



CUSTOMER CONTRACT REQUIREMENTS
TLS PROGRAM
CUSTOMER CONTRACT SPE8EJ-21-D-0025

The following prime contract special provisions apply to this contract/order, in addition to Darley "US GOVERNMENT CONTRACT FLOWDOWN REQUIREMENTS" available on www.darley.com.

A. Unauthorized Obligations – EULAs.

(1) Except as stated in paragraph (A)(2) of this clause, when any supply or service acquired under the prime contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 USC 1341), the following shall govern:

- a. Any such clause is unenforceable against the Government.
- b. Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.
- c. Any such clause is deemed to be stricken from the EULA, TOS or similar legal instrument or agreement.

(2) Paragraph (A)(1) of the clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

B. Additional Prime Flowdowns

252.203-7003	Agency Office of the Inspector General
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52.203-7995	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements
52.204-16	Commercial and Government Entity Code Reporting
52.204-18	Commercial and Government Entity Code Maintenance
52.204-19	Incorporation by Reference of Representations and Certifications
252.204-7003	Control of Government Personnel Work Product
252.205-7000	Provision of Information to Cooperative Agreement Holders
52.208-9	Contractor Use of Mandatory Sources of Supply or Services
52.209-7	Information Regarding Responsibility Matters
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters
52.211-14	Notice of Priority Rating for National Defense, Emergency Preparedness and Energy Use Program. Any contract awarded will be a DO rated order certified for national defense, emergency preparedness and energy program use under the DPAS, and Contractor will be required to follow all of the requirements of this regulation.
52.211-16	Variation in Quantity. A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in the manufacturing processes, and then only to the extent, if any, specified herein. The permissible variation shall be limited to 0% increase and 0% decrease.
252.211-7009	Passive Radio Frequency Identification
52.213-1	Fast Payment Procedure
52.216-19	Order Limitations. In clause (a) insert "No Minimum". In clause (b)(1) insert "No Maximum"; in clause (b)(2) insert "N/A", in clause (b)(3) insert "N/A". In clause (d) insert "N/A".
52.216-22	Indefinite Quantity. In clause (d) insert "180 days after award".
52.216-27	Single or Multiple Awards
52.219-6	Notice of Total Small Business Set-Aside
52.219-14	Limitations on Subcontracting
52.219-28	Post Award Small Business Program Representative
52.222-41	Service Contract Labor Standards
52.222-50	Combating Trafficking in Persons
52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements
52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners
52.223-13	Acquisition of EPEAT®-Registered Imaging Equipment

52.223-14	Acquisition of EPEAT®-Registered Television
52.223-15	Energy Efficiency in Energy-Consuming Products
52.223-16	Acquisition of EPEAT®-Registered Personal Computer Products
52.223-20	Aerosols
52.223-21	Foams
52.226-6	Promoting Excess Food Donation to Nonprofit Organizations
52.232-33	Payment by Electronic Funds Transfer-System for Award Management
252.225-7017	Photovoltaic Devices
252.225-7980	Contractor Personnel Performing in the United States Africa Command Area of Responsibility
252.225-7987	Requirements for Contractor Personnel Performing in USSouthcom area of Responsibility
252.224-7993	Prohibition on Providing Funds to the Enemy
252.225-7995	Contractor Personnel Performing in the United States Central Command Area of Responsibility
52.229-12	Tax on Certain Foreign Procurements
252.232-7003	Electronic Submission of Payment Requests and Receiving Reports
252.232-7010	Levies on Contract Payments
252.239-7018	Supply Chain Risk
52.242-13	Bankruptcy
252.243-7002	Requests for Equitable Adjustment
52.247-34	FOB Destination
52.253-1	Computer Generated Forms
252.227-7015	Technical Data -Commercial Products and Commercial Services

C. Special Prime Contract Provisions:

C01 Superseded Part Numbered Items.

If an item part number is superseded during the term of this contract, the contractor shall advise the contracting officer immediately upon determination. The notice shall include complete information on the superseding item form, fit, function, configuration, application, or physical nature. The contracting officer will determine whether the item is acceptable to the Government, advise the contractor within seven days, and modify the contract accordingly.

C02 Manufacturing Phase Out or Discontinuation of Production, Diminishing Sources, and Obsolete Materials or Components

The contractor shall notify the contracting officer immediately upon determining the unavailability of obsolete materials or components. The contractor may recommend a solution to include the impact on the contract price and delivery. The contractor shall not initiate any item redesign or incur any additional costs without the express, written authorization of the contracting officer. In the event that manufacturing phase-out or discontinuance of production of such items is contemplated, the contractor is required notify the contracting officer immediately.

C03 Contractor Retention of Supply Chain Traceability Documentation (JUN 2020)

(1) By submitting a quotation or offer, the contractor, if it is not the manufacturer of the item, is confirming it currently has, or will obtain before delivery, and shall retain documented evidence (supply chain traceability documentation), as described in paragraph (2) of this procurement note, demonstrating the item is from the approved manufacturer and conforms to the technical requirements.

(2) At a minimum, the supply chain traceability documentation for the item shall include: basic item description, part number and/or national stock number, manufacturing source, manufacturing source's Commercial and Government Entity (CAGE) code, and clear identification of the name and location of all supply chain intermediaries between the manufacturer to the contractor to item(s) acceptance by the Government. The documentation should also include, if available, the manufacturer's batch identification for the item(s), such as date codes, lot codes, or serial numbers.

(3) Contractors can find examples of acceptable supply chain traceability documentation at the Counterfeit Detection and Avoidance Program (CDAP) Website (<http://www.dla.mil/LandandMaritime/Business/Selling/Counterfeit-Detection-Avoidance-Program/>).

(4) The contractor shall immediately make documentation available to the contracting officer upon request. The contracting officer determines the acceptability and sufficiency of documentation. The contractor shall retain supply chain traceability documentation for six years after final payment under this contract for audit and other valid government purposes. If the contractor fails to retain or provide the documentation, or the contracting officer finds the documentation to be unacceptable, the contracting officer may take corrective action, including, but not limited to, cancellation of undelivered orders or rejection of delivered supplies.

C08 Tailored Logistics Support Purchasing Reviews

(1) From the commencement of performance of this contract until 3 years after the final contract payment, the contractor must allow the contracting officer, ACO, Defense Contract Management Agency (DCMA), Defense Contract Audit Agency (DCAA), and any other duly authorized representative of the contracting officer access to all records and information pertaining to those items or services for which the Government is relying on the contractor's purchasing system to determine that competition was obtained or to justify that prices are fair and reasonable. The contractor must maintain records subject to this clause for not less than 3 years after the contract final payment.

(2) The contracting officer may conduct reviews of purchased items or services provided under this contract regardless of dollar value that meet the criteria in paragraph (1) to ascertain whether the contractor has obtained the best value. The contractor must obtain competition to the maximum extent practicable for all purchases. Prior to purchasing any supplies or services, the contractor must solicit a competitive quotation from at least two independently-competing firms. For other than sole source items, the request for quotations must, to the maximum extent practical, solicit offers from different manufacturers or producers. If the contractor is unable to obtain quotes for competing items from two or more independently-competing firms, the contractor must retain documentation supporting its rationale for selection of the suppliers solicited and selected and its determination that the price was fair and reasonable. The contractor is responsible for maintaining this documentation for all sole source/noncompetitive actions. The following price reasonableness and documentation requirements are applicable to all purchases, regardless of dollar value:

(i) A price is reasonable if it does not exceed a price incurred by a prudent person in the conduct of competitive business. The contracting officer will examine the prices with particular care in connection with buys that may not be subject to effective competition restraints. The contractor's price will not be presumed to be reasonable. If an initial review of the facts results in a challenge of a specific price by the contracting officer or the contracting officer's representative, the burden of proof must be upon the contractor to establish that the price is reasonable under the standards in FAR Subpart 15.4 and FAR 31.201-3.

(ii) The contractor must keep the documentation to a minimum, but must retain data supporting the purchases either by paper or electronically. At a minimum, price quotations and invoices must be retained. Should the contractor receive an oral price quotation, the contractor must document who the supplier or subcontractor is by complete name, address, telephone number, price, terms and other conditions

quoted by each vendor. Price quotes for supplies must be broken down by individual items, shipping costs, and any other included expenses. Price quotes for incidental services which are not pre-priced in the contract must include labor hours and costs or prices, as applicable, including the total price of the job, individual pricing for the portions of the work if applicable, materials, and all other elements of cost, overhead, and profit. This price breakdown documentation must be made for each subcontractor performing work on this contract.

(iii) When applicable, if the contractor is purchasing from subcontractors or other sources and receives a discount or rebates, the contractor must immediately pass these savings to the Government in the contract price and invoice for payment. The contractor is required to use diligence in the selection of the most economical method of delivery of the product or services by selecting a best value method of delivery based on the urgency and nature of the work or product required. When labor hours are involved in the work to be accomplished and the contractor has not already pre-priced the effort to use its own labor force, the contractor must provide the labor at rates required by the contract (for example, Service Contract Act or Davis-Bacon Act rates) or at rates based on competition if mandatory rates are not required by the contract.

(iv) If the contracting officer determines that the purchased product or service is unreasonably priced, the contractor must refund to the Government the amount the contracting officer determines is in excess of a reasonable price. The contracting officer must notify the contractor in writing in accordance with FAR 32.604 Demand for Payment, giving the basis for the determination and the amount to be refunded. The contractor must make the refund payment in accordance with directions from the contracting officer, and must provide proof of the refund payment to the contracting officer. The contracting officer may collect the amount due using all available means in accordance with FAR Subpart 32.6. FAR 52.232-17, Interest, is applicable to payments not made within 30 days of the demand for payment. Any disputes arising under this provision must be handled in accordance with the Disputes clause of this contract/order.

C18 Shipping Instructions for Export and US Territories

- (1) Mail instructions (Army Post Office (APO) or Fleet Post Office (FPO) addresses).
Route shipments within mail limitations to the address cited with each contract line-item (CLIN) in the following manner, based on the TP (Transportation Priority) reflected in the "mark for" data with each CLIN:
 - (a) U.S. mail is the only mode authorized for shipments to APO or FPO addresses.

(b) Commercial small parcel carriers (e.g., UPS, RPS or Federal Express) and Commercial Motor Carriers are never an acceptable mode to any APO/FPO address. A small parcel carrier may not be used for any destination in Alaska, Hawaii, or Puerto Rico, unless the carrier guarantees delivery to that specific consignee.

(c) Address parcel post shipments to an APO/FPO address to the "Commander" or "Commanding Officer" if there is no title preceding the address. Annotate shipments under the return address as follows: "Contents for official use - exempt from customs requirements."

(d) Contact the cognizant office prior to shipment for TP1, TP2, (IPD 01-08), 999, NMCS, regardless of distance from origin to the APO/FPO address. Package shipments for transportation by Military Air (MILAIR).

(e) Use surface parcel post (fourth class) for TP3 (IPD 09-15).

(f) The cost of parcel post insurance will not be paid by the Government.

(2) Shipments to container consolidation points (CCPs):

(a) Contact the Government Transportation Office for the Contract Administration Office: either DCMA for DCMA administered awards or DLA Distribution for awards administered by the issuing office. See Block 7 of Department of Defense (DD) form 1155 (page 1 of an order) to obtain shipping instructions for release to the carrier.

(3) Shipments to container consolidation points (CCPs): 16

(a) Prepare shipments directed to a CCP shown with each individual CLIN on Schedule Continuation Sheet(s) in accordance with instructions provided within this contract for Preparation for Delivery.

(b) Contact the Transportation Officer for shipping instructions for the following CCP shipments:

(i) Cargo requiring refrigeration/temperature control.

(ii) Classified or sensitive items requiring signature control.

(iii) When dimensions of an item or package exceed 456 inches (38 feet) long by 89 inches wide by 88 inches high, or weight exceeds 10,000 pounds. Cargo cannot exceed any one of the dimensions or the weight.

(iv) When volume or weight constitutes a full SEAVAN load for each activity code.

(v) Hazardous material such as material which is flammable, corrosive, combustible, explosive, toxic, radioactive, unduly magnetic, or which contains oxidizing agents.

(vi) Type 1 shelf life items,

(vii) TPI and 2 (IPD 01-08) with RDD of 999, 777, or 555.

(4) The contractor shall furnish the above data no later than five

(5) days prior to the scheduled shipment date for shipments weighing less than 10,000 pounds which will not be tendered as a carload or truckload (5) The contractor may not ship prior to furnishing required data, regardless of weight.

(6) The contractor must clearly identify in invoices when shipment is made by air.

(7) The carrier must research the Transportation Facilities Guide (TFG) on the consignee to get information on who to contact to make delivery appointments. The carrier should schedule appointments as soon as they are given the load via the Carrier Appointment System (CAS)/prelodge desk prior to delivery of freight shipments (other than small parcels). Bills of Lading must be annotated with pertinent TFG data and carrier appointment times.

(8) The contractor must include the mailing address of the ultimate Consignee and "Mark For" information required as part of the address for parcel post or freight shipments, as applicable, included with the data cited with each individual CLIN. The contractor will comply with the paragraph (7) and ship in accordance with instructions furnished by the Transportation office. The Transportation Officer will furnish the addresses of Aerial terminals, as required. (Parcel post shipments will not be made to water or air terminals).

C20 Vendor Shipment Module

(1) The DLA Vendor Shipment Module (VSM) is a web-based system available to DLA contractors for obtaining current shipping addresses, two-dimensional bar coded shipping labels in accordance with MIL-STD-129P, bills of lading, packing lists, and other shipping documentation. Contractors using VSM do not need to contact the transportation office prior to shipping items. Contractors can use VSM to print labels for f.o.b. destination contracts and to print labels and arrange for shipping for f.o.b. origin contracts.

(2) To obtain information for contracts administered by DLA or to register as a VSM user, the contractor shall contact the DLA VSM Helpdesk at (800) 456-5507 or via email to delivery@dla.mil. (a) Before contacting the Government to advise that material is ready to ship, the contractor shall complete its VSM profile, to include regular business hours and observed holidays. The Government may request reimbursement for occurrences when the Government sends carrier equipment but is unable to pick-up a shipment because the material was unavailable or the contractor facility was closed.

(3) To obtain information for contracts administered by DCMA, the contractor shall contact the DCMA VSM Helpdesk at (314) 331-5573 or vsm.shipments@dcma.mil.