SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS

OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30

1. REQUISITION NUMBER: R57087-7337-0051

2. CONTRACT NO.: N00244-01-D-0002

3. AWARD/EFFECTIVE DATE: See Item 31c

4. ORDER NUMBER:

5. SOLICITATION NUMBER:

6. SOLICITATION ISSUE DATE:

7. FOR SOLICITATION INFORMATION CALL: a. NAME

b. TELEPHONE NUMBER (*No collect calls*)

8. OFFER DUE DATE/ LOCAL TIME

9. ISSUED BY — CODE N00244

Fleet and Industrial Supply Center
Regional Contracts Department, Code 2405
937 North Harbor Drive
San Diego, CA 92132-0212

ORIGINAL

10. THIS ACQUISITION IS
- ☐ UNRESTRICTED
- ☐ SET ASIDE: %FOR
  - ☐ SMALL BUSINESS
  - ☐ SMALL DISADV. BUSINESS
  - ☐ 8(A)

SIC: 2951
SIZE STANDARD: $5 Million

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED
- ☐ SEE SCHEDULE

12. DISCOUNT TERMS

☐ 13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING: DO

14. METHOD OF SOLICITATION: ☐ RFQ ☐ IFB ☐ RFP

15. DELIVER TO — CODE
As specified on each individual Delivery Order

16. ADMINISTERED BY — CODE N00244
Same as Item 9

17a. CONTRACTOR/ OFFEROR — CODE — FACILITY CODE
TNM Internacional, S.A.
2727 DeAnza Rd. I-19
San Diego, CA 92109
(619) 270-3189

18a. PAYMENT WILL BE MADE BY — CODE
As Specified on each Individual Delivery Order

☐ 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED. ☐ SEE ADDENDUM

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

25. ACCOUNTING AND APPROPRIATION DATA
As specified on each Individual Delivery Order

26. TOTAL AWARD AMOUNT (*For Govt. Use Only*)
$1,638,287.00

☐ 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA ☐ ARE ☐ ARE NOT ATTACHED

☒ 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA ☒ ARE ☐ ARE NOT ATTACHED.

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONS SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.

29. AWARD OF CONTRACT: REFERENCE your 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*) Luis de la Fuente

30b. NAME AND TITLE OF SIGNER (*TYPE OR PRINT*): JEAN PAUL VALLORTA, GENERAL MANAGER TNM Int.

30c. DATED SIGNED: 00/10/26

31b. NAME OF CONTRACTING OFFICER (*TYPE OR PRINT*): LUIS DE LA FUENTE

31c. DATE SIGNED: 10-26-00

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

33. SHIP NUMBER ☐ PARTIAL ☐ FINAL

34. VOUCHER NUMBER

35. AMOUNT VERIFIED CORRECT FOR

36. PAYMENT ☐ COMPLETE ☐ PARTIAL ☐ FINAL

37. CHECK NUMBER

32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE

32c. DATE

38. S/R ACCOUNT NUMBER

39. S/R VOUCHER NUMBER

40. PAID BY

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT

41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER

41c. DATE

42a. RECEIVED BY (*Print*)

42b. RECEIVED AT (*Location*)

42c. DATE REC'D (*YY/MM/DD*)

42d. TOTAL CONTAINERS

1. Contract Award: Contract N00244-01-D-002 is awarded to TNM Internacional, S.A. Award consists of Lot 1 - Acapulco, Lot 2 - Mazatlan, Lot 4 - Cabo San Lucas, and Lot 5 - All Other Ports (West Coast).

2. Government I.M.P.A.C. Card: The Contractor is not required to accept the Government Card during the Base Year. The Contractor will accept the Government Card throughout both option years.

3. Pricing: Line item pricing for all items/services provided under this contract is listed in Attachment 1

4. Contract Discount Terms: The Contractor will provide a 2% discount for all cash payment during the option years of the contract. This discount is not applicable during the base year of the contract.

THE FOLLOWING INFORMATION REPLACES SF1449, BLOCK 27:

BLOCK 27: The contract includes the following attachments:

Attachment 1 - Pricing and Billing Structure

Annex A . . Important Notes

Attachment 2 - Statement of Work

Annex A . . Ship Class Listing

Annex B . . Refuse Service Definitions

Annex C . . Water Taxi Specifications/Requirements

Annex D . . Operations Other Than War (OOTW)

Attachment 3 - Contract Administration Plan (CAP)

Attachment 4 - Performance Evaluation Review (PER)

Annex A . . PER Pay Adjustment Table

Annex B . . Port Visit Survey/Quality Questionnaire

Annex C . . Contractor Discrepancy Report (CDR)

Attachment 5 - Sample Report Formats

II. APPLICABLE CONTRACT CLAUSES:

[1] 52.212-4, "Contract Terms and Conditions--Commercial Items (MAY 1997)," is hereby incorporated by reference 9SF 1449, Block 27).

[2] ADDENDUM to FAR 52.212-4

(a) The following clauses are hereby incorporated by reference:

52.215-26 Integrity of Unit Prices (JAN 1997)

52.252-4 Alterations in Contract (APR 1984)

(b) The following clauses are hereby incorporated in full text:

Line Items Subject To Economic Price Adjustments

(a) Tariff-priced contract line items under this contract are subject to adjustment based on revisions to tariff-prices established by local port authorities. In order to claim such an adjustment, the Contractor must submit a current tariff price list issued by the cognizant authority with its proposal, in the format required by the contract, including appropriate official port seals.

(b) In addition to economic price adjustments for port tariff items, contract line item prices may be subject to adjustment when fluctuations in the local economy cause a change in the existing rate of inflation exceeding 15%. The "Banco de Mexico Index," an inflation index issued by the Central Bank of Mexico every 15 days, is the only official source acceptable for purposes of adjusting contract line item prices for inflation.

(c) Any adjustments to contract line item prices, made pursuant to that clause in Section I entitled "Price Changes", shall be limited to increases or decreases in the applicable tariff or in the official rate of inflation. No adjustment shall be made for any other factor, including but not limited to overhead, general and administrative costs, and profit.

COST SAVINGS SHARING FEE

(a) To provide an incentive to the Contractor in striving for improved cost efficiencies on a continuing basis, the Government shall share approved costs savings with the Contractor by paying the Contractor a fee for documented cost reductions, in accordance with the terms of this provision.

(b) The supplies and services identified in Attachment 1, Billing/Pricing Schedule, are subject to price revision in accordance with this clause; provided that the Contractor's portion of any costs savings does not exceed 25 percent of the initial, or baseline, price for any item. Any supplies or services that are to be ordered separately under, or otherwise added to, this contract and which will be subject to price revision in accordance with this clause shall be identified as such in a modification to this contract.

(c) Cost reductions of the baseline, or initial, prices shall not be applicable during the first ninety days of contract performance.

(d) Cost Reduction Fee refers to the Contractor's share of any documented cost savings which result in a reduction of baseline prices. For purposes of this contract, any approved cost savings shall be apportioned between the Government and the Contractor on a 60/40 ratio, with the Contractor entitled to 40 percent of the cost savings realized. (Cost savings shall be calculated on ACTUAL savings realized, NOT on projected cost savings.)

(e)) Within ten days of completing negotiations with subcontractors, other vendors, port authorities, etc., which result in the reduction of any of the current fixed price unit costs specified in the contract, including any modifications thereto, the Contractor shall submit written notification to the Contracting Officer. The Contractor shall identify the item by CLIN, description, current unit price and revised unit price, and shall clearly state the date on

which the reduced prices are to become effective. **(No subcontract or negotiated agreement placed by the Contractor under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.)**

(f) Upon the Contracting Officer's receipt of the information required by paragraph (e) above, the Contracting Officer and the Contractor shall promptly negotiate a revised unit price. The revised unit price(s) of the items specified in paragraph (b) above shall be evidenced by a modification to this contract, signed by both the Contractor and the Contracting Officer. Such modification of the unit price(s) shall constitute approval of applicable costs savings by the Contracting Officer.

(g) On all delivery orders issued subsequent to such modification(s), the Contractor shall be paid the stated portion of the documented costs savings, as established in paragraph (d) above. (For example, the contractor negotiates a reduction of ten cents per gallon in the cost of CHT removal, and a modification to the contract is issued wherein the unit cost of CHT removal is decreased by ten cents per gallon. Subsequent to issuance of the modification, the Contracting Officer issues a delivery order which includes a requirement for the removal of 3,000 gallons of CHT. The delivery order will include the CLIN cited in Attachment 1, Billing/Pricing Schedule, for Cost Savings Fee, and the amount will be calculated as follows: 3,000 (quantity of applicable supply or service) x four cents (the Contractor's portion of realized cost savings [40% of ten cents]) for a total of $120.) **UNDER NO CIRCUMSTANCES SHALL COST SAVINGS BE EARNED OR ATTRIBUTED RETROACTIVELY.** The Contracting Officer/Ordering Officer will ensure the inclusion of any applicable cost savings fee in delivery orders, as appropriate - the Contractor is NOT required to submit additional documentation or requests beyond the initial notification and/or adjustment.

(h) If the Contractor and the Contracting Officer fail to agree upon either the revised prices or the cost sharing fee within 60 days after the date on which the data required by paragraph (e) above are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(i) *EQUITABLE ADJUSTMENT UNDER OTHER CLAUSES.* If an equitable adjustment in the contract price is made under any other clause of this contract, and if such adjustment causes an increase in a revised unit price subject to the terms of this provision, the contractor's entitlement to a cost savings fee for that item or items shall cease on the effective date of the economic price/equitable adjustment. **In no event shall a Contractor receive a cost sharing fee under this clause for any item(s) whose unit price is increased after the initial price has been revised downward.**

(j) If any provision of this contract expressly provides that the cost of performance of an obligation shall be at Government expense, that expense shall not be included in any price adjustments, either upward or downward, but shall be reimbursed separately.

PERFORMANCE REVIEW EVALUATION ADJUSTMENT

(a) The Government will evaluate the Contractor's performance under this contract using the criteria set forth in Attachment 4 to this contract, entitled "Performance Evaluation Review". Attachment 4 identifies key service outputs of the contract that will be evaluated by the Government to assure quality performance standards in the contract are met by the Contractor.

(b) When the Contractor's performance falls below the stated acceptable quality levels (when the verified defects exceed the maximum percent or number

allowable), the Government may adjust the Contractor's Husbanding Agent Fee for the applicable port visit, utilizing the "Payment Adjustment Table" established in Annex A to Attachment 4. This clause is not intended to permit the Contractor to knowingly offer defective services, but limits payment reductions to circumstances in which defective performance results in a measurable degradation in the value of services rendered. Defective performance is defined as service which falls below the acceptable levels specified and/or results in nonconformance with specified requirements.

AUTHORIZATION TO PERFORM

The Contractor warrants that it has been duly authorized to operate and do business in the state(s) or country(ies) in which this contract is to be performed; that it has obtained, at no cost to the U.S. Government, all necessary licenses and permits required in connection with this contract; and that it will fully comply with all the laws, decrees, labor standards and regulations of such state(s) or country(ies) during the performance of this contract.

PERIOD OF PERFORMANCE (FISC SAN DIEGO)

The Government requires a performance period consisting of a base year and two (2) one-year options. The period of performance shall commence on 01 November 2000 and shall continue in effect through the performance period(s) specified.

DESIGNATION OF ORDERING ACTIVITY

The following Naval activity is hereby authorized to place delivery orders:

FLEET AND INDUSTRIAL SUPPLY CENTER
REGIONAL CONTRACTS DEPARTMENT
937 NORTH HARBOR DRIVE
SAN DIEGO, CA 92132-0060

Internet address: "san_diego_port_services@sd.fisc.navy.mil"

Fax Numbers: (619) 532-1088/1089/2575 (DSN prefix is 522)

Voice Numbers: (619) 532-2901/2562/2651 (DSN prefix is 522)

The Contracting Officer will issue a letter to the contractor coincident with contract award listing the authorized ordering officer(s) by name. The authorized Ordering Officer is responsible for issuing and administering any orders placed hereunder. Ordering Officers have no authority to modify any provisions of the basic contract. Any deviations from the terms of the basic contract must be submitted to the Procuring Contracting Officer (PCO) for contractual action.

52.216-18 Ordering (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from 01 NOVEMBER 2000 THROUGH THE SPECIFIED PERIOD OF PERFORMANCE.

(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.

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.

Ordering Period:

Base Year: 01 November 2000 through 30 September 2001.

Option Year 1: 01 October 2001 through 30 September 2002.

Option Year 2: 01 October 2002 through 30 September 2003.

52.216-19 Delivery Order Limitations (OCT 1995)

(a) ***Minimum order***. When the Government requires supplies or services covered by this contract in an amount of less than $1,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

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

(1) Any order for a single item in excess of $25,000;

(2) Any order for a combination of items in excess of $100,000; or

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

(c) Since 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 subparagraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, 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 24 hours after issuance, with written notice stating the Contractor's intent not to provide the services or items called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

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 <u>only</u> 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 Delivery-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. (See Annex A to Attachment 1, "Important Notes About Pricing," for information regarding any supplies or services the Government may furnish within its own capabilities, or via host nation support, where applicable.)

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

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

(f) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after 7 days past the contract expiration date.

5252.216-9402 ORAL ORDERS (OCT 1996)

Oral orders may be placed providing the following conditions are complied with:

(1) No oral order will exceed $100,000 or such lesser amount as may be specified elsewhere in the schedule of this contract.

(2) Contractor will furnish with each shipment a delivery ticket, in triplicate, showing: contract number, order number under the contract; date order was placed, name and title of person placing order; an itemized listing of supplies or services furnished; unit price and extension of each item; and delivery or performance date.

(3) Invoices for supplies or services furnished in response to oral orders will be accompanied with a receipted copy of each related delivery ticket.

(4) Ordering activity shall designate in writing the names of individuals authorized to place oral orders and will furnish a copy thereof to the Contractor. Only the designated Ordering Officer may contact the contractor and place oral orders. The Ordering Officer shall identify himself to the contractor, specify the contract item(s) to be furnished, identify the contract number and assign a date and order number.

(5) Oral orders shall be confirmed in writing (on a Form SF 1449) within ten working days; Type I oral orders may be confirmed twice a month, in writing, when more than one oral order is consolidated for a single confirmation.

5252.216-9403 WRITTEN ORDERS (INDEFINITE DELIVERY CONTRACTS (JAN 1992) (NAVSUP)

Written orders (on SF Form 1449) will contain the following information consistent with the terms of the contract, and may be issued via regular or express mail, facsimile, or electronic communications format:

(a) Date of Order.
(b) Contract number and order number.
(c) Item number and description, quantity ordered, unit price and contract price.

(d) Delivery or performance date.
(e) Place of delivery or performance (including consignee).
(f) Packaging, packing and shipping instructions if any required.
(g) Accounting and appropriation data.
(h) Inspection, invoicing and payment provisions to the extent not covered in the contract; and any other pertinent information.

52.217-8 Option to Extend Services (AUG 1989)

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 the period specified in the Schedule.

52.217-9 Option to Extend the Term of the Contract (MAR 1989)

(a) The Government may extend the term of this contract by written notice to the Contractor prior to the expiration date of the contract provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend 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 provision.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 3 years

SUBMISSION OF INVOICES

(a) "Invoice" as used in this clause includes Contractor requests for interim payments using public vouchers (SF 1034).

(b) Invoices shall be marked with the contract and delivery order number, segregated by individual order, and submitted to the Receiving Activity (ship or vessel) Supply Officer or designated Commanding Officer's Representative for certification, as specified on the order. Invoices not in compliance with these instructions are not considered to be proper invoices, and may be rejected.

(c) In addition to the information identified in the Prompt Payment clause herein, each invoice shall contain the following information:

(1) Contract Line Item Number (CLIN)
(2) Subline Item Number (SLIN)
(3) Accounting Classification Reference Number (ACRN) will be specified on individual delivery orders
(4) Payment terms
(5) Procuring Activity
(6) Date supplies provided or services performed
(7) Costs incurred and allowable under the contract
(8) Vessel (e.g. ship) for which supply/service was provided

(d) Invoices shall be submitted to the Supply Officer prior to ship's scheduled departure, in accordance with Section C herein.

(e) Invoices shall reflect the pricing schedule set forth in Attachment 1, Billing/Pricing Structure. The Contractor shall submit all subcontractors and/or vendors invoices, and shall provide copies of all such receipts, bills, etc. as

attachments to the invoice.

(f) Original Certified invoices for Navy vessels shall be forwarded to the Contracting Officer for submission to the designated payment office. Original Certified invoices for Coast Guard vessels shall be forwarded directly to the authorized Coast Guard payment office and one (1) copy shall be provided to the Contracting Officer, concurrent with submission to the payment office. Instructions for processing invoices for Military Sealift Command vessels will be specified on individual delivery orders. Invoices for foreign vessels shall be submitted directly to the vessel for payment prior to departure from the port.

(g) Payment will be made by the payment office designated in Block 15 of the individual order. Payment may be made by U.S. Treasury Check, or by means of electronic funds transfer.

(h) Payment will be made after delivery and acceptance of supplies or performance and acceptance of services. The Government will only pay for those supplies and/or services, or portions thereof, which have been accepted and certified for payment by the authorized ship's representative.

(i) (1) In the event the Contractor is unable to present certified invoices to the receiving ship/vessel, as so specified, for payment prior to the departure of the ship, the Contractor shall forward subject invoices as set forth in paragraph (f) above.

ADDITIONAL INVOICE INSTRUCTIONS

(i) When an invoice includes charges for Port Tariff items, a copy of the Port Tariff itself and the computation showing its application to the specific ship shall be provided.

(ii) If payment will be made utilizing the Government I.M.P.A.C. Card Program, a consolidated billing report itemizing the exact amount to be charged shall be presented to the appropriate ship's personnel (Supply Officer or Commanding Officer's designated representative) prior to ship's departure. At that time, the ship shall review all charges, and shall confirm inspection and acceptance of all supplies and services provided by annotating each line item as "verified" or "disapproved", including a detailed description of the circumstances pertaining to each disapproved charge.

(a) The Contractor shall provide the original annotated billing report to the FISC San Diego Contracting officer for review/certification within 48 hours of ship's departure from the port, and shall include all back-up documentation required to explain or support any disapproved charges.

(b) The Contracting officer shall review the Contractor's documentation within three (3) working days, and shall provide written notification to the Contractor regarding his/her findings.

(1) If the Contracting officer agrees with the total amount itemized on the consolidated billing report, the written notification to the Contractor shall authorize the Contractor to process the charges against the ship's purchase card number; OR

(2) If the Contracting Officer finds a discrepancy, or cannot resolve a discrepancy identified by the ship, the Contracting Officer will discuss the matter with the Contractor, and may request the Contractor to resubmit a corrected copy of the consolidated billing report. AFTER the Contracting Officer has received, reviewed and confirmed that any discrepancies have been corrected, the Contracting Officer will authorize the Contractor to process approved charges

against the ship's purchase card number.

(c) The ship shall provide specific account information to the Contractor in accordance with Invoicing provisions set forth herein, FOR VERIFIED CHARGES ONLY. The Contractor shall NOT submit billings to the authorized credit card payment center for any disapproved charges.

(1) The Contractor agrees to process charges against Government Purchase Cards only AFTER the exact amount has been approved by the Contracting office.

(iii) If payment will be made utilizing designated payment offices (DFAS or Coast Guard Finance Center), a consolidated invoice shall be prepared in accordance with invoicing clauses contained herein, and shall include all subcontractors' invoices/charges (individual invoices for each contract line item are NOT required). The Contractor shall present a consolidated invoice for services provided under each ship's delivery order, for review and certification by appropriate ship's personnel. The ship shall indicate for each service or supply billed, whether the invoiced amount (quantity) can be verified as received or is rejected as not matching the ship's records. The Contractor shall forward the original consolidated invoice, including all substantiating documentation from subcontractors and ship's personnel, to the Contracting officer for review within five (5) days of ship's departure from the port. The Contracting Officer shall review all applicable documentation, and shall forward acceptable invoices to the designated Government payment office for processing within two (2) working days of receipt. Unacceptable invoices shall be returned to the Contractor with an explanation detailing WHY the Contracting Officer is unable to process for payment, and requesting revision and/or correction and resubmission, as appropriate.

(a) The Contractor shall submit all subcontractors and/or vendors invoices, and shall provide copies of all such receipts, bills, etc. as attachments to the invoice, including English translations, where necessary.

(iv) Both Consolidated Billing Reports and Invoices shall reflect the pricing schedule set forth in Attachment 1, Billing/Pricing Structure.

(v) Instructions for processing invoices for Military Sealift Command vessels will be specified on individual delivery orders.

(vi) Invoices for Canadian vessels shall be submitted directly to the vessel for payment prior to departure from the port.

(vii) Coast Guard vessels must complete the appropriate Contract Payment Approval forms required by the Coast Guard Finance Center. Completed form should be mailed to the authorized Coast Guard payment office, and one copy provided to the Contractor and one copy to the FISC San Diego Contracting/ordering Officer.

(viii) Payment for U.S. vessels will be made in U.S. dollars, and may be made by the Government I.M.P.A.C. Card; by means of electronic funds transfer; by U.S. Treasury check; or in cash when authorized by the Contracting Officer. Payment for Canadian vessels shall be paid in cash prior to the ship's departure, unless alternate arrangements have been made between the vessel, the Contracting officer and the Contractor.

(ix) Payment for U.S. vessels will only be made <u>after</u> delivery and acceptance of supplies or after performance and acceptance of services. The U.S. Government will only pay for those supplies and/or services, or portions thereof, which have been accepted and certified for payment in accordance with the terms and conditions of this solicitation/contract.

(x) See Annex D to Attachment 2 herein for invoicing instructions applicable to bunker fuel purchases.

PAYMENT OF LINE ITEMS

(a) For line items ordered and accepted in accordance with the provisions of this contract, the Contractor shall be reimbursed as follows:

(1) For any line items, which have been awarded on a fixed-price basis under the subject contract, the Contractor shall be reimbursed at the fixed-price rate set forth in Attachment 1, Billing/Pricing Schedule.

(2) For any port tariff-priced line item, the Contractor shall be reimbursed based upon the current documented tariff price, less any discounts offered to the U.S. Government, as reflected in the contract or as acknowledged by the Contracting Officer.

(3) For any items which are to be negotiated upon issuance of specific delivery orders under the basic contract, the Contractor shall be reimbursed at the rates negotiated by the Contracting Officer/Ordering Officer at the time the delivery order is issued.

CANCELLATION OF ORDERS

In the event an order is canceled at least 24 hours prior to the required delivery and/or ship arrival date, the Government shall not be liable for any charges. For any order not canceled at least 24 hours prior to the required delivery time, the Contracting Officer/Ordering Officer shall be responsible for negotiating a reasonable cancellation fee with the Contractor.

AUTHORIZED PAYMENT OFFICES

ONLY THE FOLLOWING DESIGNATED OFFICIAL PAYMENT OFFICES ARE AUTHORIZED TO MAKE PAYMENTS UNDER THIS CONTRACT:

FOR U.S. NAVY: Defense Finance & Accounting Service (DFAS)
San Diego Operating Location, Code FPVAB
4181 Ruffin Road
San Diego, CA 92123-1819
Telephone: (619) 616-5148 or 5127

FOR U.S. COAST GUARD: Commanding Officer (Team 2B)
U.S. Coast Guard Finance Center
1430 Kristina Way
Chesapeake, VA 23326-1224
Telephone: (202) 267-1157

FOR USMSC: Contact FISC San Diego Contracting Officer

52.232-33 Mandatory Information for Electronic Funds Transfer Payment (AUG 1996)

(a) Method of payment. Payments by the Government under this contract, including invoice and contract financing payments, may be made by check or electronic funds transfer (EFT) at the option of the Government. If payment is made by EFT, the Government may, at its option, also forward the associated payment information by electronic transfer. As used in this clause, the term "EFT" refers to the funds transfer and may also include the information transfer.

(b) Mandatory submission of Contractor's EFT information.

(1) The Contractor is required, as a condition to any payment under this contract, to provide the Government with the information required to make payment by EFT as described in paragraph (d) of this clause, unless the payment office determines that submission of the information is not required. However, until January 1, 1999, in the event the Contractor certifies in writing to the payment office that the Contractor does not have an account with a financial institution or an authorized payment agent, payment shall be made by other than EFT. For any payments to be made after January 1, 1999, the Contractor shall provide EFT information as described in paragraph (d) of this clause.

(2) If the Contractor provides EFT information applicable to multiple contracts, the Contractor shall specifically state the applicability of this EFT information in terms acceptable to the payment office.

(c) Contractor's EFT information. Prior to submission of the first request for payment (whether for invoice or contract financing payment) under this contract, the Contractor shall provide the information required to make contract payment by EFT, as described in paragraph (d) of this clause, directly to the Government payment office named in this contract. If more than one payment office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the changed information to the designated payment office(s).

(d) Required EFT information. The Government may make payment by EFT through either an Automated Clearing House (ACH) subject to the banking laws of the United States or the Federal Reserve Wire Transfer System at the Government's option. The Contractor shall provide the following information for both methods in a form acceptable to the designated payment office. The Contractor may supply this data for this or multiple contracts (see paragraph (b) of this clause).

(1) The contract number to which this notice applies.

(2) The Contractor's name and remittance address, as stated in the contract, and account number at the Contractor's financial agent.

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

(4) For ACH payments only:

(i) Name, address, and 9-digit Routing Transit Number of the Contractor's financial agent.

(ii) Contractor's account number and the type of account (checking, saving, or lockbox).

(5) For Federal Reserve Wire Transfer System payments only:

(i) Name, address, telegraphic abbreviation, and the 9-digit Routing Transit Number for the Contractor's financial agent.

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

(e) Suspension of payment. (1) Notwithstanding the provisions of any other clause of this contract, the Government is not required to make any payment under this contract until after receipt, by the designated payment office, of the correct EFT payment information from the Contractor or a certificate submitted in accordance with paragraph (b) of this clause. Until receipt of the correct EFT information, any invoice or contract financing request shall be deemed not to be a valid invoice or contract financing request as defined in the Prompt Payment clause of this contract.

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

(f) Contractor EFT arrangements. The Contractor shall designate a single financial agent capable of receiving and processing the electronic funds transfer using the EFT methods described in paragraph (d) of this clause. The Contractor shall pay all fees and charges for receipt and processing of transfers.

(g) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government failed to use the Contractor-provided EFT information in the correct manner, the Government remains responsible for (i) making a correct payment, (ii) paying any prompt payment penalty due, and (iii) recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because Contractor-provided EFT information was incorrect at the time of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

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

(ii) If the funds remain under the control of the payment office, the Government retains the right to either make payment by mail or suspend the payment in accordance with paragraph (e) of this clause.

(h) EFT and prompt payment. (1) A payment shall be deemed to have been made in a timely manner in accordance with the Prompt Payment clause of this contract if, in the EFT payment transaction instruction given to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(2) When payment cannot be made by EFT because of incorrect EFT information provided by the Contractor, no interest penalty is due after the date of the uncompleted or erroneous payment transaction, provided that notice of the defective EFT information is issued to the Contractor within 7 days after the Government is notified of the defective EFT information.

(i) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the Assignment of Claims clause of this contract, the assignee shall provide the assignee EFT information required by paragraph (d) of this clause. In all respects, the requirements of this clause shall

apply to the assignee as if it were the Contractor. EFT information which shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (e) of this clause.

(j) Payment office discretion. If the Contractor does not wish to receive payment by EFT methods for one or more payments, the Contractor may submit a request to the designated payment office to refrain from requiring EFT information or using the EFT payment method. The decision to grant the request is solely that of the Government.

(k) Change of EFT information by financial agent. The Contractor agrees that the Contractor's financial agent may notify the Government of a change to the routing transit number, Contractor account number, or account type. The Government shall use the changed data in accordance with paragraph (e)(2) of this clause. The Contractor agrees that the information provided by the agent is deemed to be correct information as if it were provided by the Contractor. The Contractor agrees that the agent's notice of changed EFT data is deemed to be a request by the Contractor in accordance with paragraph (e)(2) that no further payments be made until the changed EFT information is implemented by the payment office.

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items (AUG 1996)

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

(1) 52.222-3, Convict Labor (E.O. 11755); and

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

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b) which 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 or components:

(Contracting Officer shall check as appropriate.)

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

_X_ (2) 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (41 U.S.C. 423).

____ (3) 52.219-8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (15 U.S.C. 637 (d) (2) and (3));

____ (4) 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4));

____ (5) 52.219-14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

____ (6) 52.222-26, Equal Opportunity (E.O. 11246).

____ (7) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212).

____ (8) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

___ (9) 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

___ (10) 52.225-3, Buy American Act--Supplies (41 U.S.C. 10).

___ (11) 52.225-9, Buy American Act--Trade Agreements Act--Balance of Payments Program (41 U.S.C. 10, 19 U.S.C. 2501-2582).

___ (12) Reserved.

___ (13) 52.225-18, European Union Sanctions for End Products (E.O. 12849).

___ (14) 52.225-19, European Union Sanctions for Services (E.O. 12849).

___ (15)(i) 52.225-21, Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program (41 U.S.C 10, Pub. L. 103-187).

___ (15)(ii) Alternate I of 52.225-21.

___ (16) 52.239-1, Privacy or Security Safeguards (5 U.S.C..552a).

___ (17) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor agrees to comply with the FAR clauses in this paragraph (c), applicable to commercial services, which 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 or components:

(Contracting Officer check as appropriate.)

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

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

___ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record.

The Contractor agrees to 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) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components--

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a)); and

(3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

(4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

252.212-7001 Contract Terms And Conditions Required To Implement Statutes Or Executive Orders Applicable To Defense Acquisitions Of Commercial Items (FEB 1997)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.247-7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631.

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

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

_____ 252.206-7000 Domestic Source Restriction (10 U.S.C. 2304).

_____ 252.219-7001 Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns (___Alternate I)(Section 9004, Pub. L.101-165(10 U.S.C.2301(repealed) note)).

_____ 252.219-7002 Notice of Small Disadvantaged Business Set-Aside (____Alternate I)(15 U.S.C. 644).

_____252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts)(15 U.S.C. 637).

_____252.219-7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions (____Alternate I)(Section 9004, Pub. L. 101-165(10 U.S.C.2301 (repealed)note)).

_____252.219-7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns (____Alternate I)(15 U.S.C. 644).

_____252.225-7001 Buy American Act and Balance of Payment Program (41 U.S.C. 10, E.O. 10582).

_____252.225-7007 Trade Agreements (10 U.S.C. 2501-2582).

_____252.225-7012 Preference for Certain Domestic Commodities.

_____252.225.7014 Preference for Domestic Specialty Metals (10 U.S.C. 2241 note).

_____252.225-7015 Preference for Domestic Hand or Measuring Tools (10 U.S.C. 2241 note).

_____252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (U.S.C. 2779)

_____252.225-7028 Exclusionary Policies and Practices of Foreign Governments (22 U.S.C. 2755).

_____252.225-7029 Restriction on Acquisition of Air Circuit Breakers (10 U.S.C. (a)(3)).

_____252.225-7036 North American Free Trade Agreement Implementation Act.

_____252.227-7015 Technical Data-Commercial Items (10 U.S.C. 2320).

_____252.227-7037 Validation of Restrictive Markings on Technical Data (10 U.S.C. 2321).

_____252.242-7002 Submission of Commercial Freight Bills for Audit (31 U.S.C. 3726).

_X_252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

_____252.249-7001 Notification of Substantial Impact on Employment (10 U.S.C. 2501 note).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014, Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note). -- **Not applicable to this contract**.

III. ANY CONTRACT DOCUMENTS, EXHIBITS OR ATTACHMENTS.

See page 2 herein for a complete listing of documents, exhibits and/or attachments applicable to this solicitation/contract.