SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES

ADDENDA TO FAR 52.212-1 INSTRUCTIONS TO OFFERORS–COMMERCIAL ITEMS PRODUCTS AND COMMERCIAL SERVICES (SEP 2023)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* In addition to the above, for NAICS code 324110 – To qualify as small for purposes of Government procurement, the petroleum refiner, including its affiliates, must be a concern that has either no more than 1,500 employees or no more than 200,000 barrels per calendar day total Operable Atmospheric Crude Oil Distillation capacity. Capacity includes all domestic and foreign affiliates, all owned or leased facilities, and all facilities under a processing agreement or an arrangement such as an exchange agreement or a throughput. To qualify under the capacity size standard, the firm, together with its affiliates, must be primarily engaged in refining crude petroleum into refined petroleum products. A firm's "primary industry" is determined in accordance with 13 CFR § 121.107.

(b) *Submission of offers.* The following is hereby added:

(12) Offers must be submitted using the Bulk Offer Entry Tool (OET). Use of the OET is mandatory for this solicitation so offers can be imported directly into the Bulk Bid Evaluation Model (BEM) for the evaluation of FACTOR 2: PRICE. Any documents not submitted in the OET cannot be rated as part of the vendor's offer submission package (OSP).

(i) The OET has three Standard rounds: Initial, Interim Proposal Revision (IPR), and Final Proposal Revision (FPR). An optional "OET Price Reduction" round may be conducted at the Contracting Officer's discretion. After the solicitation has been posted to the Sam.Gov website, it will be posted to the OET as the Initial standard round. Offerors must participate in the Initial standard round and be in the competitive range to be eligible to participate in any subsequent rounds.

a. Initial round: offerors can edit all data fields in its OSP by adding shipping locations, origin and destination bid lines, quantities, prices, and offer conditions.

b. IPR round: offerors may change most data fields in its offer, including adding and removing shipping locations, adding or removing origin and destination bid lines, quantities, prices, and offer conditions. The IPR is the last round offerors are allowed to add new shipping points, products, modes of delivery, sources of supply, FOB terms, exception requests, or new bid lines. Interim OET round submittal is also the last opportunity for offerors to request additional bid lines to propose tiered pricing.

c. FPR round: offerors will not be able to add new shipping points, products, modes of delivery, sources of supply, FOB, escalators exception requests, or new bid lines. Offerors will still be able to edit the other fields of its offer in the OET.

d. Price Reduction round (Optional): If the Contracting Officer determines that a Price Reduction round will be held, offerors will only be allowed to lower their offered price and may not make revisions to any other OET fields. Offerors will be provided with an updated copy of the Minimum Cost Bid Evaluation Worksheet (MCBEW) and a "Laid-Down Cost Report" (LCR). The LCR will provide information on the price currently in line for award at each line item. This report is limited to providing the solicitation line item, demand location, quantity currently in line for award, and the laid down price for the quantity currently in line for award (laid down price as defined under: FACTOR 2: PRICE in this solicitation). Revisions received after the

stated closing date and time will not be considered. If there was no new offered price submitted during the OET Price Reduction round, then the previous submitted offered price will be used for evaluation.

(ii) Revisions submitted after the close of a round will not be considered.

(13) The solicitation will have a Two-Part Negotiation. Part 1 begins when the Opening of Negotiations letters are sent to offerors who are in the competitive range. Meaningful discussions will be held before the date and time specified for the closing of the IPR. Part 1 will conclude with the submission of IPRs. Part 2 of Negotiations will occur after the closing of the Interim OET round. Offerors will be notified of the status of all old and new negotiation issues that must be resolved in the FPR. Part 2 will conclude with date and time indicated in the Closing of Negotiation letter. The Contracting Officer reserves the right to re-open negotiations if it is necessary to have further discussions.

Each offeror will be provided with a "Minimum Cost Bid Evaluation Worksheet" (MCBEW) after IPR and before FPR. The MCBEW will provide detailed information on how an offer is evaluated to each demand location. This report includes offered price, method of delivery for each leg of the route, transportation and additive costs, any applicable evaluation factors, and the evaluated laid down price for each location. This information will be generated separately for each offeror, and each offeror will receive only the information applicable to its offer.

Offerors will be given time to review the MCBEW, after which DLA Energy will close negotiations and call FPRs. FPRs submitted through the OET will be evaluated in the BEM. Unless the offer is withdrawn, the offeror's most recent OET price submission for this acquisition (initial offer, IPR, or FPR, as applicable) will be evaluated as a final offer in the BEM for possible award. The Government reserves the right to either make awards based on the FPR BEM evaluation, or to conduct additional standard rounds or an OET price reduction rounds.

If the Contracting Officer holds a price reduction round, offerors will be provided with an updated copy of the MCBEW and a LCR. Revisions received after the stated closing date and time will not be considered. If there was no new offered price submitted during the OET Price Reduction round, then the previous submitted offered price will be used for evaluation.

(14) Offerors must select only one mode of transportation and shipping point per sequence bid line offered in the OET. For example, a unique sequence bid line is necessary if an offeror wants to propose:

(i) multiple transportation modes from the same shipping point, or

(ii) multiple shipping points with the same transportation mode

(15) Offerors shall not propose FOB Destination and Tanker mode on sequence bid lines. The Military Cargo Preference Act of 1904 requires that 100% of cargoes for the U.S. military forces shall be carried on U.S. flag vessels.

(16) All offer sequences must specify the Reference Price Formula ID upon which the offer is based in the Offeror Entry Tool (OET). Offers for F76, JP5, JAA and JP8 may use any of the stated Reference Prices for that product. The corresponding default Reference Price Formula will be assigned to any sequences for which a specific Reference Price Formula ID is not selected.

(17) Offerors shall notify DLA Energy if the shipping points proposed have any transportation restrictions to any of the demand locations solicited. If transportation restrictions are in place from the proposed shipping point, Offerors must provide documentation from the cognizant port authority or management verifying the ability to provide product to the specific location(s) that has a delivery restriction. If sufficient documentation is not submitted, the bid lines will not be evaluated to the location that has restrictions to receive fuel from the proposed shipping point.

(18) All attachments in the Bulk OET must be in PDF format and NOT include any electronic signatures.

(19) Multiple PDF attachments are allowed to be uploaded with an offer in the Bulk OET. There are no size restrictions.

(20) When an OSP is submitted in the OET, a SF1449 that contains the preparer's electronic signature will be included as part of the offer submission package. If the SF1449 shall be signed by someone other than the individual submitting the offer in the OET, please attach the completed and signed SF1449 as part of the OSP.

(21) All offerors that propose an F76 sequence shall complete and sign Attachment 2 – F76 Traceability Sheet. If it includes an additive that is not approved, offerors shall submit an exception request.

(22) Map coordinates shall be provided as specified in Attachment 9 – Map Coordinate Desk Guide.

(23) Offerors shall submit more than one Authorized Negotiator and provide the full legal name for each Authorized Negotiator. The Government may not discuss a proposal with an individual who is not listed.

(24) In addition to all technical items outlined in Factor 1 Technical Acceptability The below items must be included in any initial offers. Offerors are reminded that the contracting officer has the right to set a competitive range in accordance with FAR 15.306(c).

(i) Offered prices must be tied to base reference prices in the OET.

(ii) All exceptions, including any price escalator exceptions, must be entered in the OET and reference the contract provision, clause, or text for evaluation in accordance with M72.10 by no later than the IPR OET submission.

a. Any exception/deviation to the solicitation that is not in Section M of the OSP or in an attachment compliant with subsection (f) of M72.10 will not be considered and will be rejected, regardless of whether the exception/deviation is explicitly labeled as an exception or a deviation.

b. Offerors shall provide written details during negotiations to address any and all technical issues and/or exceptions that the Government has identified as "Unacceptable" prior to the submission of Final Proposal Revisions (FPRs).

c. FPRs are the final opportunity to revise proposals to address any technical acceptability issues. If a FPR includes an unresolved technical issue or an exception that is not acceptable to the Government, the offer will be found

technically unacceptable and ineligible for award.

d. All supply commitment letter(s) (if applicable) must be uploaded in OET per L704.

(iii) Additive prices must be included if offer includes additives.

(iv) Complete clauses as prescribed in the solicitation and attached in the OET.

(25) MEASUREMENT: Maximum and minimum parcel sizes for each location are expressed in Barrels (BBLS). All other volumes are stated in U.S. Gallons (USG) unless indicated differently.

(26) DESTINATION OFFERS: For all FOB Destination offers, offerors are responsible for ascertaining and following delivery location access procedures, including obtaining any necessary clearances to access the delivery location. Access procedures and clearance processing times may vary greatly depending on the delivery location. Any questions regarding delivery location access procedures and processing times should be directed to the specific delivery location. Contact information for the specific end-location can be obtained through your assigned contract specialist.

(27) Evaluation of BARGE, TANKER, PIPELINE, RAILCAR, and TRUCK OFFER volumes may be limited to basis of supply chain constraints such as, throughput capacity, provisions of governing tariff/shippers manual, asset availability, and solicited minimum/maximum parcel sizes. If the application of this provision results in a restriction to the quantity offered, then the Government will restrict the volume available for award.

(28) The language in F14 SHIPMENT AND ROUTING (DLA ENERGY OCT 2020) requiring seals is not applicable for JAA tank trucks unless/until the Government provides notification of an elevated security requirement. The offeror will be required to begin sealing all applicable conveyances within 24 hours of being notified of elevated security requirement (e.g., rise in threat level conditions THREATCON level). The sealing of all applicable conveyances will continue until the THREATCON level is reduced, and all offerors will be required to acknowledge and accept this condition as part of the terms and conditions of any resultant award.

(29) M41.04 EVALUATION OF OFFERS INVOLVING OTHER THAN F.O.B. TANKER BULK) (DLA ENERGY JUL 2010): Tank truck rates used in the BEM are those in effect at the time of receipt of initial offers including the fuel surcharge in effect at that time. The applicable surcharge is based on mileage and the U.S. Energy Information Administration (EIA) On-Highway Diesel Fuel Prices. Offerors wanting to review information on weekly rate changes resulting from fuel surcharges may do so at the U.S. EIA website at: https://www.eia.gov/petroleum/gasdiesel.

(30) For offerors that will be offering Jet A via tank truck, which involves staging fuel at a terminal via multi product pipeline, a Certificate of Quality of the issue tank must include testing for Fatty Acid Methyl Ester (FAME) for Acceptance of the fuel. The test method used must be allowed in the ASTM D1655 specification and below the specification limit of 50 parts per million. Offerors may seek relief from the FAME testing requirement in QAP C16.08-1 section (b)(2) by submitting documentation addressing the following points:

(i.) Do you use any biodiesel on the refinery site?

(ii.) Is there a policy to ensure that comingling does not occur? If so, please supply a copy.

(iii) Are you the sole supplier along the subject supply chain? What risks are there regarding the introduction of FAME in the supply chain?

(iv) If not, what assurances are there on the common line to prevent FAME contamination? Is there a policy? If so provide it.

(v) Is there testing to verify the enforcement of the policy?

(vi) How often does testing occur? If so, please supply test results.

(31) DLA Energy is only considering FOB Origin locations that are within the eight hour round trip to delivery destination and back to origin to be available to load the next day.

(32) Truck detention rates are to be submitted in accordance with F3.02 RANSPORT TRUCK AND/OR TRUCK AND TRAILER AND SEA VAN (INTERMODAL CONTAINER) FREE TIME AND DETENTION RATES BULK/FSII/LUBES/JPTS) (DLA ENERGY JUNE 2024):. All detention rates must be included as part of the Offer Submission Package (OSP) through the Offer Entry Tool (OET) in order to be evaluated for award see Attachment 5.

(33) SPECIFIC TO EXPLORER PIPELINE: Minimum parcel sizes of 25,000 barrels per cycle are required for Explorer Pipeline.

(34) SPECIFIC TO ENTERPRISE PIPELINE: Product on the Enterprise (formerly TEPPCO) Pipeline can only be evaluated for intrastate movements, i.e., DFSP Lebanon can only be evaluated from Lima, OH. Product can also be evaluated into the Enterprise Pipeline from DFSP Houston via the GENCO pipeline. Pipeline deliveries are limited to FOB Origin offers from shipping locations with connection to the Enterprise Pipeline.

(35) FOB DESTINATION JET A PIPELINE Line Items, failure of the product received into the Acceptance tank, as verified by failure of incoming retained samples, will require the contractor to remove all product in the tank, clean the tank, and provide a replacement batch that will cover the received amount as well as the amount of product that was in the tank prior to the off-spec condition as soon as possible. In this case, retained samples will be taken on the incoming line prior to receipt into the receiving activity's tanks.

(36) SPECIFIC TO COLONIAL PIPELINE: Suppliers contracted to ship on the Colonial Pipeline may, as a post award action, request approval from the Contracting Officer to add shipping

point(s) which was/were included in the suppliers' offer submission package (OSP). The price(s) for any additional/alternate shipping point(s) on the Colonial Pipeline, must be less than or equal to the laid down cost of the shipping point included in the supplier's initial award. The supplier may request to change the established shipping/ingress point for this movement to one of the alternate shipping/ingress points no later than 7 business days prior to the scheduled delivery date per the Colonial Pipeline Shipper Manual and Tariffs (December 2022 and as revised thereafter), Section 2.3, Paragraph 2.3.3.3, Origin Changes. The alternate shipping point/Line Item must have quantity available that is equal to or greater than the ordered volume. Final approval of shipping point changes must be coordinated and approved by the Contracting Officer

a. Pipeline nominations will be placed at a minimum of 15 calendar days prior to the scheduled delivery date in accordance with F1(a)(2)(i) of this Contract. This order will be the binding notification to the Supplier of DLA Energy's scheduled pipeline cycle lift date, quantity, and shipping/ingress point.

b. Suppliers must follow the Shipping rules as stated in the Shipper Manual and Tariffs (December 2022 and as revised thereafter), Section 2.3, Paragraph 2.3.3.3, Origin Changes. See Shipper Manual and Tariff at

https://www.colpipe.com/customers/shipper- manual-and-tariffs.

(iii) The Supplier will be responsible for any penalty, fee, or other expense DLA Energy incurs from the Pipeline Company due to the request for change of shipping/ingress point made pursuant to (4)(i) of this addenda.

(37) SPECIFIC TO ALL PIPELINES:

Pipeline	Product	Flash Point (Degrees Fahrenheit)
Colonial	JAA	105
Products	JAA	105
Buckeye	JAA	105
Explorer	JAA	108
Magellan	JAA	108
Enterprise	JAA	110
Colonial	JP5	See C QAP 16.01(a)c

(38) For all F76 tanker deliveries, the minimum parcel offered must be at least 100,000 barrels or greater.

(39) Offers that require Panama Canal transit will not be considered for delivery on a FOB Origin basis.

(40) For testing and acceptance of JAA deliveries by tanker and barge QAP E1, CONTRACTOR INSPECTION RESPONSIBILITIES (DLA ENERGY MAR 2022) will be used.

(41) For Jet A offers via tank truck (FOB Destination), offerors may request an exception to Quality Assurance Provision (QAP) E1, authorizing Recertification Testing (RT) in accordance with the latest version of E1 JIG 1530 in any resultant contract. The offeror must address the following items when requesting the use of the E1 JIG 1530 RT, which will be reviewed for technical acceptability:

(i) Provide a detailed supply chain map for the terminals where RT will be used, demonstrating complete traceability of the fuel.

(ii) Provide examples of traceability documentation for the last point of certification of incoming product such as information issued on prior certificates of analysis (CoAs), Refinery Certificates of Quality (RQCs) or RT test report. Thermal stability results by ASTM D3241 must be included on RT document.

(iii) Agree to provide the following to the delivery point: CoA or RT test report along with a Release Certificate (RC) and/or Bill of Lading (BoL).

(iv) Report additive volumes or concentration (measurement) for FSII, SDA and CI/LI on quality documentation or BoL for each delivery.

(v) Agree that when test results fall outside the acceptable RT differences, the product shall be immediately quarantined and remain under quarantine until subsequent investigation has deemed the quality of the fuel as acceptable.

(vi) Agree that if more than 3 new batches are received into a tank on top of certified heel, the contents of the tank

(42) Under 10 U.S.C. § 2922h(a), absent a waiver, "the Secretary of Defense may not make a bulk purchase of a drop-in fuel for operational purposes unless the fully burdened cost of that drop-in fuel is cost-competitive with the fully burdened cost of a traditional fuel available for the same purpose." If a contract for drop-in alternative fuel is awarded under this solicitation, it wouldqualify as a "bulk purchase of a drop-in fuel for operational purposes." Therefore, in accordance with 10 U.S.C. § 2922h, a drop-in alternative fuel offer will be ineligible for contract award unless the fully burdened cost of the drop-in fuel is found to be cost competitive. The cost competitive analysis required by 10 U.S.C. § 2922h is fully separate from price evaluation in the Bid Evaluation Model (BEM), so that an offer that is evaluated in the BEM to be in line for award may not qualify as cost- competitive under 10 U.S.C. § 2922h.

(43) PROTECTION OF GOVERNMENT PROPERTY AND SPILL PREVENTION

(i) The Contractor shall use reasonable care to avoid damaging or contaminating existing buildings, equipment, asphalt pavement, soil, or vegetation (such as trees, shrubs, and grass) on the Government installation. If the Contractor fails to use reasonable care or fail to comply with the requirements of this contract and damages or contaminates any such buildings, equipment, asphalt pavement, soil or vegetation, or other Government facilities, he shall replace the damaged items or repair the damage at no expense to the Government and to the satisfaction of the Government. Should the Contractor fail or refuse to make such repairs or replacements, the Government may have the said repairs or replacement accomplished, and the Contractor shall be liable for the cost thereof which may be deducted from the amounts which become due under this contract. Informal agreement with the Contractor upon replacement, repairs, or costs to be deducted shall first be attempted by the Installation Commander or Ordering Officer. If disagreement persists, the matter shall be referred to the Contracting Officer. Unless approved by the Contracting Officer, no costs shall be deducted from amounts due or owing without the Contractor's consent.

(ii)The Contractor shall take all measures as required by law to prevent oil spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping into or onto any land or water). In the event the Contractor spills any oil (including, but not limited to, gasoline, diesel fuel, fuel oil, or jet fuel), the Contractor shall be responsible for the containment, cleanup, and disposal of the oil spilled. Should the Contractor fail or refuse to take the appropriate containment, cleanup, and disposal actions, the Government may do so itself. The Contractor shall reimburse the Government for all expenses incurred including fines levied by Federal, State, or local governments.

(44) SAFETY DATA SHEETS – COMMERICAL ITEMS: For each item to be delivered under this contract, the apparently successful offeror shall submit, prior to award, a Safety Data Sheet

(SDS), NOT a Material Safety Data Sheet (MSDS), that meets the requirements of 29 CFR 1910.1200(g), and the latest version of Federal Standard No. 313. All data on the SDS shall be current, accurate, complete, and in compliance with Federal Standard No. 313.

(c)*Period of Acceptance*. The following is hereby added: Period of Acceptance shall be changed to **365** days.

(f) *Late submissions, modifications, revisions, and withdrawals of offers.* The following is hereby added:

(6) Offerors may only be withdrawn in writing to the Contracting Officer and must be formally withdrawn in the OET.

(g) *Contract award.* The following is hereby added: The Government may evaluate offers and award a contract after conducting discussions with offerors whose offers have been determined to be within the competitive range. If the Contracting Officer determines that the number of offers that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of offers in the competitive range to the greatest number that will permit an efficient competition among the most highly rated offers. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint.

(i) *Availability of requirements documents cited in the solicitation.* The following is hereby added: See Solicitation Attachment 8 Bulk Contract Information System (CIS) Desk Guide for instructions on accessing the Bulk CIS to download solicitation requirements in a tabular or spreadsheet format.

(l) *Debriefing.* The following is hereby added:

(7) All previous years BEM reports and award information can be obtained from Contract Opportunities on the webpage www.SAM.gov.

(End of Addenda)