERIFIED CORRECT FOR _____ 36. PAYMENT COMPLETE PARTIAL FINAL _____ 37. CHECK NUMBER _____
 PARTIAL FINAL

38. S/R ACCOUNT NUMBER _____ 39. S/R VOUCHER NUMBER _____ 40. PAID BY _____

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT _____ 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER _____ 41c. DATE _____ 42a. RECEIVED BY (*Print*) _____
 42b. RECEIVED AT (*Location*) _____
 42c. DATE REC'D (*YY/MM/DD*) _____ 42d. TOTAL CONTAINERS _____

SECTION 1 CONTINUATION OF SF1449

1.1 CLAUSES INCORPORATED BY REFERENCE

This contract incorporates FAR and NASA FAR Supplement (NFS) clauses by reference, with the same force and effect as if they were given in full text. Clauses incorporated by reference are listed at the beginning of each section as needed. Clauses incorporated by reference which require a fill-in by the Government include the text of the affected paragraph(s) only. This does not limit the clause to the affected paragraph(s). The Contractor is responsible for understanding and complying with the entire clause. The full text of the clause is available at the address contained in clause 52.252-2, Clauses Incorporated by Reference, of this contract.

1.2 SUPPLIES AND/OR SERVICES TO BE PROVIDED

The Contractor shall provide all resources (except as may be expressly stated in the contract as furnished by the Government) necessary to deliver and/or perform the items below in accordance with the Flight and Payload Integration Services Performance Work Statement (PWS) incorporated as Attachment A. The Contractor must demonstrate a successful flight profile within the appropriate flight level with a Qualified Vehicle to propose against a task order solicitation.

This is an Indefinite Delivery/Indefinite Quantity (IDIQ) contract. Effort shall be performed only as ordered by the Government in accordance with the following IDIQ clauses (included in full text under paragraphs 2.6, 2.7, 2.8, and 2.13 below): 52.216-18, 52.216-19, 52-216-22 and 1852.216-80 respectively. Orders will be priced utilizing the L1, L2, and L3 tables, as determined by the maximum priced flight standard services and by the identification of specific negotiated labor categories and hourly rates, and application of the appropriate fixed hourly rate(s) for non-standard services and special projects given below. Pricing is not required for all levels and any combination may be used.

The minimum price obligated under this contract is \$10,000. The ceiling price for this contract is \$5,000,000.

TBP = To Be Proposed

Maximum Priced Flight, Full Manifest: (See Description Below)

CLIN	Description	Not to Exceed Price
CLIN 0001	Reservation of entire manifest, successful payload integration, successful flight, and delivery of Flight Data Report for L1 flight	TBP
CLIN 0002	Reservation of entire manifest, successful payload integration, successful flight, and delivery of Flight Data Report for L2 flight	TBP
CLIN 0003	Reservation of entire manifest, successful payload integration, successful flight, and delivery of Flight Data Report for L3 flight	TBP

Non-standard Services and Special Projects: (See Description Below)

CLIN 0004	Labor Category*	Fixed Hourly Rate**

Maximum Priced Flight (Not to Exceed)

For each flight level at which the Offeror proposes to provide service, the Offeror shall describe the not to exceed maximum-priced flight within that flight level for which standard payload integration and flight service are rendered. For this standard service, the Offeror shall list the maximum fixed price and describe the envelope of capability (payload bay volume, payload mass, and altitude) that can be delivered in the flight if the entire manifest is purchased. The contractor certifies that these prices are as low (or lower) than those charged to their most favored customer for comparable quantities of services under similar terms and conditions, in addition to any discounts for prompt payment.

Non-Standard Services

Non-standard services include services above and beyond the Offeror’s standard service offering that are required to meet the government’s requirements. When the Offeror develops a firm-fixed price bid to a Task Order solicitation, the non-standard services, if any, shall be quoted in conjunction with the firm-fixed price for standard services. In no case will non-standard services be quoted without a quote for standard services.

Example, Non-Standard Services: The government has a payload with 10 antennas. The contractor allows for the integration of 1 antenna as part of the Contractor’s standard service delivery. The Contractor will quote the price for standard services and quote the price for integration of the other 9 antennas (non-standard service) to meet the government’s requirement.

Non-standard services include any task request that does not fall within the Offeror’s standard service offering.

Special Projects

Special projects are tasks that fall outside of an Offeror’s current commercial sRLV capabilities that enhance the capabilities of the Qualified Vehicle platform.

Example, Special Project: For the government’s planning purposes, the government desires that the Contractor(s) develop capability roadmaps around the Contractor’s service proposals. The government issues a Task Order for the Contractor(s) to document their service and capabilities roadmaps.

For non-standard payload integration and flight services, as well as for special projects, the Offeror shall provide a table of loaded labor rates for various skill levels.

*The identification of proposed labor categories is at the Offeror’s discretion and is not restricted by the number of rows in the tables.

**Fixed hourly rates must be loaded with all applicable overhead, fringe, G & A and profit amounts. The Contractor certifies that these labor are as low (or lower) than those charged to their most favored customer for comparable quantities of services under similar terms and conditions, in addition to any discounts for prompt payment.

(End of clause)

Data Requirements Description (DRD) List (Items Not Separately Priced.)

DRD No.	Title of DRD	No. Pages
DRD-1	Quality Assurance Plan	1
DRD-2	Safety and Health Plan	2
DRD-3	Flight Data Report	1
DRD-4 & DRD-5	Subcontracting Reports	1
DRD-6	Small Business Subcontracting Plan	1
DRD-7	Mission Implementation Document (MID)	1
DRD-8	Supplier Information Survey	1

1.3 Milestone Payments

The Offeror shall limit its proposed milestone payments for each task order to the following percentage ranges for each different flight level to establish the task order distribution amount to be paid upon successful completion of the milestone. The high end of the range for Milestone 1 may not exceed 30% regardless of the flight level and the low end of the range for Milestone 4 may not be less than 10%. Flight levels not proposed in response to a Government solicited order will be marked as “Not applicable.”

	Description	L1 Range	L2 Range	L3 Range
Milestone 1	Reservation of a slot for payload	% to % TBP	% to % TBP	% to % TBP
Milestone 2	Successful payload integration	% to % TBP	% to % TBP	% to % TBP
Milestone 3	Successful flight	% to % TBP	% to % TBP	% to % TBP
Milestone 4	Delivery of the Flight Data Report	% to % TBP	% to % TBP	% to % TBP
	Total	100%	100%	100%

(End of Section)

SECTION 2- ADDENDUM TO 52.212-4, CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS

- 2.1 52.203-3 Gratuities (Apr 1984)
- 2.2 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)
- 2.3 52.204-4 Printed or Copied Double-Sided on Recycled Paper (AUG 2000)
- 2.4 52.209-7 Information Regarding Responsibility Matters (Jan 2011)
- 2.5 52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters (Jan 2011)
- 2.6 52.216-18 Ordering. (OCT 1995)

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

orders may be issued from contract award through two years from award.

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

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

(End of clause)

2.7 52.216-19 Order Limitations (OCT 1995)

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than \$10,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of \$2,000,000;

(2) Any order for a combination of items in excess of \$2,000,000; or

(3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

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

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

2.8 52.216-22 Indefinite Quantity (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) 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 six months after expiration of the contract period.

(End of clause)

2.9 52.217-2 Cancellation Under Multi-Year Contracts (Oct 1997)

2.10 52.227-14 -- Rights in Data – General (DEC 2007)

2.11 52.252-2 Clauses Incorporated by Reference (FEB 1998)

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

<http://www.acqnet.gov/far/>

NASA FAR Supplement (NFS) clauses:

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

(End of clause)

2.12 1852.215-84 Ombudsman. (OCT 2003) -- Alternate I (JUN 2000)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from Offerors, potential Offerors, and contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the contracting officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution.

(b) If resolution cannot be made by the contracting officer, interested parties may contact the installation ombudsman,

PATRICK C. STOLIKER
Patrick.C.Stoliker@nasa.gov
(661) 276-2706
Fax: (661) 276-2298
NASA-DFRC
P. O. Box 273, Mailstop D-2004
Edwards, CA 93521-0273.

Concerns, issues, disagreements, and recommendations which cannot be resolved at the installation may be referred to the NASA ombudsman, the Director of the Contract Management Division, at 202-358-0445, facsimile 202-358-3083, e-mail james.a.balinskas@nasa.gov. Please do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer or as specified

elsewhere in this document.

(c) If this is a task or delivery order contract, the ombudsman shall review complaints from contractors and ensure they are afforded a fair opportunity to be considered, consistent with the procedures of the contract.

(End of clause)

2.13 1852.216-80 Task Ordering Procedure (OCT 1996)

(a) Only the Contracting Officer may issue task orders to the Contractor, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule. The Contractor may incur costs under this contract in performance of task orders and task order modifications issued in accordance with this clause. No other costs are authorized unless otherwise specified in the contract or expressly authorized by the Contracting Officer.

(b) Prior to issuing a task order, the Contracting Officer shall provide the Contractor with the following data:

(1) A functional description of the work identifying the objectives or results desired from the contemplated task order.

(2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met.

(3) A request for a preliminary Mission Implementation Document (MID; see Performance Work Statement for definition) from the Contractor including price, milestone breakout, schedule and any other information required to determine the reasonableness of the Contractor's proposal.

(4) A copy of the Space Act Agreement with the Payload Provider showing the type of payload being provided and the Liability and Risk of Loss – Cross-Waiver.

(c) Within 13 calendar days after receipt of the Contracting Officer's request, if the Contractor chooses to respond to the request, the Contractor shall submit a preliminary MID conforming to the request.

(d) After review and any necessary discussions, the Contracting Officer may issue a task order to the Contractor containing, as a minimum, the following:

(1) Date of the order.

(2) Contract number, CLIN, and order number.

(3) The Government approved MID with information including special instructions or other information necessary for performance of the task.

(4) Performance standards, and where appropriate, quality assurance standards.

(5) Maximum dollar amount authorized (price and milestone payment).

(6) If contract funding is by individual task order, accounting and appropriation data.

(e) The Contractor shall provide acknowledgment of receipt to the Contracting Officer within 3 calendar days after receipt of the task order.

(f) If time constraints do not permit issuance of a fully defined task order in accordance with the procedures

described in paragraphs (a) through (d), a task order which includes a ceiling price may be issued.

(g) The Contracting Officer may amend tasks in the same manner in which they were issued.

(h) In the event of a conflict between the requirements of the task order and the Contractor's approved task plan, the task order shall prevail.

2.14 1852.219-74 Use of Rural Area Small Business (September 1990)

2.15 1852.219-75 Small Business Subcontracting Reporting (MAY 1999) (If Offeror is a large business)

2.16 1852.219-76 NASA 8 Percent Goal (JUL 1997)

2.17 1852.223-70 Safety and Health (APR 2002)

2.18 1852.223-73 Safety and Health Plan (NOV 2004)

2.19 1852.223-75 Major Breach of Safety or Security (FEB 2002)

2.20 1852.227-14 Rights in Data--General

2.21 1852.237-72 Access to Sensitive Information (JUN 2005)

2.22 1852.237-73 Release of Sensitive Information (JUN 2005)

2.23 1852.245-72 Liability for Government Property Furnished for Repair or Other Services. (March 1989)

2.24 PERIOD OF PERFORMANCE

The period of performance of this contract is 2 years from the effective date of contract.

(End of clause)

2.25 PLACE OF PERFORMANCE - SERVICES

The services to be performed under this contract will be performed at locations specified in the task order(s).

(End of clause)

2.26 DELIVERY AND/OR COMPLETION SCHEDULE

The required delivery date(s) or performance period(s) will be specified in the task order(s).

(End of clause)

2.27 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders -- Commercial Items (Apr 2011)

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

- (1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

___ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

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

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

X__ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

___ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

___ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub L. 111-5) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).

X__ (4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Jul 2010) (Pub. L. 109-282) (31 U.S.C. 6101 note).

___ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

X__ (6) 52.209-6, Protecting the Government' Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010) (31 U.S.C. 6101 note). (Applies to contracts over \$30,000). (Not applicable to subcontracts for the acquisition of commercially available off-the-shelf items).

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

X__ (8) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

___ (9) [Reserved]

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

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

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

___ (11) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

___ (ii) Alternate I (Oct 1995) of 52.219-7.

___ (iii) Alternate II (Mar 2004) of 52.219-7.

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

X__ (13) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637 (d)(4).)

___ (ii) Alternate I (Oct 2001) of 52.219-9.

X__ (iii) Alternate II (Oct 2001) of 52.219-9.

___ (iv) Alternate III (July 2010) of 52.219-9.

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

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

___ (16) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

___ (ii) Alternate I (June 2003) of 52.219-23.

___ (17) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

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

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

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

___ (21) 52.219-29, Notice of Total Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Apr 2011).

___ (22) 52.219-30, Notice of Total Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Apr 2011).

X__ (23) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

___ (24) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).

X__ (25) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

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

X__ (27) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

X__ (28) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

X__ (29) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

X__ (30) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

___ (31) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

___ (32) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

___ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

___ (33) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

___ (34) (i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

___ (ii) Alternate I (Dec 2007) of 52.223-16.

X__ (35) 52.223-18, Contractor Policy to Ban Text Messaging while Driving (Sep 2010) (E.O. 13513).

___ (36) 52.225-1, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

___ (37) (i) 52.225-3, Buy American Act --Free Trade Agreements -- Israeli Trade Act (Jun 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-301, 109-53, 109-169, 109-283, and 110-138).

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

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

___ (38) 52.225-5, Trade Agreements (Aug 2009) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

X__ (39) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

___ (40) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

___ (41) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

___ (42) 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)).

___ (43) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

X__ (44) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003) (31 U.S.C. 3332).

___ (45) 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

___ (46) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

___ (47) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

___ (48) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

___ (ii) Alternate I (Apr 2003) of 52.247-64.

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

___ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*).

___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

___ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

___ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

___ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-- Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*).

___ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*).

___ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247).

___ (8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

(d) *Comptroller General Examination of Record* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

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

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after

final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

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

(e)

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

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

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

(iii) [Reserved]

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

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

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

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

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

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

___ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*)

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

(xii) 52.222-54, Employment Eligibility Verification (Jan 2009).

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

(xiv) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

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

(End of Clause)

2.28 LIST OF ATTACHMENTS

The following documents are attached hereto and made a part of this contract:

Attachment	Title	Date
A	Flight and Payload Integration Services Performance Work Statement	March 2011
B	Data Requirements Description (DRD)	March 2011
C	Quality Assurance Plan	TBP
D	Safety and Health Plan	TBP
E	Supplier Information Survey	TBP
F	Subcontracting Plan (if required)	TBP

(End of Clause)

(End of Section)

SECTION 3 ADDENDUM TO 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS

3.1 GENERAL INTRUCTIONS

(a) It is NASA’s intent, by providing the instructions set forth below, to solicit information that will demonstrate the Offeror’s capability to successfully complete the requirements specified in the Performance Work Statement. Generally, the offer should:

- (1) Demonstrate understanding of the overall and specific requirements of the anticipated contract.
- (2) Convey the company’s capabilities for transforming understanding into accomplishment.
- (3) Present in detail, the plans and methods for so doing.
- (4) Identify the price to the Government associated with so doing.

(b) The Offeror will be responsible for satisfactory accomplishment of the contract awarded hereunder. In the event subcontractors or other teaming arrangements are proposed, their relationships during the effort shall be indicated, and their proposed contributions to the work and to the Offeror’s offer shall be identified and integrated into each part of the offer as applicable.

(c) NASA intends to evaluate offers and award contract(s) without discussions with Offerors (except clarifications as described in FAR 15.306(a)). Therefore, the Offeror’s initial offer should contain the Offeror’s best terms from a price and technical standpoint. The Government reserves the right to conduct

discussion if the Source Selection Authority later determines them to be necessary. If discussions are held and final offer revisions are requested, NASA will specify separate page limitations in its request for that submission.

(d) OFFER CONTENT AND FORMAT

(1) Offerors shall submit offers in three sections as specified below. Each part of the offer should be complete, and prepared in accordance with the solicitation instructions to enable concurrent and separate evaluation of each part.

SECTION	OFFER SECTION REQUIRED
I.	Technical Section
II.	Past Performance Section
III.	Business Section (Including Pricing) Cover letter, completed section 4 and SF1449 (All with original signatures), completed information in Section 1.2, 1.3, and 3.1.3 paragraph (d) for pricing

Diagrams, charts, tables, artwork, and photographs may be reduced and, if necessary, run landscape or folded to eliminate oversize pages. Text in diagrams, charts, tables, artwork, and photographs shall be no smaller than 10 point. Diagrams, charts, tables, artwork, and photographs shall not be used to circumvent the text size limitations of the offer.

(2) All pages shall be numbered and identified with the Offeror's name, RFP number and date. Subsequent revisions, if requested, shall be similarly identified to show revision number and date. A table of contents shall be provided with figures and tables listed separately.

(3) Offeror's are required to submit their offers in two formats, one in a conventional hard copy format and one in a standardized 700 MB Compact Disk (CD) format. In the event of a discrepancy between the electronic format and the hard copy, the hard copy will be considered the intended text. The disk submission must be compatible with the software and hardware specification described below. Two disks (one original and one backup), each containing electronic files of Section I, II, and III, must be provided. They must be labeled externally with the Solicitation/RFP Number, Company Name, Date Prepared, have an indication of the files or range of files contained on the disk, and annotated "Source Selection Information - see FAR 3.104".

The Government will use Microsoft Windows 7 and Adobe Acrobat for its evaluation of offers. Spreadsheets should be true self-calculating files. For pictures, NASA prefers JPG format. The following formats for pictures, drawings, figures, etc., may also be used: Adobe Acrobat (.pdf).

(4) The format for each offer section shall parallel, to the greatest extent possible, the format of the evaluation factors contained in Section 3 of the solicitation. The offer content shall provide a basis for evaluation against the requirements of the solicitation. Each section of the offer shall specify the relevant evaluation criteria being addressed, if appropriate

(5) Information shall be precise, factual, detailed and complete. Offerors shall not assume that the evaluation team is aware of company abilities, capabilities, plans, facilities, organization or any other pertinent fact that is important to accomplishment of the work as specified in the PWS. The evaluation will be based primarily on the information presented in the written offer. The offer shall specifically address criteria identified in the evaluation factors.

(e) In addition to the offer submission requirements of FAR 52.212-1, Instructions to Offerors - Commercial Items (Jun 2008), the Offeror shall include the following information in the offer:

- (1) A completed copy of the Standard Form 1449 (Solicitation/Contract/Order Commercial Items), signed by an official authorized to contractually bind the Offeror.
- (2) The pages from the RFP with the required Offeror fill-ins. The balance of the RFP need not be returned unless the Offeror has made changes to other pages that will constitute part of the contract. Any such changes must be separately identified as exceptions.
- (3) Quality Assurance Plan.
- (4) Safety and Health Plan.
- (5) Small Business Subcontracting Plan (if Offeror is a large business)
- (6) Supplier Information Survey
- (7) A technical description of the items and/or services being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, pictorial or graphic information, trade studies, test results, or other supporting data as necessary.
- (8) Identification of no more than 5 recent (performed within the past ten years) contracts for the same or similar items and/or services, preferably with the Government. Identification shall list contract number, contract value and type, agency name and point of contact (including address, telephone and fax numbers, and e-mail address), the items and/or services provided under the contract, and contract status (current, terminated (if so, why), successfully completed).

(f) OFFER MARKING AND DELIVERY

- (1) Receiving Office

The designated receiving office for offers is the NASA DFRC Acquisition Management Office, Edwards, California, in Building 4800, Room 1422. The hours are 7:30 a.m. to 4:00 p.m., Monday through Friday, Pacific Daylight Time, except Government Holidays.

Offerors must either deliver their offer, modifications or withdrawals by U.S. Postal Service Mail or hand deliver* (includes the use of a commercial delivery service). Regardless of the delivery method chosen, the offer must be closed and sealed as if for mailing.

*Note: Non-U.S. citizens will not be given access to the Dryden Flight Research Center for the purpose of offer delivery.

- (2) External Marking

“NASA Dryden Flight Research Center
Building 4876, Warehouse 6
M/S 1422
Edwards, CA 93524
Attention: Andrea Basham/A
RFP NND11373737R
OFFER-DELIVER UNOPENED”

“COMMERCIAL DELIVERY PERSONNEL: THIS OFFER MUST BE HAND CARRIED DIRECTLY TO DRYDEN FLIGHT RESEARCH CENTER BUILDING 4800, ROOM 1422, AND RECEIVED NO LATER THAN 2:00 P.M. ON 06/24/2011. OFFER IS TO BE DELIVERED TO ONLY BRIAN BOWMAN OR ANDREA BASHAM.”

(g) DUE DATE FOR RECEIPT OF OFFERS

(1) The due date and time for receipt of offers is 2:00 P.M. (Pacific Standard Time) on June 24, 2011.

(2) Offers received after the due date and time specified in Section 3.1 paragraph (g)(1) will be processed in accordance with FAR Clause 52.215-1 "Instructions to Offerors - Competitive Acquisitions."

(End of Provision)

3.1.1 OFFER PREPARATION - TECHNICAL SECTION

This must be a separate section.

The content of the Technical Section shall provide the basis for evaluation of the Offeror's response to the technical requirements of the RFP. The full contents of this section shall follow the organization of the areas describes below and include the content as described in those sections.

The offer must include a discussion of the Offeror's plan to meeting the requirements of the contemplated contract. The technical discussion should be specific, detailed, and complete enough to clearly and fully demonstrate that the Offeror 1) understand the requirements and the inherent problems associated with the objectives of the procurement and 2) have the capability and experience with regards to the technical requirements. Stating that you understand and will comply with the specifications, or paraphrasing the specifications is inadequate as are phrases such as: "standard procedures will be employed; and "well-known techniques will be used." The offer must be sufficient as to how you propose to comply with the applicable requirements, including a full explanation of the techniques and procedures you propose to follow. Information previously submitted, if any, will be considered only to the extent it is resubmitted. It should not be incorporated by reference.

(a) TECHNICAL FACTOR

(1) The Offeror shall demonstrate its understanding of the requirements and its ability to meet all of the functional requirements associated with the PWS by responding to the following:

(i)The written narrative shall explain the Offeror's approach to performing the work required in the PWS of this RFP. The Offeror's offer shall expand upon the functions in the PWS in a way that demonstrates a full understanding of the nature of the work to be performed. The Offeror shall describe its methodology in identifying, reporting and resolving typical problems that may be encountered in satisfying the requirements of the PWS. Also, describe areas of potential risk to the successful fulfillment of the requirements and the approach for minimizing their impact.

(ii)If the Offeror is proposing use of subcontractors, teaming arrangements, or other associated contractual arrangements, discuss the functions of these arrangements in meeting the requirements of the PWS and the benefits of these arrangements to NASA. The area of expertise for each contributor should be correlated to each of the functional areas of the PWS.

(iii)The Offeror should describe their capability to provide access to Qualified Vehicles, within the period of performance, that are capable of providing flight services according to the requirements of Sec. 4 in the PWS. The Offeror should describe how each Qualified Vehicle meets the definition of a Qualified Vehicle in Sec. 3.2 of the PWS. For each Qualified Vehicle, the Offeror should describe the flight level(s)—L1, L2, and/or L3—that the Qualified Vehicle is able to achieve while meeting the performance requirements in Sec. 3.2 of the PWS. For each Qualified Vehicle, and for each achievable flight level (L1, L2, L3), the Offeror should provide details of vehicle performance and payload carrying capability (volume, mass, number of payloads, interfaces—electrical, mechanical, environmental interfaces).

(iv) The Offeror should describe their standard and non-standard payload integration service and flight service provision. The Offeror should describe how they are capable providing payload integration service

and flight service according to the requirements of Sec. 4 in the PWS. If the Offeror is subcontracting for flight service, then the Offeror should provide evidence of the subcontracting agreement. Similarly, if the Offeror is subcontracting for payload integration service, then the Offeror should provide evidence of the subcontracting agreement.

(v) The Offeror should describe the standards, specifications, processes, and other rationale that are employed to ensure that the Program is provided safe, reliable, and quality services. The Offeror must complete the Supplier Information Survey as part of their proposal.

(2) QUALITY ASSURANCE PLAN

The Offeror shall submit a detailed quality assurance plan as part of its offer. The plan must include a detailed discussion of the policies, procedures, and techniques that will be used to ensure quality control of all products and services delivered under this contract. The plan must similarly address quality assurance for subcontractor products and services for any proposed subcontract. Identification of recent audits, audit results, and copies of certifications relative to quality assurance shall be included. This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(3) SAFETY AND HEALTH PLAN

The Offeror shall submit a detailed safety and occupational health plan as part of its offer, in accordance with paragraph 1852.223-73 Safety and Health Plan (NOV 2004). The plan must include policies, procedures, and techniques that will be used to ensure the safety and occupational health of contractor employees and to ensure the safety of all working conditions throughout the performance of the contract. The plan must similarly address safety and occupational health for subcontractor employees for any proposed subcontract. Also, when applicable, the plan must address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of NASA employees and the public. This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(b) SUMMARY OF DEVIATIONS/EXCEPTIONS (TECHNICAL OFFER)

Identify and explain the reason for any deviations, exceptions, or conditional assumptions taken with respect to these Technical offer instructions.

(End of provision)

3.1.2 OFFER PREPARATION - PAST PERFORMANCE SECTION

This must be a separate offer section.

Past performance information will be used to assess the extent to which contract objectives (technical, quality, safety, and schedule) have been achieved on related efforts by the Offeror and any significant subcontractors or teaming partners. Experience will be reviewed as the accomplishment of work which is comparable or relevant to the work or effort required by this RFP. This factor includes the evaluation of overall corporate or Offeror experience and past performance, but not the experience and performance of individuals who are proposed to be involved with work pursuant to this RFP. You are cautioned that omissions or an inaccurate or inadequate response to this evaluation factor will have a negative effect on your overall evaluation.

(a) OVERVIEW

Provide a short overview of your past performance history. Provide a concise discussion of any awards, certifications or special recognition. Identify the date and what segment of the company received the award

or certification.

(b) **CONTRACT LIST**

Offerors and any proposed critical subcontractor(s) [defined for Past Performance purposes as any entity with a proposed subcontract that is likely to exceed \$100,000] shall furnish the following information for no more than 5 relevant contracts (completed and ongoing) which your company has had within the last 10 years. The contracts may be NASA contracts, contracts with other Government agencies, and/or commercial contracts, or they may be subcontracts. Indicate which contracts are most relevant (i.e., similar in technical requirements, magnitude and complexity) and how they are related to the proposed effort, as well as which contracts were performed by the division of your company (if applicable) that will perform the proposed contract. Include the following information:

- (i) Customer's name, physical address, email address, and telephone number of both the lead contractual and technical personnel most familiar with the Offeror's performance record. (Please verify the telephone numbers and email addresses provided are current and correct);
- (ii) Contract number, type, and total original and present or final contract value;
- (iii) Date of contract, place(s) of performance, and delivery dates or period of performance;
- (iv) Brief description of contract work and comparability to the proposed effort. Identify Supplemental Type Certificate experience. It is not sufficient to state that it is comparable in magnitude and scope. Rationale must be provided to demonstrate that it is comparable;
- (v) Method of acquisition: competitive or noncompetitive;
- (vi) Nature of award: initial or follow-on. If initial, indicate whether award was preceded by a Government, customer, or Offeror financed study;
- (vii) Identify and explain completion successes and delays, including adherence to program schedules. Provide an assessment of the performance (technical and schedule) on these past programs and support these assessments with metrics such as award or incentive fees earned; and
- (viii) List any contracts terminated (partial or complete) within the past 5 years and basis for termination (convenience or default). Include the contract number, name, address, and telephone number of the terminating officer. Include contracts that were "descoped" by the customer because of performance or cost problems.

Offerors are to provide a statement of their past safety performance on contracts similar to this effort. A statement should be made regarding any OSHA citations of your company's operations, during the past 5 years. A record of your company's OSHA recordable injuries and illnesses for the past 5 years shall also be provided. The records will typically include, as a minimum, one copy of each year's OSHA logs for these past 5 years as required by Title 29 of the Code of Federal regulations, Section 1904.5. (At its option, the Offeror may submit a consolidated OSHA Form 300A for all establishments or copies of the OSHA 300 for each establishment during this period.)

(c) **SUMMARY OF DEVIATIONS/EXCEPTIONS (PAST PERFORMANCE OFFER)**

Identify and explain the reason for any deviations, exceptions, or conditional assumptions taken with respect to these Past Performance offer instructions.

(End of provision)

3.1.3 OFFER PREPARATION - BUSINESS SECTION (INCLUDING PRICING)

This must be a separate section.

(a) **COVER LETTER**

Include a cover letter with the offer. The cover letter must be signed by an official authorized to contractually bind the offering company. As part of the letter, please provide the following information:

- (1) The names, titles, email addresses and phone numbers of persons to be contacted for clarification

of questions of a technical nature.

- (2) A statement that the offer is firm for a period of not fewer than 120 days.
- (3) A statement regarding acceptance of the anticipated contract provisions and proposed schedule, or specific exceptions taken to any of the terms and conditions.

(b) STANDARD FORM (SF) 1449, OFFEROR FILL INs AND SECTION 4 (MODEL CONTRACT)

Blocks 12,17a, 30a, 30b, and 30c of the SF 1449 and the indicated Offeror required fill-ins in Sections 1-4 must be completed. The signed SF 1449, model contract (Sections 1-3) with the required fill-ins, and Section 4, Certifications, Representations and Other Statements of Offerors must be submitted. The balance of the solicitation need not be returned, unless the Offeror has made changes to other pages that will constitute part of the contract. Any such changes must be separately identified in the Summary of Exceptions. All SF1449s require original signatures.

(c) SUMMARY OF EXCEPTIONS

Include a statement of acceptance of the anticipated contract provisions and proposed contract schedule, or list all specific exceptions to the terms, conditions, and requirements of Sections 1 through 4 of this solicitation, if applicable. Statement of acceptance and/or list of exceptions shall be included in the Cover Letter. Include the reason for the exception, or refer to where the reason is addressed in the offer. This list must include all exceptions, both “business” and “technical”.

Include any new terms, conditions or clauses proposed by the Offeror which are of benefit to NASA. Discuss the benefit to NASA in Section I, II, or III as appropriate. Highlight exceptions in the margin of the offer where they appear in the text.

Offerors are cautioned that exceptions or new terms, conditions, or clauses may result in a determination of offer unacceptability (NFS 1815.305-70), may preclude award to an Offeror if award is made without discussions, or may otherwise affect an Offeror’s competitive standing.

(d) PRICING INSTRUCTIONS

This is a commercial item acquisition, as defined in FAR 2.101, and adequate price competition is anticipated. Accordingly, Offerors are not required to submit Certified Cost or Pricing Data and successful Offerors will not be required to submit signed Certificates of Current Cost or Pricing Data.

Offerors are instructed to provide the following:

- (1) For contract line item numbers (CLINs) 0001, 0002 and 0003 in 1.2, insert the “not to exceed” price for each flight level being proposed. Insert “Not applicable” for any flight level not being proposed.
- (2) For CLIN 0004, identify the proposed labor categories and the fixed hourly rate, inclusive of all costs and profits, for each proposed labor category.
- (3) Complete the table in 1.3, Milestone Payments, by entering the range within which milestones will be proposed for each order. Identify ranges for each flight level being proposed. Note that the milestone payment for Milestone 1 will not exceed 30% and the milestone payment for Milestone 4 will not be less than 10%.
- (4) Propose prices for the following sample tasks for each flight level selected:

*L1 Sample Task:

Payload: 1U CubeSat weighing 1-kg.

Flight Profile:

- (1) Fly to 6-km altitude above ground level (AGL);
- (2) Fly to 500-m AGL and hover for 30sec;
- (3) Land within 10-m of the takeoff location.

****L2 Sample Task:**

Payload: 1U CubeSat weighing 1-kg.

Flight Profile: Fly to 20-km altitude mean sea-level (MSL).

*****L3 Sample Task:**

Payload: 1U CubeSat weighing 1-kg.

Flight Profile: Fly to 100-km MSL.

The selection of proposed flight levels, labor categories and milestones is at the Offeror's discretion. Prices will be rounded to the nearest thousand dollars.

(End of Section)

3.2 52.212-2 Evaluation - Commercial Items. (JAN 1999)

(a) The Government will award a contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

- (i) technical;
- (ii) past performance; and
- (iii) price (see FAR 15.304).

The combined importance of the Technical Factor and the Past Performance Factor is significantly more important than the Price Factor. As individual factors, the Technical Factor is more important than Past Performance, which is more important than the Price Factor. Offerors should note that items within any factor, if found to be deficient, may be the basis for rejection of an offer.

(b) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful Offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

3.3 EVALUATION APPROACH

3.3.1 EVALUATION FACTORS

The essential objective of the offer process is to identify and select the contractor(s) able to successfully meet the Government's needs in the manner most advantageous to the Government, all factors considered. The relative probabilities of Offerors to accomplish this will be judged by evaluation of specific factors. There are three evaluation factors for this procurement: Technical, Past Performance, and Price. This section provides a further description for each evaluation factor. The factors will not be numerically scored. Selection will be determined through use of the Best Value Continuum Tradeoff Process as described in FAR 15.101 and NFS 1815.101.

3.3.2 OFFER EVALUATION - TECHNICAL FACTOR

(a) The Technical Factor will be used to evaluate the capability of the Offeror to accomplish the work to be

performed as detailed in the PWS. The SEC is primarily interested in the entities (an entity is defined as an organization such as a division or branch of a corporation, or a parent, subsidiary, or affiliate of the corporation) actually performing the work with regard to their formal training, technical expertise and managerial approach. The Technical factor will be evaluated through identification of significant strengths, strengths, weaknesses, significant weaknesses, and deficiencies, relative to meeting the technical elements set forth herein. The narrative will be evaluated based on the completeness in demonstrating capability and methodology with respect to elements listed in Section 3.3.2. For Technical, the successful Offeror will be selected based on the number of significant strengths, strengths, significant weaknesses, weaknesses, and deficiencies, which are defined as follows:

- Deficiency is a material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increase the risk of unsuccessful contract performance to an unacceptable level.
- Weakness means a flaw in the proposal that increases the risk of unsuccessful contract performance.
- Significant Weakness in the proposal is a flaw that appreciably increases the risk of unsuccessful contract performance.
- Strength is an aspect of the proposal that will have some positive impact on the successful performance of the contract.
- Significant Strength is some aspect of the proposal that greatly enhances the potential for successful contract performance.

The Technical Factor establishes the Offeror's technical and management approaches including quality and safety, and the small business utilization structure to be used if required. Technical Factor constitutes the "what" and "how" of the offer and quality of performance in implementing its technical and management approaches. Past Performance provides insight into how well the contractor has "done what it said it would do" on comparable efforts or relevant past performance.

(1) The Offeror's understanding of the work to be performed as related to the functions in the PWS will be evaluated.

(i)The evaluation will include the approach described by the Offeror to performing the work in the PWS as well as the methodology used to identify, report and resolve problems encountered in the performance of the PWS requirements. The Offeror's understanding of the nature of the work to be performed will be evaluated. How the Offeror identifies and mitigates the risks to fulfilling the PWS requirements will be evaluated. The compatibility between the proposed technical and management approach and the proposed price to accomplish the work will be an important consideration in evaluation of this factor. In addition, a risk assessment of the offer in terms of technical, price, schedule, and performance, will be considered in determining technical strengths, weaknesses, and deficiencies.

(ii) The use of subcontractors or teaming arrangements will be evaluated in terms of the functionality of these arrangements in meeting the PWS requirements and the benefits of these arrangements to NASA.

(iii)The Offeror should describe their capability to provide access to Qualified Vehicles, within the period of performance, that are capable of providing flight services according to the requirements of Sec. 4 in the PWS. The Offeror should describe how each Qualified Vehicle meets the definition of a Qualified Vehicle in Sec. 3.2 of the PWS. For each Qualified Vehicle, the Offeror should describe the flight level(s)—L1, L2, and/or L3—that the Qualified Vehicle is able to achieve while meeting the performance requirements in Sec. 3.2 of the PWS. For each Qualified Vehicle, and for each achievable flight level (L1, L2, L3), the Offeror should provide details of vehicle performance and payload carrying capability (volume, mass, number of payloads, interfaces—electrical, mechanical, environmental interfaces).

(iv)The Offeror should describe their standard and non-standard payload integration service and flight service provision. The Offeror should describe how they are providing payload integration

service and flight service according to the requirements of Sec. 4 in the PWS. If the Offeror is subcontracting for flight service, then the Offeror should provide evidence of the sub-contracting agreement. Similarly, if the Offeror is subcontracting for payload integration service, then the Offeror should provide evidence of the sub-contracting agreement.

(v) The Offeror should describe the standards, specifications, processes, and other rationale that are employed to ensure that the Program is provided safe, reliable, and quality services. The Offeror must complete the Supplier Information Survey as part of their proposal.

Specifically, the details shown below will be considered by NASA in doing its evaluation:

- A. Depth and realism of discussion of how the requirements will be performed. Realism of technical approach in maximizing:
 - (a) Capability;
 - (b) Maintainability; and
 - (c) Supportability (upgradeability)
- B. Depth and realism of discussion on how Offeror will maximize the application and utilization of commercial practices and products
- C. Realism of the schedule, key milestones, deliverables, and ability to deliver service for the contract;
- D. Realism of additional resources necessary to successfully meet the PWS requirements;
- E. Completeness and accuracy in the identification of critical issues, including risk identification and mitigation.

NOTE: SIMPLY RESTATING THE PWS IS UNACCEPTABLE AND MAY RESULT IN AN OFFERORS OFFER BEING CONSIDERED NONRESPONSIVE.

(2) QUALITY ASSURANCE PLAN

The Offeror’s Quality Assurance Plan will be evaluated to ensure confidence that services are furnished to NASA quality standards.

(3) SAFETY AND HEALTH PLAN

The Offeror’s Safety and Health Plan will be evaluated for acceptance in accordance with NFS 1852.223-73. The approach in the plan will be reviewed for compliance with applicable safety regulations and to ensure that services and supplies are furnished in a safe and healthy manner.

(4) SMALL BUSINESS SUBCONTRACTING PLAN (if Offeror is a large business)

In accordance with FAR 52.219-9, Small Business Subcontracting Plan and its Alternate II, the Offeror shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business concerns, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and with women-owned small business concerns.

The Contracting Officer’s assessment of appropriate subcontracting goals for this acquisition, expressed as a percent of TOTAL CONTRACT VALUE, is as follows:

Small Businesses (SB)	25%
Small Disadvantaged Business Concerns (SDB) Includes SDBs in represented and under-represented areas*	10%

Women Owned Small Business Concerns (WOSB)	0
Historically Black Colleges and Universities (HBCU)	0
HUBZone Small Business Concerns (HBZ)	0
Veteran Owned Small Business Concerns (VOSB)	0
Service-Disabled Veteran-Owned Small Business Concerns (SDVOSB)	0

(5) SUPPLIER INFORMATION SURVEY

The Offeror's Supplier Information Survey will be evaluated to ensure confidence that services are furnished to NASA quality standards.

(End of provision)

3.3.3 OFFER EVALUATION - PAST PERFORMANCE FACTOR

(a) Past performance is an important factor in accessing the ability of the Offeror to perform the PWS requirements and the risks associated with that Offeror's offer. Past performance reflects the accomplishments of work by an Offeror that is comparable to, or related to, the work or effort required under this procurement. This portion of the evaluation pertains to overall corporate experience, to include corporate past performance of any proposed subcontractors, (as opposed to that of proposed individual or key personnel), as it pertains to programs with both Government and industry. In addition to reviewing the Offeror(s) submission, the SEC reserves the right to collect information on past performance of the Offeror(s) from other sources, such as other NASA personnel, other Government agencies, or commercial references, etc., to obtain their views on the quality of work or services provided by the Offeror(s) whether the Offeror performed as a prime or subcontractor. The Government will consider the currency and relevance of the information, source of the information, context of the information, and general trends in performance. Evaluation of past performance is subjective, based on consideration of all relevant facts and circumstances. It will include a determination of the Offerors commitment to customer satisfaction and will include conclusions of informed judgment.

(b)The evaluation will be conducted in accordance with FAR 15.305(a)(2) and NFS 1815.305(a)(2), "Past Performance Evaluation". Offerors without a record of relevant past performance or for whom information on past performance is not available, will not be evaluated favorably or unfavorably on past performance, but will receive a "Neutral" rating. Past performance will include the following specific areas established for this procurement.

(1) Technical Performance

Considers the Offeror's technical performance on contract tasks and deliverables for previous and present work. The Offeror will be evaluated in terms of the relevancy of services provided, compliance with technical requirements, appropriateness and utilization of personnel, corporate support, and subcontractor management. The Offeror's initiative in identifying and resolving unforeseen technical problems will be considered.

(2) Schedule Performance

Considers how well the Offeror has met milestone completion dates and end-item delivery dates. This includes any interim deliverables or milestones such as periodic technical and business reports, technical manuals and specifications, and completion of valid technical direction such as task assignments. Responsiveness to technical direction and contract requirements (technical and

administrative) will be considered.

(c) The past performance evaluation will assess the extent of the Offeror's relevant experience evidenced within the contract(s) referenced in the offer, or as otherwise known to the Government, associated with each of the PWS areas. The complexity and magnitude of the Offeror's quality and quantity of specific technical and management experience directly applicable to the requirement will be especially important. Current and relevant experience will have greater impact in the Government's assessment than less recent and less relevant experience. The terms "current and recent" are defined as contracts in which work was performed up to 10 years from this solicitation issuance date. The term "relevant" means contracts having comparable size or scope, and significant technical or cost similarity, association or other relationship with the effort and/or contract type described in this RFP.

(d) NASA will evaluate the past performance information provided by the Offerors, as well as any other information available, in accordance with the criteria below and assign strengths, weaknesses and deficiencies. The Past Performance Factor is not to be numerically weighted and scored. The results of this evaluation will be consolidated into a confidence level rating. The rating system that will be used by NASA to determine the confidence-level rating for each Offeror is as follows:

Very High Level of Confidence

The Offeror's relevant past performance is of exceptional merit and is very highly pertinent to this acquisition; indicating exemplary performance in a timely, efficient, and economical manner; very minor (if any) problems with no adverse effect on overall performance. Based on the Offeror's performance record, there is a very high level of confidence that the Offeror will successfully perform the required effort. ** (One or more significant strengths exist. No significant weaknesses exist.)

High Level of Confidence

The Offeror's relevant past performance is highly pertinent to this acquisition; demonstrating very effective performance that would be fully responsive to contract requirements with contract requirements accomplished in a timely, efficient, and economical manner for the most part with only minor problems with little identifiable effect on overall performance. Based on the Offeror's performance record, there is a high level of confidence that the Offeror will successfully perform the required effort. ** (One or more significant strengths exist. Strengths outbalance any weakness.)

Moderate Level of Confidence

The Offeror's relevant past performance is pertinent to this acquisition, and it demonstrates effective performance; fully responsive to contract requirements; reportable problems, but with little identifiable effect on overall performance. Based on the Offeror's performance record, there is a moderate level of confidence that the Offeror will successfully perform the required effort. ** (There may be strengths or weaknesses, or both.)

Low Level of Confidence

The Offeror's relevant past performance is at least somewhat pertinent to this acquisition, and it meets or slightly exceeds minimum acceptable standards; adequate results; reportable problems with identifiable, but not substantial, effects on overall performance. Based on the Offeror's performance record, there is a low level of confidence that the Offeror will successfully perform the required effort. Changes to the Offeror's existing processes may be necessary in order to achieve contract requirements. ** (One or more weaknesses exist. Weaknesses outbalance strengths.)

Very Low Level of Confidence

The Offeror's relevant past performance does not meet minimum acceptable standards in one or more areas; remedial action required in one or more areas; problems in one or more areas which adversely affect overall performance. Based on the Offeror's performance record, there is a very low level of confidence that the Offeror will successfully perform the required effort. ** (One or more deficiencies or significant weaknesses exist.)

Neutral

In the case of an Offeror without a record of relevant past performance or for whom information on past performance is not available, the Offeror may not be evaluated favorably or unfavorably on past performance [see FAR 15.305(a) (2) (ii) and (iv)].

(End of provision)

3.3.4 OFFER EVALUATION - PRICE FACTOR

The Government's evaluation of price will include ranking of proposed prices, from lowest to highest, for the not to exceed amounts given in CLINs 0001, 0002 and 0003 and for the sample tasks described in 3.1.3(d), Pricing Instructions. It will also include an assessment of proposed fixed hourly rates for the labor categories listed in CLIN 004 and of the proposed Milestone Payment ranges identified in 1.3, Milestone Payments, to determine whether the rates and ranges are appropriate and reasonable. Application of NASA FAR Supplement 1815.305-70, Identification of unacceptable proposals, may result in the elimination of an unacceptable offer.

(End of provision)

3.4 52.216-1 TYPE OF CONTRACT (Apr 1984)

This Government anticipates awarding multiple Indefinite Delivery/Indefinite Quantity (IDIQ) contracts resulting from this single solicitation.

This IDIQ contract includes (in clause 1.2) not to exceed prices for Maximum Priced Flight, Full manifest, and loaded labor rates for non-standard services and special projects. The actual amount of work to be performed and the time of such performance will be determined by the Contracting Officer or his/her properly authorized representative, who will issue written Task Orders to the Contractor. Award of Task Orders will be on a firm fixed price basis.

(End of text)

3.6 52.216-27 Single or Multiple Awards (Oct 1995)

3.7 52.223-13 Certification of Toxic Chemical Release Reporting (Aug 2003)

3.8 52.227-15 Representation of Limited Rights Data and Restricted Computer Software (Dec 2007)

(a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data--General). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data--General clause at 52.227-14 included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [*offeror check appropriate block*]—

[] (1) None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

[] (2) Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a contract be awarded to the offeror.

(End of provision)

3.9 52.232-18 Availability of Funds (APR 1984)

3.10 52.233-2 Service of Protest (Sep 2006)

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

Andrea Basham, Contract Specialist
NASA/DFRC
M/S 1422, P.O. Box 273
Edwards, CA 93523

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

3.11 52.252-1 Solicitation Provisions Incorporated by Reference. (FEB 1998)

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

Federal Acquisition Regulation (FAR) clauses:

<http://www.acqnet.gov/far/>

NASA FAR Supplement (NFS) clauses:

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

(End of provision)

3.12 1852.215-81 Proposal Page Limitations. (FEB 1998)

(a) The following page limitations are established for each portion of the proposal submitted in

response to this solicitation.

SECTION	OFFER SECTION REQUIRED	PAGE LIMIT	NO. OF HARD COPIES
I.	Technical Section Written Plans and Exhibits:	15 pages	Orig + 5
	(1) Quality Assurance Plan	Excluded	
	(2) Safety and Health Plan	Excluded	
	(3) Subcontracting Plan (if applicable)	Excluded	
	(4) Supplier Information Survey	Excluded	
II.	Past Performance Section Written Plans and Exhibits:	10 pages	Orig + 5
	(1) OSHA Records / Logs	Excluded	
III.	Business Section (Including Pricing) Cover letter, Completed Offeror fill-ins (areas marked "TBP" in sections 1 through 3), Completed Section 3.1.3 paragraph (d), Completed Section 4, and Completed SF1449 (All with original signatures)	No Limit	Orig + 5

(b) A page is defined as one side of a sheet, 8 1/2" x 11", with at least one inch margins on all sides, using not smaller than 10 point type. Foldouts count as an equivalent number of 8 1/2" x 11" pages. The metric standard format most closely approximating the described standard 8 1/2" x 11" size may also be used.

(c) Title pages and tables of contents are excluded from the page counts specified in paragraph (a) of this provision. In addition, the cost section of your offer is not page limited. However, this section is to be strictly limited to cost and price information. Information that can be construed as belonging in one of the other sections of the offer will be so construed and counted against that section's page limitation.

(d) If final revisions are requested, separate page limitations will be specified in the Government's request for that submission.

(e) Pages submitted in excess of the limitations specified in this provision will not be evaluated by the Government and will be returned to the Offeror.

(End of provision)

3.13 COMMUNICATIONS REGARDING THIS SOLICITATION

(a) Questions or comments regarding this solicitation must be submitted in writing, cite the solicitation number, and be directed to the following Government representative:

Name: Andrea Basham
 FAX: 661-276-3374
 Email: andrea.c.basham@nasa.gov
 Address: P.O. Box 273 M/S 1422
 Edwards, CA 93523

Oral questions will not be answered due to the possibility of misunderstanding or misinterpretation.

(b) Questions or comments should be submitted by June 8, 2011 for the solicitation to allow for analysis and dissemination of responses prior to proposal due date. Late questions or comments are not guaranteed a response prior to the proposal due date.

(c) Questions or comments shall not be directed to the technical activity personnel.

(End of provision)

3.14 1852.233-70 Protests to NASA (Oct 2002)

(End of Section)

SECTION 4- REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS

52.212-3 Offeror Representations and Certifications-Commercial Items. (JAN 2011) -- Alternate I (APR 2011)

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

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

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

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

- (1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

“Inverted domestic corporation” means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c).

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

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;

- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

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

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

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

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

- (1) Means a small business concern—
 - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
 - (ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- (2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

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

“Veteran-owned small business concern” means a small business concern—

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

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

“Women-owned small business concern” means a small business concern --

- (1) That is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

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

(b)

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

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov> .After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representation and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs _____. [*Offeror to identify the applicable paragraphs at (c) through (o) of this provision that the offeror has completed for the purposes of this solicitation only, if any. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer. Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.*]

(c) Offerors must complete the following representations when the resulting contract is to be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it is, is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it is, is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it is, is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it is, is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it is, is not a women-owned small business concern.

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

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

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

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate in reference to the WOSB concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern or concerns that are participating in the joint venture: _____.] Each WOSB concern participating in the joint venture shall submit a separate signed copy of the WOSB representation.

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

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

(ii) It is, is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(ii) of this provision is accurate in reference to the EDWOSB concern or concerns that are participating in the joint venture. The offeror shall enter the name or names of the EDWOSB concern or concerns that are participating in the joint venture: _____.

Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

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

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

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

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

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

(B) It has, has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [*The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: _____.*]

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

(i) It is, is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in

ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It is, is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [*The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: _____.*] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(10) of this provision.)

[*The offeror shall check the category in which its ownership falls*]:

Black American.

Hispanic American.

Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory or the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

Individual/concern, other than one of the preceding.

(d) Representations required to implement provisions of Executive Order 11246 --

(1) Previous contracts and compliance. The offeror represents that --

(i) It has, has not, participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

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

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

(i) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or

employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Act Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act – Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(2) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

(g)

(1) *Buy American Act -- Free Trade Agreements -- Israeli Trade Act Certificate.* (Applies only if the clause at FAR 52.225-3, Buy American Act -- Free Trade Agreements -- Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act--Free Trade Agreements--Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian or Moroccan End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) or this provision) as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN

[List as necessary]

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

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

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

Canadian End Products:

Line Item No.:

[List as necessary]

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

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

Canadian or Israeli End Products:

Line Item No.:	Country of Origin:

[List as necessary]

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

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

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

Other End Products

Line Item No.:	Country of Origin:

[List as necessary]

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

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

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

(2) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property; and

(3) Are, are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) Examples.

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals Contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).]

(1) Listed End Product

Listed End Product:	Listed Countries of Origin:

(2) Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) Outside the United States.

(k) Certificates regarding exemptions from the application of the Service Contract Act. (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.]

(1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror does does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

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

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

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

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

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

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

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

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

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer identification number (TIN) (26 U.S.C. 6109, 31 U.S.C. 7701).* (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.]

(3) Taxpayer Identification Number (TIN).

TIN:_____.

TIN has been applied for.

TIN is not required because:

Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or

business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the Federal Government;

(4) Type of organization.

Sole proprietorship;

Partnership;

Corporate entity (not tax-exempt);

Corporate entity (tax-exempt);

Government entity (Federal, State, or local);

Foreign government;

International organization per 26 CFR 1.6049-4;

Other _____.

(5) Common parent.

Offeror is not owned or controlled by a common parent:

Name and TIN of common parent:

Name _____

TIN _____

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

(n) Prohibition on Contracting with Inverted Domestic Corporations.

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

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

(o) Sanctioned activities relating to Iran. (1) Unless a waiver is granted or an exception applies as provided in paragraph (o)(2) of this provision, by submission of its offer, the offeror certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996.

(2) The certification requirement of paragraph (o)(1) of this provision does not apply if--

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

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

(End of Provision)

Alternate I (Apr 2011). As prescribed in [12.301](#)(b)(2), add the following paragraph (c)(12) to the basic provision:

(12) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) or (c)(10) of this provision.)

[The offeror shall check the category in which its ownership falls]:

Black American.

Hispanic American.

Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory or the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

Individual/concern, other than one of the preceding.

Alternate II (Apr 2011). As prescribed in [12.301](#)(b)(2), add the following paragraph (c)(10)(iii) to the basic provision:

(iii) Address. The offeror represents that its address []is, [] is not in a region for which a small disadvantaged business procurement mechanism is authorized and its address has not changed since its certification as a small disadvantaged business concern or submission of its application for certification. The list of authorized small disadvantaged business procurement mechanisms and regions is posted at <http://www.arnet.gov/References/sdbadjustments.htm>. The offeror shall use the list in effect on the date of this solicitation. "Address," as used in this provision, means the address of the offeror as listed on the Small Business Administration's register of small disadvantaged business concerns or the address on the completed application that the concern has submitted to the Small Business Administration or a Private Certifier in accordance with 13 CFR part 124, subpart B. For joint ventures, "address" refers to the address of the small disadvantaged business concern that is participating in the joint venture.

(End of Provision)