

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, AND 30</i>				1. REQUISITION NUMBER		PAGE 1 OF 22		
2. CONTRACT NO.		3. AWARD/EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER W917PM-09-T-0050		6. SOLICITATION ISSUE DATE 06-Aug-2009	
7. FOR SOLICITATION INFORMATION CALL:		a. NAME MONICA H BARDSLEY			b. TELEPHONE NUMBER (No Collect Calls)		8. OFFER DUE DATE/LOCAL TIME 02:00 PM 20 Aug 2009	
9. ISSUED BY AFGHANISTAN ENGINEER DISTRICT US ARMY CORPS OF ENGINEERS KABUL APO AE 09356  TEL: FAX:		CODE W917PM	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SB <input type="checkbox"/> HUBZONE SB <input type="checkbox"/> 8(A) <input type="checkbox"/> SVC-DISABLED VET-OWNED SB <input type="checkbox"/> EMERGING SB SIZE STD: NAICS:			11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE  <input type="checkbox"/> 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING 14. METHOD OF SOLICITATION <input checked="" type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> RFP		12. DISCOUNT TERMS
15. DELIVER TO  <b>SEE SCHEDULE</b>		CODE	16. ADMINISTERED BY  CODE					
17a. CONTRACTOR/OFFEROR  TEL.		CODE	18a. PAYMENT WILL BE MADE BY  CODE					
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		FACILITY CODE	<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	
<b>SEE SCHEDULE</b>								
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. 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				
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>2</u> COPIES <input checked="" type="checkbox"/> TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: REFERENCE <input type="checkbox"/> 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)			31c. DATE SIGNED		
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED	31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)  TEL: EMAIL:					

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS  
(CONTINUED)**

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/ SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
<p><b>SEE SCHEDULE</b></p>					

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	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
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL				

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> )	42d. TOTAL CONTAINERS

Section SF 1449 - CONTINUATION SHEET

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	BASE YEAR FFP FOB: Destination		Each		
					<hr/>
					NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001AA	FLIGHT RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				
					<hr/>
					NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001AB	EXCESS BAGGAGE RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002 OPTION	OPTION PERIOD 0001 FFP FOB: Destination				

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002AA	FLIGHT RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				

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NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002AB	EXCESS BAGGAGE RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				
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					NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003 OPTION	OPTION PERIOD 0002 FFP FOB: Destination				
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					NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003AA	FLIGHT RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				
					<hr/>
					NET AMT

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003AB	EXCESS BAGGAGE RATES FFP SEE ATTACHED STATEMENT OF WORK FOB: Destination				

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NET AMT

STATEMENT OF WORK  
SCOPE OF SERVICES

PERFORMANCE WORK STATEMENT  
(AIRLINE SERVICES)

1.0 GENERAL

1.1 It is the intention of the Government to award one Contract to one Airline Service Company who demonstrates they are capable of providing services in the U.S. Army Corps of Engineers, Afghanistan Engineer District, Bagram Area Office (AO) area of operation as identified throughout this document. This is a Single Award Contract capable of fulfilling the commercial air service requirements of AED Bagram AO.

This Performance Work Statement sets forth the general requirements for providing commercial airline services for AED Bagram AO; specifically, service between Bagram Army Airfield, Afghanistan and Dubai, United Arab Emirates; other routes may be added as they become available or as needed. Service must be available a minimum of two days per week. It is estimated that a minimum of 5 to a maximum of 100 AED passengers require flights per week; however, Contractors are not guaranteed a specific number of passengers under this contract. The Contractor will act as an independent Contractor and not as an agent of the U.S. Government and shall, in accordance with the terms and conditions of the contract, furnish all labor and supervisory management required for the performance of the work. It shall be the responsibility of the Contractor that all personnel are capable of receiving the appropriate identification documents for access to required areas at their respective sites and appropriate security levels.

1.2 The Contractor shall maintain at all times the confidentiality of proprietary information pertaining to other Contractors, service providers, or Contractor firms with whom its employees come into contact during the course of their performance of work pertaining to this contract of as the result of working in proximity to such information. All Contractor employees will be required to maintain the security and confidentiality of all information that directly or indirectly comes into their possession or attention on a strict operational need-to-know basis.

1.3 The Contractor shall maintain and preserve all records and information, whether in electronic, audio, video, or paper format that is directly or indirectly generated during performance of its work in regard to this contract in an orderly and readily accessible manner as per Section I, DFARS 252.227-13 Rights in technical data-Noncommercial items (NOV 1995).

1.4 The period of performance of this contract shall be one base year, plus two option years.

## 2.0 DEFINITIONS

2.1 CONTRACTOR. Contractor and its subcontractors at any tier.

2.2 CONTRACTING OFFICER'S REPRESENTATIVE (COR). An appointed assistant of the Contracting Officer authorized to administer the terms of the contract.

2.3 AED Personnel. Referenced as "personnel" for which services are being rendered.

2.4 AED Bagram Area Office. Reference to the Afghanistan Engineer District Bagram Area Office headquartered at Bagram Army Airfield.

2.5 SCHEDULED MAINTENANCE. Periodic prescribed inspections or servicing of aircraft or equipment, accomplished on a calendar, mileage, or flight-hour basis.

2.6 UNSCHEDULED MAINTENANCE. Maintenance that is not scheduled but is required to correct deficiencies and to restore the aircraft or equipment to a serviceable condition.

## 3.0 SERVICES TO BE PERFORMED.

3.1 The Contractor shall provide safe, operable, clean fixed wing commercial aircraft and associated services for direct air service between Bagram Army Airfield, Afghanistan and Dubai, United Arab Emirates.

3.1.2 POINTS OF CONTACT: The Contractor will provide a point of contact within his/her company, fluent in English, to interface with the Contracting Officer or COR on issues concerning transport. Names, business address, phone numbers, and hours of operation are the minimum information requirements. Contractor shall provide 24-hour contact number and e-mail address.

3.1.3 INSURANCE. Contractor shall carry insurance as the Contractor is responsible to cover the cost for replacement or repair of aircraft lost, stolen, damaged, or destroyed due to criminal acts, natural acts (commonly called acts of God), or hostile acts. The Government is not liable for claims generating from any of the above.

3.1.4 RECORDS. The Contractor will maintain a record of billable flights on a monthly basis and the Government will maintain a record of billable flights on a monthly basis. Upon request by the Government, the Contractor will make such records available to properly designated

contract representatives for the purpose of reconciling between the Government's record of billable flights and the Contractor's record of billable flights. The purpose is to ensure the Government's billable flight records and the Contractor's billable flight records concur. Deviations must be resolved to the Government's satisfaction.

3.1.5 SAFETY. Aircraft certifications, to include Commercial Airlift Review Board (CARB), Federal Aviation Administration Category 1 or 2, and Civil Aviation Authority will be included with the Contractor's bid package and made available to the Government upon request thereafter.

3.1.5.1 Contractor is obligated to comply with generally accepted standards of airmanship, training, and maintenance practices and procedures. The cleanliness and orderliness of an aircraft (including the visible components and surfaces thereof) affect the ability to inspect an aircraft, and may be valid indicators' of the overall maintenance level of an aircraft, and may have a direct effect on the security and confidence of passengers. Therefore, contractor's failure to keep and maintain all such components and surfaces of the aircraft used in performance of this contract clean, orderly, and in good state of repair may be deemed a failure to comply with generally accepted standards of maintenance to the extent the failure goes beyond mere cosmetic or housekeeping deficiencies and relates in some manner to confidence in the safety, maintenance, or airworthiness of the aircraft.

3.1.5.2 Should the government determine that any of the following conditions exist; it may suspend or place in temporary nonuse status contractor's further performance of air transportation services for AED Bagram AO:

- a. Contractor's failure to meet any of the obligations imposed by the preceding two paragraphs.
- b. Involvement of one of contractor's aircraft in a serious or fatal accident, incident, or operational occurrence (regardless of whether or not such aircraft is being used in the performance of this contract).
- c. Any other condition that affects the safe operation of contractor's flights hereunder.

3.1.5.3 Notice of Accidents: When a Contractor's aircraft is involved in an accident or incident, as described above, in support of this contract, the Contractor shall notify the COR by the most expeditious means available.

3.1.6 INVOICES AND BILLING. Contractor will provide monthly itemized invoices to include, at a minimum:

- a. Contract Number
- b. Passenger name
- c. Itinerary
- d. Date of flight
- e. Cost of flight in USD
- f. Additional charges for cancellations, no-show's, and excess baggage if applicable.

3.2 FLIGHT RATES: Flight rates are subject to change. Contractor shall notify the Contracting Officer's Representative when rate changes become effective.

3.3. EXCESS BAGGAGE RATES: Excess baggage rates are subject to change. Contractor shall notify the Contracting Officer's Representative when rate changes become effective.

3.4 CANCELLATIONS: Bookings made by the Government may be subject to cancellation at any time by the Contractor due to weather, unscheduled maintenance, emerging security threats and/or other operational factors. In such cases, there will be no charge to the Government. All charges will be generated once the passenger has completed travel. If the passenger does not show up for the flight, without providing notice of cancellation at least 24 hours prior to departure time, then AED will be charged the full ticket cost. The Contractor will notify the Government of any delays, cancellations, or maintenance issues within a minimum of four (4) hours of flight time.

3.5 BOOKING AVAILABILITY. Booking/ticketing agents must be available to the Government so that tickets may be purchased with as little as two (2) to twelve (12) hours' notice.

3.6. ADDITIONAL ROUTES: Additional routes may be added on an as-needed basis throughout the life of the contract.

3.7. CHARTER SERVICES: The Government may charter the entire plane, pending advanced coordination with the Contractor.

3.8. SUBMISSION OF BIDS: Contractors must include the following in their Bid packages:

- a. Copies of any certifications, to include:
  1. Commercial Airlift Review Board (CARB) **NOTE: In order to be considered for award an offeror must be CARB certified.**
  2. International Civil Aviation Organization (ICAO)
  3. Civil Aviation Authority (CAA)
- b. Copies of aircraft maintenance certification records for the previous 2 years.
- c. Copies of organization's safety records for the previous 2 years.
- d. Location and security of arrival and departure terminal.
- e. Schedule of operation for booking/ticketing agents, and methods of contact.
- f. Price schedule to include charges for cancellations and no shows.
- g. Baggage limitations and weight restrictions.

4.0 SURVEILLANCE. Surveillance of Contractor performance is the method used by the Government to determine whether the Contractor is effectively and efficiently complying with all terms and conditions of the contract. The following minimum surveillance methods shall be used as well as any other methods deemed appropriate by the government.

4.1 The Customer evaluation form will be used to validate customer satisfaction.

4.2 Customer Complaint. Customer complaints may be used as a basis for identifying non-compliance with performance objectives.

#### 5.0 PERFORMANCE REVIEWS AND EVALUATIONS

5.1 The COR will conduct semi-annual performance reviews and annual evaluations with the Contractor based on information obtained through the surveillance methods identified above.

5.2 The COR will note standard performance objectives deficiencies and all customer complaints documented during the specified period of time. The COR will thoroughly document all deficiencies, identify source of information, and reference the applicable PWS performance standard or contract requirement for which the deficiency applies.

5.3 The COR will generate performance reports using the customer evaluation report. This report will identify the level to which the performance standard for critical objectives was achieved based on cumulative total of all activity for the period of performance.

6.0 ANALYSIS OF PERFORMANCE REVIEW RESULTS: At the end of each performance evaluation period, the Contracting Officer (KO) will evaluate all surveillance data to determine those critical performance standards that do not meet the standards as stated in the PWS. The KO will prepare a Contract Discrepancy Report (CDR) and issue it to the Contractor. The CDR will make reference to the performance objective and standard and state how the PWS was not met. The Contractor will be required to respond to the KO generated CDR within five (5) working days. The Contractor's response shall be in writing and explain why the performance deviated from the PWS, how the performance will be returned to acceptable levels, and how a recurrence of the problem will be prevented in the future. The KO may issue, at any time deemed necessary, a CDR for recurring failure to meet other contract performance objectives and requirements. The Contractor shall respond in accordance with requirements identified herein. A copy of the CDR will be provided to the KO within 5 working days after the end of the evaluation period.

#### EVALUATION CRITERIA:

Bids will be evaluated on the following criteria, in order of importance:

1. Certifications
2. Maintenance Records
3. Safety Records

4. Location and security of terminal
4. Booking/ticketing availability and flexibility.
5. Cost
6. Baggage limitations and weight restrictions.

#### CLAUSES INCORPORATED BY FULL TEXT

##### 52.202-1 DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

##### 52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold, from sums owed a subcontractor under the prime contract, the amount of any kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

#### 52.212-2 EVALUATION--COMMERCIAL ITEMS (JAN 1999)

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

**Bids will be evaluated on the following criteria, in order of importance:**

#### **1. Certifications**

- 2. Maintenance Records**
- 3. Safety Records**
- 4. Location and security of terminal**
- 4. Booking/ticketing availability and flexibility.**
- 5. Cost**
- 6. Baggage limitations and weight restrictions.**

(b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

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

(End of provision)

#### 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at TerList1.html. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac/>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

#### 52.232-1 PAYMENTS (APR 1984)

The Government shall pay the Contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Government if--

(a) The amount due on the deliveries warrants it; or

(b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

(End of clause)

**52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)**

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

**52.243-1 CHANGES--FIXED-PRICE (AUG 1987)**

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Government in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

**52.247-28 CONTRACTOR'S INVOICES (APR 1984)**

The Contractor shall submit itemized invoices as instructed by the agency ordering services under this contract. The Contractor shall annotate each invoice with the contract number and other ordering office document identification.

(End of clause)

**ACQUISITION INSTRUCTIONS CLAUSES****AI 22.1705-100****PROHIBITION AGAINST HUMAN TRAFFICKING, INHUMANE LIVING CONDITIONS, AND WITHHOLDING OF EMPLOYEE PASSPORTS (MAR 2009)**

(a) All contractors ("contractors" refers to both prime contractors and all subcontractors at all tiers) are reminded of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another

person, to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in person.

(b) Contractors are also required to comply with the following provisions:

(1) Contractors shall only hold employee passports and other identification documents discussed above for the shortest period of time reasonable for administrative processing purposes.

(2) Contractors shall provide all employees with a signed copy of their employment contract, in English as well as the employee's native language that defines the terms of their employment/compensation.

(3) Contractors shall not utilize unlicensed recruiting firms, or firms that charge illegal recruiting fees.

(4) Contractors shall be required to provide adequate living conditions (sanitation, health, safety, living space) for their employees. Fifty square feet is the minimum acceptable square footage of personal living space per employee. Upon contractor's written request, contracting officers may grant a waiver in writing in cases where the existing square footage is within 20% of the minimum, and the overall conditions are determined by the contracting officer to be acceptable. A copy of the waiver approval shall be maintained at the respective life support area.

(5) Contractors shall incorporate checks of life support areas to ensure compliance with the requirements of this Trafficking in Persons Prohibition into their Quality Control program, which will be reviewed within the Government's Quality Assurance process.

(6) Contractors shall comply with international laws regarding transit/exit/entry procedures, and the requirements for work visas. Contractors shall follow all Host Country entry and exit requirements.

(c) Contractors have an affirmative duty to advise the Contracting Officer if they learn of their employees violating the human trafficking and inhumane living conditions provisions contained herein. Contractors are advised that contracting officers and/or their representatives will conduct random checks to ensure contractors and subcontractors at all tiers are adhering to the law on human trafficking, humane living conditions and withholding of passports.

(d) The contractor agrees to incorporate the substance of this clause, including this paragraph, in all subcontracts under his contract.

(End of Requirement)

#### **AI 23.1000-100**

#### **REPORTING KIDNAPPINGS, SERIOUS INJURIES AND DEATHS (MAR 2009)**

Contractors shall notify the Contracting Officer, as soon as practicable, whenever employee kidnappings, serious injuries or deaths occur. Report the following information:

Contract Number:

Contract Description & Location:

Company Name:

Reporting party:

Name:

Phone number:

e-mail address:

Victim:

Name:

Gender (Male/Female):

Age:

Nationality:

Country of permanent residence:

Incident:

Description:

Location:

Date and time:

Other Pertinent Information:

(End of Requirement)

#### **AI 25.1103-103 FITNESS FOR DUTY AND MEDICAL/DENTAL CARE LIMITATIONS (MAR 2009)**

(1) The contractor shall perform the requirements of this contract notwithstanding the fitness for duty of deployed employees, the provisions for care offered under this section, and redeployment of individuals determined to be unfit. The contractor bears the responsibility for ensuring all employees are aware of the conditions and medical treatment available at the performance. The contractor shall include this information and requirement in all subcontracts with performance in the theater of operations.

(2) The contractor shall not deploy an individual with any of the following conditions unless approved by the appropriate CENTCOM Service Component (ie. ARCENT, AFCENT, etc.) Surgeon: Conditions which prevent the wear of personal protective equipment, including protective mask, ballistic helmet, body armor, and chemical/biological protective garments; conditions which prohibit required theater immunizations or medications; conditions or current medical treatment or medications that contraindicate or preclude the use of chemical and biological protectives and antidotes; diabetes mellitus, Type I or II, on pharmacological therapy; symptomatic coronary artery disease, or with myocardial infarction within one year prior to deployment, or within six months of coronary artery bypass graft, coronary artery angioplasty, or stenting; morbid obesity (BMI  $\geq$  40); dysrhythmias or arrhythmias, either symptomatic or requiring medical or electrophysiologic control; uncontrolled hypertension, current heart failure, or automatic implantable defibrillator; therapeutic anticoagulation; malignancy, newly diagnosed or under current treatment, or recently diagnosed/treated and requiring frequent subspecialist surveillance, examination, and/or laboratory testing; dental or oral conditions requiring or likely to require urgent dental care within six months' time, active orthodontic care, conditions requiring prosthodontic care, conditions with immediate restorative dentistry needs, conditions with a current requirement for oral-maxillofacial surgery; new onset (< 1 year) seizure disorder, or seizure within one year prior to deployment; history of heat stroke; Meniere's Disease or other vertiginous/motion sickness disorder, unless well controlled on medications available in theater; recurrent syncope, ataxias, new diagnosis (< 1 year) of mood disorder, thought disorder, anxiety, somatoform, or dissociative disorder, or personality disorder with mood or thought manifestations; unrepaired hernia; tracheostomy or aphonia; renalithiasis, current; active tuberculosis; pregnancy; unclosed surgical defect, such as external fixator placement; requirement for medical devices using AC power; HIV antibody positivity; psychotic and bipolar disorders. (Reference: Mod 8 to USCENCOM Individual Protection and Individual/Unit Deployment Policy, PPG-Tab A: Amplification of the Minimal Standards of Fitness for Deployment to the CENTCOM AOR).

(3) In accordance with military directives (DoDI 3020.41, DoDI 6000.11, CFC FRAGO 09-1038, DoD PGI 225.74), resuscitative care, stabilization, hospitalization at Level III (emergency) military treatment facilities and assistance with patient movement in emergencies where loss of life, limb or eyesight could occur will be provided. Hospitalization will be limited to emergency stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system. Subject to availability at the time of need, a medical treatment facility may provide reimbursable treatment for emergency medical or dental care such as broken bones, lacerations, broken teeth or lost fillings.

**(4) Routine and primary medical care is not authorized. Pharmaceutical services are not authorized for routine or known, routine prescription drug needs of the individual. Routine dental care, examinations and cleanings are not authorized.**

(5) Notwithstanding any other provision of the contract, the contractor shall be liable for any and all medically-related services or transportation rendered. In accordance with OUSD(C) Memorandum dated

4 June 2008, the following reimbursement rates will be charged for services at all DoD deployed medical facilities. These rates are in effect until changed by DoD direction.

(a) Inpatient daily rate: \$2,041.00. Date of discharge is not billed unless the patient is admitted to the hospital and discharged the same day.

(b) Outpatient visit rate: \$195.00. This includes diagnostic imaging, laboratory, pathology, and pharmacy provided at the medical facility.

(End of Requirement)

#### **AI 25.1103-104 COMPLIANCE WITH LAWS AND REGULATIONS (MAR 2009)**

(a) The Contractor shall comply with, and shall ensure that its employees and its subcontractors and their employees, at all tiers, are aware of and obey all U.S. and Host Nation laws, Federal or DoD regulations, and Central Command orders and directives applicable to personnel in Iraq and Afghanistan, including but not limited to USCENTCOM, Multi-National Force and Multi-National Corps operations and fragmentary orders, instructions, policies and directives.

(b) Contractor employees shall particularly note all laws, regulations, policies, and orders restricting authority to carry firearms, rules for the use of force, and prohibiting sexual or aggravated assault. Contractor employees are subject to General Orders Number 1, as modified from time to time, including without limitation, their prohibition on privately owned firearms, alcohol, drugs, war souvenirs, pornography and photographing detainees, human casualties or military security measures.

(c) Contractor employees may be ordered removed from secure military installations or the theater of operations by order of the senior military commander of the battle space for acts that disrupt good order and discipline or violate applicable laws, regulations, orders, instructions, policies, or directives. Contractors shall immediately comply with any such order to remove its contractor employee.

(d) Contractor employees performing in the USCENTCOM Area of Operations (AOR) may be subject to the jurisdiction of overlapping criminal codes, including, but not limited to, the Military Extraterritorial Jurisdiction Act (18 U.S.C. Sec. 3261, et al) (MEJA), the Uniform Code of Military Justice (10 U.S.C. Sec. 801, et al)(UCMJ), and the laws of the Host Nation. Non-US citizens may also be subject to the laws of their home country while performing in the USCENTCOM AOR. Contractor employee status in these overlapping criminal jurisdictions may be modified from time to time by the United States, the Host Nation, or by applicable status of forces agreements.

(e) Under MEJA, a person who engages in felony misconduct outside the United States while employed by or accompanying the Armed Forces is subject to arrest, removal and prosecution in United States federal courts. Under the UCMJ, a person serving with or accompanying the Armed Forces in the field during a declared war or contingency operation may be disciplined for a criminal offense, including by referral of charges to a General Court Martial. Contractor employees may be ordered into confinement or placed under conditions that restrict movement within the AOR or administratively attached to a military command pending resolution of a criminal investigation.

(f) Contractors shall immediately notify military law enforcement and the Contracting Officer if they suspect an employee has committed an offense. Contractors shall take any and all reasonable and necessary measures to secure the presence of an employee suspected of a serious felony offense. Contractors shall not knowingly facilitate the departure of an employee suspected of a serious felony offense or violating the Rules for the Use of Force to depart Iraq or Afghanistan without approval from the senior U.S. commander in the country.

(End of Requirement)

**AI 25.1103-105 MONTHLY CONTRACTOR CENSUS REPORTING (MAR 2009)**

Contractor shall provide monthly employee census information to the Contracting Officer, by province, for this contract. Information shall be submitted either electronically or by hard-copy. Information shall be current as of the 25th day of each month and received by the Contracting Officer no later than the first day of the following month. The following information shall be provided for each province in which work was performed:

- (1) The total number (prime and subcontractors at all tiers) employees.
- (2) The total number (prime and subcontractors at all tiers) of U.S. citizens.
- (3) The total number (prime and subcontractors at all tiers) of local nationals (LN).
- (4) The total number (prime and subcontractors at all tiers) of third-country nationals (TCN).
- (5) Name of province in which the work was performed.
- (6) The names of all company employees who enter and update employee data in the Synchronized Predeployment & Operational Tracker (SPOT) IAW DFARS 252.225-7040 or DFARS DOD class deviation 2007-O0010.

(End of Requirement)

**AI 25.1103-109 MEDICAL SCREENING AND VACCINATION REQUIREMENTS FOR LOCALLY HIRED EMPLOYEES (MAR 2009)**

(a) Contractors, and subcontractors at any tier shall ensure and provide satisfactory evidence that all locally hired employees, including Local National (LN), Third Country National, and U.S. employees, working on military have been screened for and do not currently have active tuberculosis (TB).

- (1) Contractors may utilize a testing method of either a chest x-ray or TB skin test (TST).
  - (i) Chest x-rays shall be taken and TBTs administered within 90 days prior to the start of employment.
  - (ii) Screening may be performed either by a licensed medical provider from the local economy or by contractors' licensed medical staffs. Contractors shall maintain medical screening documentation and make it available to the Contracting Officer upon request.

(2) TB screening documentation will be required by the responsible Base Defense Operations Center (BDOC) prior to issuance of base access badges.

(b) Contractor employees, including subcontractors at any tier, who work in positions where they are working with food or water production and distribution shall have current Typhoid and Hepatitis "A" (full series) vaccinations, in addition to the TB tests required above.

(a) At least the first inoculation in the Hepatitis "A" series must be given prior to the start of employment, with continuation and completion of the inoculation series. The Typhoid inoculation must be completed within two years prior to the date of employment in the food and water service capacity.

- (i) Once the complete Hepatitis "A" vaccination series is completed, it does not have to be repeated. The Typhoid vaccination requires a booster immunization every three years.
- (ii) Proof of individual employee vaccinations shall be provided to the Contracting Officer and maintained by the Contractor for examination by the Contracting Officer.

(End of Requirement)

**AI 25.1103-110 CONTRACTOR EMPLOYEE LEGAL REQUIREMENTS (MAR 2009)**

- (a) The contractor shall not employ, nor allow a subcontractor to employ, any person that has ever been convicted, in any U.S. court, including a court-martial, of any crime against an Iraqi and/or an Afghan national, regardless of the place at which the crime occurred.
- (b) For the purpose of this clause, "crime" is defined as: "a violation of a law in which there is injury to the public or a member of the public and a term in jail or prison, and/or a fine as possible penalties." Further, the crime must be an offense that could be classified as a Class B misdemeanor, or any higher class up to a Class A felony, as referenced at 18 USC §3559.
- (c) Contractors shall exercise effective screening processes to ensure that individuals not conforming to this standard are identified and prohibited from, or removed from (if already employed) working under this contract.
- (d) Contractor employees discovered to have one or more prior convictions as described above shall be removed from the contract at the contractor's expense.
- (e) Failure to adhere to the requirements of this clause could result in a termination for cause or termination for default, in accordance with the terms and conditions of this contract.

(End of Requirement)

#### **LOGISTICAL SUPPORT (CAC)**

Logistical Support: Contractors shall have no base privileges unless specifically authorized by the Afghanistan Engineering District (AED) and indicated in writing in the specific Contract or Task Order Statement of Work (SOW) and negotiated as such. There will be no office or communication support from the Government unless specifically authorized. The Contracting Officer Representative (COR) will assist in processing personnel and vehicle base passes or permits if required by base regulations. Otherwise, the contractor shall be responsible for them.

All contractors employed on Department of Defense (DoD) funded service and construction contracts being performed in the CENTCOM AOR, excluding personnel hired under contracts that do not exceed \$25 thousand and for which the period of performance is less than 30 days, must be input into the Synchronized Pre-deployment and Operational Tracker (SPOT). Contractor personnel will not be granted or allowed to renew Common Access Card (CAC), acquire biometric identification cards or other credentials, as applicable, until entry of information into the SPOT database is complete.

Effective 30 August 2008, the SPOT digitally signed Letter Of Authorization (LOA) with the barcode shall be the only accepted form for Contractor personnel who are Authorized to Accompany the Force (CAAF) deploying for 30 days or more. LOA'S shall designate an incountry point of contact or COR as the Government authority. Only contractors with a proper LOA entered into SPOT are authorized to have a CAC card issued. AED will only authorize issuance of CAC cards to U.S. citizens that have a valid contract with AED that stipulates the requirement for the CAC card and associated privileges in the contract.

The above privileges may be granted to U.S. citizens personnel, so long as they are employed under this contract. However, any violation of these privileges will be cause for immediate withdrawal of such privileges for the principle and could result in total loss of such privileges to all contractor employees under this contract.

It is agreed that withdrawal of any or all of these privileges for reasons cited in the paragraph above, will not affect nor constitute grounds for delay in or non-performance of any portion of any contract between the Contractor and the U.S. Government, nor will such action form the basis for any claim against the U.S. Government, based on the contract or otherwise, nor will

such action be considered breach of contract or any portion thereof.

## SPOT

### **SYNCHRONIZED PREDEPLOYMENT AND OPERATIONAL TRACKER (SPOT)**

CLASS DEVIATION 2007-O0010, IMPLEMENTATION OF THE SYNCHRONIZED PREDEPLOYMENT AND OPERATIONAL TRACKER (SPOT) TO ACCOUNT FOR CONTRACTOR PERSONNEL PERFORMING IN THE UNITED STATES CENTRAL COMMAND AREA OF RESPONSIBILITY.

(i) “Performance in the United States Central Command Area of Responsibility (USCENTCOM AOR)” means performance of a service or construction, as required by the contract. For supply contracts, production of the supplies or associated overhead functions are not covered, but services associated with the acquisition of the supplies are covered (e.g., installation or maintenance).

(ii) If a contract requires performance in the USCENTCOM AOR, but some personnel performing the contract are authorized to accompany the U.S. Armed Forces, and other personnel performing the contract are not authorized to accompany the U.S. Armed Forces, include in the solicitation and contract both the clause at DFARS 252.225-7040 and the clause provided by Class Deviation 2007-O0010. Paragraph (b)(1) of each clause limits the applicability of the clause to the appropriate personnel. There are differences between the two clauses, primarily in Government support to contractor personnel (e.g., security protection and limited medical treatment) and potential applicability of the Uniform Code of Military Justice to contractor employees that are authorized to accompany the U.S. Armed Forces.

(iii) The requirements of paragraph (g) of the clause in Class Deviation 2007-O0010 are not applicable to subcontracts for which the period of performance of the subcontract is less than 30 days.

(iv) In exceptional circumstances, the head of the agency may authorize deviations from the requirements of Class Deviation 2007-O0010, in accordance with FAR Subpart 1.4 and DFARS Subpart 201.4.

(v) Registration in SPOT.

(A) Register for a SPOT account at <https://spot.altess.army.mil> .

(B) The customer support team must validate user need. This process may take 2 business days. Company supervisors will be contacted to determine the appropriate level of user access.

(vi) Access to SPOT. Upon approval, all users will access SPOT at <https://spot.altess.army.mil> .

(vii) SPOT Questions. Refer SPOT application assistance questions to the Customer Support Team at (717) 506-1368 or [spot@technisource.com](mailto:spot@technisource.com) .

(End of Clause)

**WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) –  
CONSTRUCTION (APR 2008)**

- (a) This clause supplements FAR Clause 52.228-3.
- (b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the U.S. Army Corps of Engineers (USACE) and **CNA/Continental Insurance Company** unless the contractor has a DBA self-insurance program approved by the Department of Labor. The contractor shall submit a copy of the Department of Labor's approval to the contracting officer upon contract award. The current rate under the USACE contract is **\$3.50 per \$100 of compensation for services.**
- (c) The contractor agrees to insert a clause substantially the same as this one in all subcontracts to which DBA is applicable. Subcontractors shall be required to insert a similar clause in any of their subcontracts subject to the DBA.
- (d) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, USACE shall modify the contract accordingly. However, the revised rates will not be applicable until the Contractor's or Subcontractor's DBA Insurance policy is due to be renewed.
- (e) Premiums will be reimbursed only if coverage is purchased through the USACE DBA Pilot Program administered by CNA Insurance and their Managing Broker, Rutherford International.

**DEFENSE BASE ACT INSURANCE RATES – LIMITATION – FIXED-PRICE (APR  
2008)**

- (a) The U. S. Army Corps of Engineers (USACE) has entered into a contract with **CNA/Continental Insurance Company** to provide all Defense Base Act (DBA) insurance to USACE contractors at a contracted rate. The rates for this insurance are as follows:

Services @ \$3.50 per \$100 of compensation;

Construction @ \$7.25 per \$100 of compensation;

Security @ \$10.30 per \$100 of compensation;

Aviation @ \$17.50 per \$100 of compensation.

- (b) Bidders/Offerors should compute the total compensation (direct salary plus differential, but

excluding per diem, housing allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance and the cost of DBA totals in the spaces provided for the base period and whatever extension there may be thereafter, if applicable.

(1) Compensation of Covered Employees: \_\_\_\_\_

(2) Defense Base Act Insurance Costs: \_\_\_\_\_

(3) Total Cost: \_\_\_\_\_

(c) Bidders/Offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(d) CNA Insurance is utilizing Rutherford International as their managing Broker. The primary POC is the USACE DBA Program Administrator is Ramoan Jones, (703) 813-6571 [ramoan.jones@rutherford.com](mailto:ramoan.jones@rutherford.com). The alternate POC is Sara Payne, Senior Vice President, (703) 813-6503 [sara.payne@rutherford.com](mailto:sara.payne@rutherford.com).