

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30</i>				1. REQUISITION NUMBER		PAGE OF 1 32	
2. CONTRACT NO.		3. AWARD/ EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER NNK12432592R		6. SOLICITATION ISSUE DATE 05/21/2012
7. FOR SOLICITATION INFORMATION CALL:		a. NAME Nicole Rivera			b. TELEPHONE NUMBER 321-867-3523 <i>(No collect calls)</i>		8. OFFER DUE DATE/LOCAL TIME 06/20/2012 1600 ES
9. ISSUED BY NASA/John F. Kennedy Space Center Office of Procurement MAIL CODE OP KENNEDY SPACE CENTER FL 32899			CODE KSC	10. THIS ACQUISITION IS		<input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 325120 <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB SIZE STANDARD: 1,000 <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		<input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		13b. RATING	
15. DELIVER TO			CODE	16. ADMINISTERED BY		CODE KSC	
				NASA/Kennedy Space Center Office of Procurement MAIL CODE OP KENNEDY SPACE CENTER FL 32899			
17a. CONTRACTOR/ OFFEROR		CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY		CODE	
TELEPHONE NO.				17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>			
				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	NASA Acquisition of Nitrogen in accordance with the attached statement of work - Attachment 001.						
	<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 type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA						<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA						<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.	
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.				<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)	
						Marco Pochy	
						31c. DATE SIGNED	

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 ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: _____

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE
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32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE	32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE
	32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE

33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	37. CHECK NUMBER
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38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY
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41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT	42a. RECEIVED BY (<i>Print</i>)	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER	41c. DATE	42b. RECEIVED AT (<i>Location</i>)
		42c. DATE REC'D (<i>YY/MM/DD</i>)

Contents

SECTION 1. CONTINUATION OF SF 1449	5
1.1. SUPPLIES TO BE FURNISHED.....	5
1.2. PERFORMANCE SPECIFICATION.....	5
1.3. PLACE OF PERFORMANCE OR DELIVERY LOCATION	5
1.4. PERIOD OF PERFORMANCE	5
1.5. SCHEDULE OF SUPPLIES.....	6
1.6. CONTRACT PERIOD PRICING.....	7
1.7. DELIVERY ORDER PROCEDURES.....	7
1.8. FUNDING AND PAYMENT	8
SECTION 2. ADDENDUM TO FAR 52.212-4, CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS.....	9
2.1. FAR 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)	9
2.2. FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008).....	9
2.3. FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (SEP 2007)	9
2.4. FAR 52.209-5 CERTIFICATION REGARDING REponsibility MATTERS (APR 2010).....	9
2.5. FAR 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012).....	9
2.6. FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)	9
2.7. FAR 52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (MAY 2011).....	9
2.8. FAR 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (OCT 2008)	9
2.9. FAR 52.216-18 ORDERING (OCT 1995)	9
2.10. FAR 52.216-19 ORDER LIMITATIONS (OCT 1995)	9
2.11. FAR 52.216-21 REQUIREMENTS (OCT 1995)	10
2.12. FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999).....	11
2.13. FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000).....	11
2.14. FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) - ALTERNATE I (JUL 1995)	11
2.15. FAR 52.232-18 AVAILABILITY OF FUNDS (APR 1984).....	11
2.16. FAR 52.246-11 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (FEB 1998).....	11
2.17. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998).....	12
2.18. NFS 1852.215-84 OMBUDSMAN (OCT 2003) - ALTERNATE I (JUN 2000)	12
2.19. NFS 1852.219-76 NASA 8 PERCENT GOAL (JUL 1997)	12
2.20. NFS 1852.225-70 EXPORT LICENSES (FEB 2000).....	13
2.21. NFS 1852.223-73 SAFETY AND HEALTH (APR 2002)	13
2.22. NFS 1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY (FEB 2002) - ALTERNATE I (FEB 2006).....	15

2.23. DELIVERY REQUIREMENTS.....	16
2.24. LABORATORY ANALYSIS.....	16
2.25. MATERIAL INSPECTION AND RECEIVING REPORT	17
2.26. CERTIFICATE OF CONFORMANCE	17
2.27. DETERMINATION OF BILLING	17
2.28. QUALITY ASSURANCE, INSPECTION AND ACCEPTANCE	18
2.29. PRODUCT INTEGRITY CONTROL	18
2.30. GOVERNMENT'S INABILITY TO ACCEPT DELIVERY.....	18
2.31. DEMURRAGE	19
2.32. FLASH REPORTS	19
SECTION 3. FAR 52.212-5 ATTACHMENT.....	20
3.1. FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (SEP 2008)	20
SECTION 4. CONTRACT DOCUMENTS, EXHIBITS OR ATTACHMENTS	24
4.1. LIST OF ATTACHMENTS	24
SECTION 5. ADDENDUM TO 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS	25
5.1. FAR 52.212-1 INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS (JUN 2008).....	25
5.2. FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998).....	28
5.3. COMMUNICATIONS REGARDING THIS SOLICITATION.....	28
SECTION 6. PROPOSAL CONTENT	29
6.1. DUE DATE FOR RECEIPT OF PROPOSALS	29
6.2. DELIVERY INSTRUCTIONS FOR PROPOSALS	29
6.3. NFS 1852.215-81 PROPOSAL PAGE LIMITATIONS (FEB 1998)	29
6.4. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS.....	29
6.5. VOLUME I: TECHNICAL ACCEPTABILITY	30
6.6. VOLUME II: NFS 1852.223-73 SAFETY AND HEALTH PLAN (NOV 2004)	30
6.7. PRICING	30
SECTION 7. PROPOSAL EVALUATION.....	31
SECTION 8. REPRESENTATIONS, CERTIFICATION AND OTHER STATEMENTS	32
8.1. FAR 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS-COMMERCIAL ITEMS (JUN 2008) - ALTERNATE I (APR 2002)	32

SECTION 1. CONTINUATION OF SF 1449

1.1. SUPPLIES TO BE FURNISHED

This is a fixed-price, requirements contract for the purchase of liquid nitrogen during the contract period of performance. The delivery location and estimated quantities are specified in the Schedule as Contract Line Item Numbers (CLINs). The Contractor shall provide all resources (except as may be expressly stated in the contract as furnished by the Government) necessary to deliver the items identified in the schedule in accordance with Attachment 001 and Attachment 002.

(End of clause)

1.2. PERFORMANCE SPECIFICATION

All requirements delivered under this contract shall be provided in accordance with the following performance specification, refer to Attachment 002:

Nitrogen CGA-G-10.1 Grade L

Product supplied shall fully meet the requirements of the applicable specification(s) as indicated in the Supply Schedule, except as modified elsewhere in this contract.

(End of clause)

1.3. PLACE OF PERFORMANCE OR DELIVERY LOCATION

NAME	LOCATION	CLIN
Jet Propulsion Laboratory (JPL)	Pasadena, CA, 91109	001, 002

(End of clause)

1.4. PERIOD OF PERFORMANCE

CLIN 001, Liquid Nitrogen Grade L, JPL

The basic contract period of performance is from August 1, 2012, through July 31, 2013. There is one option period available, which if exercised, extends the period of performance as follows:

Option 1: August 1, 2013, through June 30, 2014

CLIN 002, Maintenance and Repair Labor, JPL

The basic contract period of performance is from August 1, 2012, through July 31, 2013. There is one option period available, which if exercised, extends the period of performance as follows:

Option 1: August 1, 2013, through June 30, 2014

(End of clause)

1.5. SCHEDULE OF SUPPLIES

CLIN	DL	UNIT	ORDER LIMITATIONS				Best estimate yearly quantity
			MINIMUM DAILY	MAX DAILY	MAX WEEKLY	MAX MONTHLY	
001	JPL	Gallons	1,000	18,000	126,000	504,000	Base: 2,550,000 Option 1: 2,337,500

CLIN	DL	UNIT	ORDER LIMITATIONS (high use testing period only)				Best estimate yearly quantity
			MINIMUM DAILY	MAX DAILY	MAX WEEKLY	MAX MONTHLY	
001	JPL	Gallons	1,000	66,000	474,000	1,872,000	The yearly estimates above are inclusive of the high use testing period yearly estimate

*NOTE: During high use testing periods, which occur approximately once every calendar year, contractor shall be able to supply the maximum daily order quantity for 30 continuous days. Testing is scheduled to occur in both the base period and option period 1 of the contract. The Contractor will be notified at least 90 days in advance of the planned high use testing period and will receive confirmation one week prior to the testing. Actual usage start date may slip after initial notification.
 (End of Clause)

1.6. CONTRACT PERIOD PRICING

CLIN 001 Specification: Nitrogen CGA-G-10.1 Grade L

CLIN	DL	DESCRIPTION	UNIT	Base Period	Option 1
001	JPL	Nitrogen Price	Price Per Gallon		
001	JPL	Demurrage	Price Per ¼ Hr		
001	JPL	Inability to Accept Delivery	Miles (2-way)		
001	JPL	Emergency Delivery (at least 24 hr notice)	Price Per Gallon		
001	JPL	Hot Tank Fill	Per Occurrence		
002	JPL	Maintenance/Repair Labor	Per Hr		
002	JPL	Maintenance/Repair Labor – Overtime	Per Hr		
002	JPL	Maintenance/Repair Labor – Weekend	Per Hr		
002	JPL	Maintenance/Repair Labor – Emergency (at least 24 hr notice)	Per Hr		

(End of clause)

1.7. DELIVERY ORDER PROCEDURES

- (a) A contracting officer will issue written delivery orders prior to the first day of the month, quarter, or other mutually acceptable period of time not-to-exceed one year. The delivery order will be issued in writing on a Standard Form 1449, or equivalent, and will include:
- (1) Estimated quantity of product to be delivered during the effective period of the order.
 Note: The contractor shall not deliver more than this quantity without the prior approval of the contracting officer.
 - (2) Delivery order number, contract number, and applicable CLIN(s).
 - (3) Period in which deliveries shall be made pursuant to such orders.
 - (4) Receiving destinations.
 - (5) Necessary shipping instructions, including "Mark For" data.
 - (6) The cumulative delivery order value and the total funds available.
- (b) Amendments to orders will be issued in writing on a Standard Form 30, or equivalent, in the same manner as original orders. In emergencies or special situations, the contracting officer may issue orders orally. However, the contracting officer will promptly execute a written delivery order to confirm all oral orders.
- (c) A request for shipment for propellant supplies against the written delivery order and delivery schedules for each of the delivery locations specified in Section 1.3 will be made by the Requirements Point of Contact (RPC). All such requests for shipment from the RPCs are subject to the terms and conditions of this contract. When a delivery location makes a request for shipment against a delivery order issued as specified in

paragraph (a) of this clause, the contractor agrees to proceed to effect such shipment as promptly as is necessary to ensure that the specified product can be delivered to the destination by the time and/or date required. The normal receiving hours for the delivery locations are specified in Attachment 001. However, when required by any order placed under this contract, the contractor agrees to deliver product seven days a week, 24 hours a day, including all holidays.

- (d) Any unauthorized over-shipment of the total quantity on order will be solely at the contractor's risk and the Government shall not be obligated to pay for such unauthorized over-shipments.

(End of clause)

1.8. FUNDING AND PAYMENT

- (a) Funding will be provided by delivery locations identified in Section 1.3 through the issuance of delivery orders. The contractor shall not deliver product unless adequate funding has been obligated by a contracting officer at the applicable delivery location.
- (b) Invoices for payment shall be submitted after each calendar month of performance, or portion thereof, if applicable. The contractor shall ensure that all billings comply with this contract. Each item billed shall appear as a separate line on the invoice, and shall include the delivery order number, contract number, and applicable CLIN(s). Charges for temporary ancillary equipment and/or services shall be invoiced separately from cryogenic propellant deliveries. The invoice together with a fully executed DD Form 250 (or equivalent commercial document), with applicable weight ticket, shall be submitted to the appropriate office as designated on the delivery order. The contractor agrees to provide any additional information requested by the contracting officer or his appointed representative to substantiate billings.

(End of clause)

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

2.1. FAR 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

2.2. FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)

2.3. FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (SEP 2007)

2.4. FAR 52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS. (APR 2010)

2.5. FAR 52.209-7 Information Regarding Responsibility Matters. (FEB 2012)

2.6. FAR 52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters. (FEB 2012)

2.7. FAR 52.209-10 Prohibition on Contracting With Inverted Domestic Corporations. (May 2011)

2.8. FAR 52.212-4 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (OCT 2008)

2.9. FAR 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 during the performance period specified in Section 1.
- (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)

2.10. FAR 52.216-19 ORDER LIMITATIONS (OCT 1995)

- (a) Minimum order. When the Government requires supplies or services covered by this contract in a quantity less than the quantity specified in Section 1, 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 the amount or quantity specified in Section 1;
 - (2) Any order for a combination of items in excess of the amount or quantity specified in Section 1; or
 - (3) A series of orders from the same ordering office within the period specified in the amount or quantity

specified in Section 1, 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 3 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)

2.11. FAR 52.216-21 REQUIREMENTS (OCT 1995)

- (a) This is a requirements contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies or services specified in the Schedule are estimates only and are not purchased by this contract. Except as this contract may otherwise provide, if the Government's requirements do not result in orders in the quantities described as estimated or maximum in the Schedule, that fact shall not constitute the basis for an equitable price adjustment.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. Subject to any limitations in the Order Limitations clause or elsewhere in this contract, the Contractor shall furnish to the Government all supplies or services specified in the Schedule and called for by orders issued in accordance with the Ordering clause. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (c) Except as this contract otherwise provides, the Government shall order from the Contractor all the supplies or services specified in the Schedule that are required to be purchased by the Government activity or activities specified in the Schedule.
- (d) The Government is not required to purchase from the Contractor requirements in excess of any limit on total orders under this contract.
- (e) If the Government urgently requires delivery of any quantity of an item before the earliest date that delivery may be specified under this contract, and if the Contractor will not accept an order providing for the accelerated delivery, the Government may acquire the urgently required goods or services from another source.
- (f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract 10 days after expiration of the period of performance specified in Section 1.

(End of clause)

2.12. FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days prior to contract expiration.

(End of Clause)

2.13. FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

- (a) The Government may extend the term of this contract by written notice to the Contractor within 10 days prior to contract expiration; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 2 years and 5 months.

(End of clause)

2.14. FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) - ALTERNATE I (JUL 1995)

2.15. FAR 52.232-18 AVAILABILITY OF FUNDS (APR 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

2.16. FAR 52.246-11- HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (FEB 1999)

The Contractor shall comply with the higher-level quality standard selected below.

<u>Title</u>	<u>Number</u>	<u>Date</u>	<u>Tailoring</u>
ISO	9001	2008	n/a

(End of clause)

2.17. FAR 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/>

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

(End of clause)

2.18. NFS 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, Mr. Kelvin M. Manning at 321-867-7246, facsimile 321-867-7787, email Kelvin.m.manning@nasa.gov, or by mail at NASA John F. Kennedy Space Center, Mail Code: AA-B, Kennedy Space Center, Florida 32899. 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)

2.19. NFS 1852.219-76 NASA 8 PERCENT GOAL (JUL 1997)

- (a) Definitions.

"Historically Black Colleges or University," as used in this clause, means an institution determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institutions," as used in this clause, means an institution of higher education meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)) which for the purposes of this clause includes a Hispanic-serving institution of higher education as defined in section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

"Small disadvantaged business concern," as used in this clause, means a small business concern that (1) is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and (2) has its management and daily

business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirements of 13 CFR 124.

"Women-owned small business concern," as used in this clause, means a small business concern (1) 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 stock of which is owned by one or more women, and (2) whose management and daily business operations are controlled by one or more women.

- (b) The NASA Administrator is required by statute to establish annually a goal to make available to small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns, at least 8 percent of NASA's procurement dollars under prime contracts or subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained.
- (c) The contractor hereby agrees to assist NASA in achieving this goal by using its best efforts to award subcontracts to such entities to the fullest extent consistent with efficient contract performance.
- (d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as small disadvantaged business concerns, Historically Black Colleges and Universities, minority institutions, and women-owned small business concerns.

(End of clause)

2.20. NFS 1852.225-70 EXPORT LICENSES (FEB 2000)

(a) The Contractor shall comply with all U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, in the performance of this contract. In the absence of available license exemptions/exceptions, the Contractor shall be responsible for obtaining the appropriate licenses or other approvals, if required, for exports of hardware, technical data, and software, or for the provision of technical assistance.

(b) The Contractor shall be responsible for obtaining export licenses, if required, before utilizing foreign persons in the performance of this contract, including instances where the work is to be performed on-site at JPL, where the foreign person will have access to export-controlled technical data or software.

(c) The Contractor shall be responsible for all regulatory record keeping requirements associated with the use of licenses and license exemptions/exceptions.

(d) The Contractor shall be responsible for ensuring that the provisions of this clause apply to its subcontractors.

(End of clause)

2.21. NFS 1852.223-73 SAFETY AND HEALTH (APR 2002)

(a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. NASA's safety priority is to protect: (1) the public, (2) astronauts and pilots, (3) the NASA workforce (including contractor employees working on NASA contracts), and (4) high-value equipment and property.

(b) The Contractor shall take all reasonable safety and occupational health measures in performing this contract. The Contractor shall comply with all Federal, State, and local laws applicable to safety and occupational health and with the safety and occupational health standards, specifications, reporting requirements, and any

other relevant requirements of this contract.

- (c) The Contractor shall take, or cause to be taken, any other safety, and occupational health measures the Contracting Officer may reasonably direct. To the extent that the Contractor may be entitled to an equitable adjustment for those measures under the terms and conditions of this contract, the equitable adjustment shall be determined pursuant to the procedures of the changes clause of this contract; provided, that no adjustment shall be made under this Safety and Health clause for any change for which an equitable adjustment is expressly provided under any other clause of the contract.
- (d) The Contractor shall immediately notify and promptly report to the Contracting Officer or a designee any accident, incident, or exposure resulting in fatality, lost-time occupational injury, occupational disease, contamination of property beyond any stated acceptable limits set forth in the contract Schedule; or property loss of \$25,000 or more, or Close Call (a situation or occurrence with no injury, no damage or only minor damage (less than \$1,000) but possesses the potential to cause any type mishap, or any injury, damage, or negative mission impact) that may be of immediate interest to NASA, arising out of work performed under this contract. The Contractor is not required to include in any report an expression of opinion as to the fault or negligence of any employee. In addition, service contractors (excluding construction contracts) shall provide quarterly reports specifying lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the contract Schedule.
- (e) The Contractor shall investigate all work-related incidents, accidents, and Close Calls, to the extent necessary to determine their causes and furnish the Contracting Officer a report, in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.
- (f)
 - (1) The Contracting Officer may notify the Contractor in writing of any noncompliance with this clause and specify corrective actions to be taken. When the Contracting Officer becomes aware of noncompliance that may pose a serious or imminent danger to safety and health of the public, astronauts and pilots, the NASA workforce (including contractor employees working on NASA contracts), or high value mission critical equipment or property, the Contracting Officer shall notify the Contractor orally, with written confirmation. The Contractor shall promptly take and report any necessary corrective action.
 - (2) If the Contractor fails or refuses to institute prompt corrective action in accordance with subparagraph (f) (1) of this clause, the Contracting Officer may invoke the stop-work order clause in this contract or any other remedy available to the Government in the event of such failure or refusal.
- (g) The Contractor (or subcontractor or supplier) shall insert the substance of this clause, including this paragraph (g) and any applicable Schedule provisions and clauses, with appropriate changes of designations of the parties, in all solicitations and subcontracts of every tier, when one or more of the following conditions exist:
 - (1) The work will be conducted completely or partly on premises owned or controlled by the Government.
 - (2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.
 - (3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).
 - (4) When the Contractor (or subcontractor or supplier) determines that the assessed risk and consequences of a failure to properly manage and control the hazard(s) warrants use of the clause.
- (h) The Contractor (or subcontractor or supplier) may exclude the provisions of paragraph (g) from its solicitation(s) and subcontract(s) of every tier when it determines that the clause is not necessary because

the application of the OSHA and DOT (if applicable) regulations constitute adequate safety and occupational health protection. When a determination is made to exclude the provisions of paragraph (g) from a solicitation and subcontract, the Contractor must notify and provide the basis for the determination to the Contracting Officer. In subcontracts of every tier above the micro-purchase threshold for which paragraph (g) does not apply, the Contractor (or subcontractor or supplier) shall insert the substance of paragraphs (a), (b), (c), and (f) of this clause).

- (i) Authorized Government representatives of the Contracting Officer shall have access to and the right to examine the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and occupational health measures under this clause.
- (j) The contractor shall continually update the safety and health plan when necessary. In particular, the Contractor shall furnish a list of all hazardous operations to be performed, and a list of other major or key operations required or planned in the performance of the contract, even though not deemed hazardous by the Contractor. NASA and the Contractor shall jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the Contractor shall submit for NASA concurrence -
 - (1) Written hazardous operating procedures for all hazardous operations; and/or
 - (2) Qualification standards for personnel involved in hazardous operations.

(End of clause)

2.22. NFS 1852.223-75 MAJOR BREACH OF SAFETY OR SECURITY (FEB 2002) - ALTERNATE I (FEB 2006)

- (a) Safety is the freedom from those conditions that can cause death, injury, occupational illness, damage to or loss of equipment or property, or damage to the environment. Safety is essential to NASA and is a material part of this contract. NASA's safety priority is to protect: (1) The public; (2) astronauts and pilots; (3) the NASA workforce (including contractor employees working on NASA contracts); and (4) high-value equipment and property. A major breach of safety may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination. A major breach of safety must be related directly to the work on the contract. A major breach of safety is an act or omission of the Contractor that consists of an accident, incident, or exposure resulting in a fatality or mission failure; or in damage to equipment or property equal to or greater than \$1 million; or in any "willful" or "repeat" violation cited by the Occupational Safety and Health Administration (OSHA) or by a state agency operating under an OSHA approved plan.
- (b) Security is the condition of safeguarding against espionage, sabotage, crime (including computer crime), or attack. A major breach of security may constitute a breach of contract that entitles the Government to exercise any of its rights and remedies applicable to material parts of this contract, including termination. A major breach of security may occur on or off Government installations, but must be related directly to the work on the contract. A major breach of security is an act or omission by the Contractor that results in compromise of classified information, illegal technology transfer, workplace violence resulting in criminal conviction, sabotage, compromise or denial of information technology services, equipment or property damage from vandalism greater than \$250,000, or theft greater than \$250,000.
- (c) In the event of a major breach of safety or security, the Contractor shall report the breach to the Contracting Officer. If directed by the Contracting Officer, the Contractor shall conduct its own investigation and report the results to the Government. The Contractor shall cooperate with the Government investigation, if conducted.

(End of clause)

2.23. DELIVERY REQUIREMENTS

- (a) The contractor shall provide delivery capability for Government requirements to the delivery points specified in Section 1. Delivery conveyances must comply with applicable DOT regulations. The contractor shall comply with applicable safety standards and maintain purity of product during loading and delivery. The contractor shall develop, maintain, and make available to the Government all conveyance operating procedures.

Note: The amount of delivery equipment shall be sufficient to allow for operational variations, maintenance, downtime, Department of Transportation (DOT) requirements, and contingency provisions

- (b) The contractor shall ensure the on-schedule delivery of liquid propellant ordered by the Government. Loading and dispatching tankers shall be scheduled to assure arrival at destination during normal receiving hours as set forth in Attachment 001, or unless otherwise directed. Under normal delivery conditions, the Government will provide a minimum of 48 hours notice prior to requiring delivery of ordered product. In emergency cases a minimum of 24 hours notice will be provided.
- (c) The contractor shall provide trained personnel necessary for offloading product from the tankers to the facility interface. User locations will provide personnel to operate facility equipment. During offloading, the contractor shall operate the tanker in accordance with approved procedures.
- (d) Ancillary equipment and services may be required to effect delivery of nitrogen to satisfy Government requirements. Ancillary equipment and services includes, but is not limited to, temporary cryogenic storage vessels, liquid-to-gas conversion units (receivers, pumps, vaporizers, and associated piping), and other equipment and services to support related propellant requirements under this contract. The contracting officer administering the applicable delivery order will be notified of the ancillary requirement and will issue a delivery order modification with negotiated pricing.
- (e) Maintenance and repair of LN2 storage systems may be required at the locations identified in Attachment 001 on an occasional basis, typically less than 5 times per calendar year. Components requiring maintenance and repair services include, but are not limited to, fill manifolds, valves, gages, vaporizers, CGA connections, and pumps. The contractor shall identify to JPL required or suggested maintenance and repair items associated with the LN2 delivery and storage equipment. JPL may also identify items requiring maintenance and repair. JPL retains full responsibility for all Government owned LN2 equipment. The Contracting Officer administering the applicable delivery order shall be notified by the contractor of the maintenance or repair requirement and shall issue a delivery order modification with negotiated pricing (utilizing the labor rates established in this contract). Maintenance and repair requirements shall not exceed \$10,000.00 per occurrence.

Note: JPL may require emergency repair work performed within 24 hours of authorization to proceed.

(End of clause)

2.24. LABORATORY ANALYSIS

A laboratory analysis shall be performed at the loading point of the conveyance for each shipment made under this contract. In the event laboratory facilities are not available to perform this analysis at the loading point, the contractor shall make arrangements to have the analysis performed at a location approved by the contracting officer. In any event, the analysis results shall be attached to the DD Form 250 or equivalent commercial document.

(End of clause)

2.25. MATERIAL INSPECTION AND RECEIVING REPORT

- (a) At the time of each delivery under this contract, the contractor shall furnish to the Government a Material Inspection and Receiving Report (DD Form 250 series or equivalent commercial document), prepared in triplicate (original and two copies). If the contractor elects to use the DD Form 250, it shall be prepared in accordance with NASA FAR Supplement 1846.6. Note: Equivalent commercial document must contain the same level of detail/specificity as the DD Form 250.
- (b) Upon delivery of product to the destination, each copy of the Material Inspection and Receiving Report shall be signed and dated by the receiver. The original shall remain with the contractor's driver making the delivery, and two copies shall be retained by the receiving destination as proof of delivery.
- (c) A legible copy of the applicable contractor quantity delivered measurement ticket shall be attached to each copy of the Material Inspection and Receiving Report submitted for each delivery. The quantity delivered measurement ticket shall include the associated shipment number and tanker number as cross reference to the Material Inspection and Receiving Report. The foregoing documentation shall be submitted with all invoices.
- (d) Contractor shall overprint, in an appropriate space on each Material Inspection and Receiving Report, any applicable tanker unloading demurrage invoiced in accordance with this contract. Such demurrage shall be certified by personnel of the receiving activity who are not in the employ of the contractor. At the Government's option, and when available, Government personnel may be required to certify demurrage charges.

(End of clause)

2.26. CERTIFICATE OF CONFORMANCE

A certificate of conformance shall accompany each delivery to verify product quality and quantity. The contractor's quality assurance representative shall sign and date the certificate of conformance to verify quantity, quality, and proper documentation (i.e., laboratory analysis, etc.) at origin. The signed certificate of conformance shall be attached to, or entered on, copies of the DD Form 250, or equivalent commercial document. The certificate of conformance shall be prepared in accordance with FAR 52.246-15, paragraph (d).

(End of clause)

2.27. DETERMINATION OF BILLING

The delivered product price per unit includes all product and transportation costs for the quantities delivered and accepted. The unit price shall be F.O.B. Destination. Scales or meters used in determining weight or volume shall be certified and must meet all specifications and user requirements and tolerance as stated in the National Institute of Standards and Technology (NIST) Handbook 44. Such scales or meters shall be calibrated annually and records of this calibration shall be maintained for a minimum of one year and made available to the contracting officer or designated representative upon request. After delivery of product, quantity delivered in units measured by scale or meter shall be annotated on a DD Form 250 or equivalent commercial document. If units measured by scale or meter are not tons then the quantity delivered shall be converted into tons and also annotated. An employee of the receiving destination will acknowledge receipt of the shipment and indicated quantity by executing a dated signature in Block 22 of the appropriate DD Form 250 or equivalent commercial document. The contractor's method of product measurement must be acceptable to the contracting officer.

(End of clause)

2.28. QUALITY ASSURANCE, INSPECTION AND ACCEPTANCE

- (a) Unless otherwise directed by the Contracting Officer, in-process inspection, end-item inspection, and test verification shall be performed by the Contractor at the Contractor's facilities, to ensure compliance with the contract requirements. The Government may perform periodic inspections or audits at the contractor's facilities to verify, inspect, and ensure that supplies meet the contract requirements, including calibrations, process control monitoring, drawings and specifications.
- (b) Any delivery location will have the option to sample nitrogen being delivered and analyze it for impurities prior to off-loading the transport vehicle or container. Such sampling shall be subject to demurrage charges, as applicable in accordance with this contract. If the sample does not meet specification requirements, the load will not be accepted and will be returned to the Contractor's facility for disposition. In case of non-acceptance, no product, transportation, demurrage, or any other costs will be charged to, or be paid by the Government.
- (c) The Contractor shall maintain records of inspections and tests performed on the items of this contract. All records and tests shall be traceable to the nitrogen delivered and shall include applicable tanker/trailer number, serial number, lot number, or any other acceptable method of identification. These records shall be made available to the Government, upon request, during the performance of this contract and for 180 days after delivery of the item(s).
- (d) The Contractor shall develop and maintain documentation of a quality control program, including but not limited to: Plant operating procedures (as they relate to quality provisions); handling procedures; loading and off-loading of shipping conveyances; storage; analytical instruments and scale calibrations; sampling; and analysis. Operating plans or procedures shall be submitted to the Government upon request. Final inspection and acceptance shall be accomplished at the receiving destination. Acceptance shall occur upon signoff by the receiving destination on the appropriate material inspection and receiving report.

(End of text)

2.29. PRODUCT INTEGRITY CONTROL

- (a) The contractor shall furnish seals to prevent tampering with the propellant delivery tankers. The seals must easily identify any attempted tampering. The contractor shall seal all tankers prior to shipment.
- (b) The contractor shall maintain cleanliness of shipping container interfaces, transfer hoses and fittings. The contractor shall seal all drain and fill ports prior to shipment from the facility of origin.
- (c) The contractor shall inspect each loaded conveyance just prior to shipment to ensure all end connections are protected with dust covers (or other protectors) and there is no leakage of product.
- (d) Upon arrival at the receiving destination propellant interface, conveyances may be visually inspected by the receiving activity for hazardous conditions, cleanliness, and seal integrity. Any discrepancy is cause for rejection.

(End of text)

2.30. GOVERNMENT'S INABILITY TO ACCEPT DELIVERY

When the contractor makes a delivery to a single destination and the tanker cannot be accepted due to storage tank problems or for other reasons under the control of the receiving organization, and through no fault of the contractor, product charges will not be incurred; however, transportation charges will be based on the round-trip miles at the transportation price per mile specified in Section 1.6. Round-trip mileage shall be from the primary plant source identified in Attachment 004. Plant Source to each specified receiving destination shall be based on the internet website Google Maps (<http://maps.google.com/>).

(End of clause)

2.31. DEMURRAGE

The Government will pay the contractor demurrage for all delays in unloading propellant delivery tankers in excess of 4 hours after arrival and check-in at place of delivery, if such delay is without the fault or negligence of the contractor and is not caused by the failure of the contractor's equipment. If more than one tanker is scheduled for the same arrival time, demurrage charges shall begin 4 hours after arrival time of the last trailer in the group, and end at the release of the last trailer in the group. This unloading demurrage charge shall be paid the contractor per quarter-hour or fraction thereof. No demurrage charges shall be billed or paid for the loading of any propellant delivery tankers. If the free time has been exceeded, the driver, upon leaving the site, shall leave the consignee written documentation showing the date, time of arrival, time of departure, cause of delay, if known, and information identifying the shipment. The driver shall sign such documentation and shall request the consignee to do likewise. A copy thereof, as proof of delay, shall accompany all invoices for demurrage. Reasons for such delay shall be annotated in Block 23C of the DD Form 250, or in an appropriate place on equivalent commercial document, and signed by the driver. Contractor shall ensure that all deliveries from a multi-source operation shall be affected at the lowest overall cost to the Government.

(End of clause)

2.32. FLASH REPORTS

The contractor shall provide the contracting officer, or his designated representative, with an immediate verbal Flash Report of any accident or incident which may have an adverse impact on the contractor's ability to deliver liquid cryogenic propellant to the Government, such as a plant outage (scheduled or unscheduled), trailer malfunction, or of any other occurrence in which the Government could reasonably be expected to have an interest by virtue of this contract. Such Flash Reports shall be confirmed in writing (electronic submission), in appropriate detail. Except as otherwise provided in this contract, the cost of data to be furnished in response to this contract is included in the price of this contract.

(End of clause)

SECTION 3. FAR 52.212-5 ATTACHMENT

3.1. FAR 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (SEP 2008)

- (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) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).
 - (2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).
- (b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: Contracting Officer check as appropriate.
- (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEP 2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).
 - (2) 52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999) (15 U.S.C. 657a).
 - (3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
 - (4) Reserved.
 - (5)
 - (i) 52.219-6, Notice of Total Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
 - (ii) Alternate I (OCT 1995) of 52.219-6.
 - (iii) Alternate II (MAR 2004) of 52.219-6.
 - (6)
 - (i) 52.219-7, Notice of Partial Small Business Set-Aside (JUN 2003) (15 U.S.C. 644).
 - (ii) Alternate I (OCT 1995) of 52.219-7.
 - (iii) Alternate II (MAR 2004) of 52.219-7.
 - (7) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637 (d)(2) and (3)).
 - (8)
 - (i) 52.219-9, Small Business Subcontracting Plan (APR 2008) (15 U.S.C. 637(d)(4)).
 - (ii) Alternate I (OCT 2001) of 52.219-9.
 - (iii) Alternate II (OCT 2001) of 52.219-9.
 - (9) 52.219-14, Limitations on Subcontracting (DEC 1996) (15 U.S.C. 637(a)(14)).
 - (10) 52.219-16, Liquidated Damages--Subcontracting Plan (JAN 1999) (15 U.S.C. 637(d)(4)(F)(i)).
 - (11)
 - (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (SEP 2005) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
 - (ii) Alternate I (JUN 2003) of 52.219-23.

- (12) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (APR 2008) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (13) 52.219-26, Small Disadvantaged Business Participation Program - Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (14) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004)(15 U.S.C. 657 f).
- (15) 52.219-28, Post Award Small Business Program Rerepresentation (JUNE 2007) (15 U.S.C. 632(a)(2)).
- (16) 52.222-3, Convict Labor (JUN 2003) (E.O. 11755).
- (17) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (FEB 2008) (E.O. 13126).
- (18) 52.222-21, Prohibition of Segregated Facilities (FEB 1999).
- (19) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).
- (20) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
- (21) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
- (22) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
- (23) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).
- (24)
 - (i) 52.222-50, Combating Trafficking in Persons (AUG 2007) (Applies to all contracts).
 - (ii) Alternate I (AUG 2007) of 52.222-50.
- (25)
 - (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)).
 - (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).
- (26) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007) (42 U.S.C. 8259b).
- (27)
 - (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.
- (28) 52.225-1, Buy American Act - Supplies (JUN 2003) (41 U.S.C. 10a-10d).
- (29)
 - (i) 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act (AUG 2007) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L 108-77, 108-78, 108-286, 109-53 and 109-169).
 - (ii) Alternate I (JAN 2004) of 52.225-3.
 - (iii) Alternate II (JAN 2004) of 52.225-3.
- (30) 52.225-5, Trade Agreements (NOV 2007) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

- (31) 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).
- (32) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- (33) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
- (34) 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)).
- (35) 52.232-30, Installment Payments for Commercial Items (OCT 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- (36) 52.232-33, Payment by Electronic Funds Transfer - Central Contractor Registration (OCT 2003) (31 U.S.C. 3332).
- (37) 52.232-34, Payment by Electronic Funds Transfer - Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332).
- (38) 52.232-36, Payment by Third Party (MAY 1999) (31 U.S.C. 3332).
- (39) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).
- (40)
 - (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).
 - (ii) Alternate I (APR 2003) of 52.247-64.
- (c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: (Contracting Officer check as appropriate.)
 - (1) 52.222-41, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
 - (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (NOV 2006) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (FEB 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).
 - (5) 52.222-51, 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 (NOV 2007) (41 U.S.C. 351, et seq.).
 - (7) 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 paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--
 - (i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
 - (ii) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).
 - (iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).
 - (iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).
 - (v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).
 - (vi) 52.222-41, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).
 - (vii) 52.222-50, Combating Trafficking in Persons (AUG 2007) (22 U.S.C. 7104(g)). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.
 - (viii) 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.).
 - (ix) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (NOV 2007) (41 U.S.C. 351, et seq.).
 - (x) 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)

REFERENCE NO. OF DOCUMENT BEING CONTINUED: NNK12432592R
NAME OF OFFEROR OR CONTRACTOR:

SECTION 4. CONTRACT DOCUMENTS, EXHIBITS OR ATTACHMENTS

4.1. LIST OF ATTACHMENTS

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

ATTACH. NUMBER	TITLE	DATE	PAGES
001	STATEMENT OF WORK	05/08/2012	02
002	PERFORMANCE SPECIFICATIONS	05/08/2012	01
003	PIV CARD ISSUANCE PROCEDURES	05/08/2012	03
004	CAPABILITY FORM	05/08/2012	01
005	SAFETY AND HEALTH PLAN	TBD	TBD

(End of Clause)

SECTION 5. ADDENDUM TO 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS

5.1. FAR 52.212-1 INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS (JUN 2008)

- (a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.
- (b) Submission of offers. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show-
 - (1) The solicitation number;
 - (2) The time specified in the solicitation for receipt of offers;
 - (3) The name, address, and telephone number of the offeror;
 - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
 - (5) Terms of any express warranty;
 - (6) Price and any discount terms;
 - (7) "Remit to" address, if different than mailing address;
 - (8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);
 - (9) Acknowledgment of Solicitation Amendments;
 - (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
 - (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.
- (c) Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for 60 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.
- (d) Product samples. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.
- (e) Late submissions, modifications, revisions, and withdrawals of offers.
 - (1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

- (2)
- (i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-
 - (A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or
 - (B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or
 - (C) If this solicitation is a request for proposals, it was the only proposal received.
 - (ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.
- (3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.
- (4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.
- (5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.
- (f) Contract award (not applicable to Invitation for Bids). The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.
- (g) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (h) Availability of requirements documents cited in the solicitation.
- (1)
- (i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to-

GSA Federal Supply Service Specifications Section
Suite 8100
470 East L'Enfant Plaza, SW
Washington, DC 20407

Telephone (202) 619-8925
Facsimile (202) 619-8978

- (ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.
- (2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:
 - (i) ASSIST (<http://assist.daps.dla.mil>).
 - (ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).
 - (iii) ASSISTdocs.com (<http://assistdocs.com>).
- (3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by-
 - (i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);
 - (ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or
 - (iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.
- (4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.
- (i) Data Universal Numbering System (DUNS) Number. (Applies to all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database.) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS+4" followed by the DUNS or DUNS+4 number that identifies the offeror's name and address. The DUNS+4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://fedgov.dnb.com/webform>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number. The offeror should indicate that it is an offeror for a Government contract when contacting the local Dun and Bradstreet office.
- (j) Central Contractor Registration. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.
- (k) Debriefing. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:
 - (1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

- (2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.
- (3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.
- (4) A summary of the rationale for award;
- (5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.
- (6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

5.2. FAR 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):

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

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

(End of provision)

5.3. 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: Nicole Rivera

Email: Nicole.Rivera@nasa.gov

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

- (b) Questions or comments should be submitted by 4:00 PM E.S.T on June 4, 2012, to allow for analysis and dissemination of responses in advance of the 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)

SECTION 6. PROPOSAL CONTENT

6.1. DUE DATE FOR RECEIPT OF PROPOSALS

See Block 8 of Standard Form 1449 (page 1)

(End of provision)

6.2. DELIVERY INSTRUCTIONS FOR PROPOSALS

Proposals shall be delivered electronically to the following address: Nicole.Rivera@nasa.gov. Maximum email size: 3MB per email. Offerors may submit multiple emails.

(End of Provision)

6.3. NFS 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.

DESCRIPTION	PAGE LIMIT
Volume I: Technical Acceptability	1 form (Attachment 004) and 1 continuation page for CLIN 001
Volume II: Safety and Health Plan	Unlimited
Pricing	Complete Section 1.6

- (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 12 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 proposal 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 proposal 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)

6.4. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

Proposals shall be submitted electronically within the established page limitations specified in Section 6.3. Proposals will be evaluated on the completeness and quality of the information provided to demonstrate the offeror's capability to meet the CLIN requirements.

(End of provision)

6.5. VOLUME I: TECHNICAL ACCEPTABILITY

Prospective offerors are required to provide the following information to determine technical acceptability: The offeror shall utilize the attached Capability Form (Attachment 004) to identify its production, storage, and distribution facilities that will be used to produce and deliver requirements for each applicable CLIN. Additional information may be provided on a separate page (see Section 6.3(b) for "page" requirements). Note: Capability relates to the offeror's ability to meet CLIN requirements. Capability is a function of production, distribution, and any other information that demonstrates the offeror's ability to meet CLIN requirements. Proposals failing to provide evidence demonstrating that the offeror has the necessary capability to successfully meet the requirements of a CLIN will be considered technically unacceptable for that CLIN.

(End of provision)

6.6. VOLUME II: NFS 1852.223-73 SAFETY AND HEALTH PLAN (NOV 2004)

- (a) The offeror shall submit a detailed safety and occupational health plan as part of its proposal (see NPR 8715.3, NASA Safety Manual, Appendices). The plan shall include a detailed discussion of the 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.
- (b) When applicable, the plan shall address the policies, procedures, and techniques that will be used to ensure the safety and occupational health of the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), and high-value equipment and property.
- (c) The plan shall similarly address subcontractor employee safety and occupational health for those proposed subcontracts that contain one or more of the following conditions:
 - (1) The work will be conducted completely or partly on premises owned or controlled by the government.
 - (2) The work includes construction, alteration, or repair of facilities in excess of the simplified acquisition threshold.
 - (3) The work, regardless of place of performance, involves hazards that could endanger the public, astronauts and pilots, the NASA workforce (including Contractor employees working on NASA contracts), or high value equipment or property, and the hazards are not adequately addressed by Occupational Safety and Health Administration (OSHA) or Department of Transportation (DOT) regulations (if applicable).
 - (4) When the assessed risk and consequences of a failure to properly manage and control the hazards warrants use of the clause.
- (d) This plan, as approved by the Contracting Officer, will be included in any resulting contract.

(End of provision)

6.7. PRICING

This section shall consist of the pricing tables in Section 1.6. Alternate pricing proposals will not be accepted.

(End of provision)

SECTION 7. PROPOSAL EVALUATION

- (a) Evaluation and award(s) will be made using the lowest price technically acceptable source selection process as described in FAR 15.101-2. One award will be made to the lowest price offeror that has been determined technically acceptable. Technical acceptability will be determined from information submitted by the offeror, which must provide sufficient details to show that the offeror has the necessary capability to meet CLIN requirements.
 - (1) First, the Government will evaluate the offeror's capabilities described in Volume I for meeting the performance requirements for each applicable CLIN. Based on the technical evaluation, proposals will be rated as technically acceptable or unacceptable. Note: Proposals failing to provide evidence demonstrating that the offeror has the necessary capability to successfully meet the requirements of a CLIN will be considered technically unacceptable for that CLIN.
 - (2) Only those offerors determined to be technically acceptable, either initially or as a result of clarifications/discussions, will be considered for award on the basis of lowest price.
- (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.

REFERENCE NO. OF DOCUMENT BEING CONTINUED: NNK12432592R
NAME OF OFFEROR OR CONTRACTOR:

SECTION 8. REPRESENTATIONS, CERTIFICATION AND OTHER STATEMENTS

**8.1. FAR 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS-COMMERCIAL ITEMS (JUN 2008) -
ALTERNATE I (APR 2002)**