



IN REPLY
REFER TO DNSC-C2

DEFENSE LOGISTICS AGENCY
DEFENSE NATIONAL STOCKPILE CENTER
8725 JOHN J. KINGMAN ROAD, SUITE 3229
FT. BELVOIR, VIRGINIA 22060-6223

July 6, 2006

Dear Prospective Offeror:

Please find attached a final copy of the Basic Ordering Agreement (BOA) for Industrial Diamonds Stones. The current schedule and quantities for offerings are as follows:

126,522.60 carats per month which will be posted to the DNSC's web site on the first Monday of each month at 1:00 p.m., Ft. Belvoir, VA time.

Note: Depending on market conditions, the schedule and quantities are subject to change.

You are invited to begin the pre-qualification process by submitting all required documentation identified or submission and any exceptions to those stated terms. Negotiations will be held to discuss indicated exceptions for pre-qualification. When negotiations have been concluded and financial statements analyzed, you will be notified of the results. **YOU MUST BE PRE-QUALIFIED PRIOR TO INSPECTING THE MATERIAL.** The first posting is tentatively scheduled for September 2006.

If you have questions, please contact Mr. Danny Lester at 703-767-5482 or via Email at danny.lester@dla.mil.

Sincerely,

JENNIFER P. IRIBARREN
Contracting Officer

DLA-DIAMONDS-001

BASIC ORDERING AGREEMENT (BOA)

FOR INDUSTRIAL DIAMOND STONES



DEFENSE NATIONAL STOCKPILE CENTER

**8725 John J. Kingman Road
Suite 3229
Fort Belvoir, Virginia 22060-6223**

Telephone (703) 767-6500
<https://www.dnsc.dla.mil>

**BASIC ORDERING AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
AND**

This Agreement governing the sale of Industrial Diamond Stones under Basic Ordering Agreement, DLA-DIAMONDS-001 (the BOA), is entered into as of the _____ day of _____ 20____ between the United States of America, represented by the Contracting Officer, and _____, represented by _____.

This Agreement shall be effective upon signature by the Contracting Officer and shall incorporate the terms of the Acceptance Letter. The terms and conditions of any subsequent sale of material are as set forth in the BOA, and shall include any revisions made to the terms and conditions by Amendments issued to the BOA after the date shown above and within the term of the Agreement specified below. Such Amendments shall be acknowledged by _____ (Company Name) and shall form a part of the BOA at the time of their issuance. These terms and conditions shall be incorporated into each contract at the time of award pursuant to this Agreement unless otherwise specified in the Acceptance Letter or the executed Quote/Award Form (Section I.1). In the event of a conflict between the BOA, the Acceptance Letter or the executed Quote/Award Form, the terms of the executed Quote/Award Form shall govern.

An executed copy of this Agreement shall be returned to the Contractor.

(Company Name)

UNITED STATES OF AMERICA

BY _____
Signature

BY _____
Signature

Name of Signer

Name of Contracting Officer

Title of Signer

Date Signed

Date Signed

Term of the Agreement

TABLE OF CONTENTS

BASIC ORDERING AGREEMENT	2
SECTION A – AGREEMENT/CONTRACT FORM	5
A.1 INTRODUCTION (JUL 06).....	5
A.2 BASIC ORDERING AGREEMENT (BOA) (JUN 99).....	5
A.3 WEB PAGE (JUL 06).....	5
A.4 MATERIAL DESCRIPTION (JAN 95).....	5
A.5 FINANCIAL EXPOSURE LIMIT (JUL 06).....	6
A.6 INSPECTION (SEP 02).....	6
A.7 FOREIGN TRADE STATISTICS REGULATIONS (MAR 02).....	8
SECTION B – PREQUALIFICATION (JUL 06).....	9
SECTION C – QUOTES.....	11
C.1 SUBMISSION OF QUOTES (JUL 06).....	11
C.2 WEB SITE INFORMATION (JUL 06).....	12
C.3 ONLINE SUBMISSIONS (JUL 03).....	12
C.4 OFFER PRICE (JUN 99).....	13
C.5 MINIMUM QUANTITY (JAN 95).....	13
C.6 LATE SUBMISSIONS, AND MODIFICATIONS OF QUOTES (JUL 03).....	13
C.7 FACSIMILE SUBMISSIONS (JUN 99).....	14
C.8 CONSIDERATION OF QUOTES (JUN 99).....	15
C.9 RESPONSIVENESS OF QUOTES (JUN 99).....	15
C.10 EVALUATION OF QUOTES (JUN 99).....	16
C.11 TIE QUOTE PROCEDURES (JUN 99).....	16
C.12 CONTRACT AWARD (JUN 99).....	16
C.13 UNSUCCESSFUL QUOTERS (JUN 99).....	16
SECTION D – PAYMENT	17
D.1 PAYMENT (JUL 06).....	17
D.2 PAYMENT DUE DATE (MAY 05).....	18
D.3 INTEREST (MAY 04).....	18
D.4 PENALTY AND ADMINISTRATIVE CHARGES (MAY 04).....	18
SECTION E – MATERIAL REMOVAL.....	19
E.1 REMOVAL OF MATERIAL (JAN 02).....	19
E.2 STORAGE CHARGES (JUL 97).....	19
SECTION F – SHIPPING.....	20
F.1 REQUEST FOR SHIPMENT (JUL 06).....	20
F.2 INSURANCE REQUIREMENTS (APR 95).....	21
F.3 WEIGHING (JUL 06).....	21
F.4 WEIGHT DISCREPANCY (JUL 06).....	21
F.5 ASSUMPTION OF RISK AND DISCLAIMER OF LIABILITY (JAN 02).....	21
F.6 ENVIRONMENTAL POLICY (NOV 05).....	22
F.7 ENVIRONMENTAL PROTECTION (JUN 95).....	22
SECTION G – CONTRACT ADMINISTRATION DATA	24
G.1 EFFECTIVE PERIOD (JUL 06).....	24
G.2 AMENDMENTS AND MODIFICATIONS (JAN 95).....	24
G.3 TITLE (JUL 02).....	24
G.4 RISK OF LOSS (JUL 02).....	24

G.5	LIMITATION ON GOVERNMENT’S LIABILITY (JAN 95)	24
G.6	PROTESTS (NOV 02)	25
G.7	DISPUTES (FEB 03)	26
G.8	DEFAULT (FEB 03)	ERROR! BOOKMARK NOT DEFINED.
G.9	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (JUNE 06)	28
G.10	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (DEC 97)	28
G.11	EXCUSABLE DELAYS (MAY 95)	29
G.12	SETOFF OF FUNDS (MAY 04)	29
G.13	INDEMNIFICATION AGREEMENT (JAN 02)	29
G.14	COVENANT AGAINST CONTINGENT FEES (JAN 95)	30
SECTION H – DEFINITIONS (APR 02)		31
SECTION I – SUBMITTALS		32
I.1	QUOTE/AWARD FORM (JUL 06)	33
I.2	SHOPPING LIST (JUL 06)	34
I.3	CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (JAN 02)	35
I.4	CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, ENVIRONMENTAL COMPLIANCE AND OTHER RESPONSIBILITY MATTERS (JUL 97)	36
I.5	TYPE OF BUSINESS ORGANIZATION (APR 96)	37
I.6	PERSONS AUTHORIZED TO REQUEST SHIPMENT OF MATERIAL (JUL 06)	38
I.7	CONTRACTOR’S BILLING ADDRESS (JUL 96)	38
I.8	PERSONS AUTHORIZED TO SUBMIT QUOTES FOR INDUSTRIAL DIAMOND STONES UNDER THE BASIC ORDERING AGREEMENT (JUL 06)	39
I.9	DISPUTES: AGREEMENT TO USE ALTERNATIVE DISPUTE RESOLUTION (JUL 06)	40
SECTION J – LIST OF ATTACHMENTS		41
J.1	STORAGE LOCATIONS (JUL 06)	42
J.2	SHIPPING INSTRUCTIONS (JAN 95)	43
J.3	DWAS WEB ACCESS REQUEST FORM (JUL 06)	44
J.4	FEDWIRE AND ELECTRONIC FUNDS TRANSFER PROCEDURES (OCT 05, REV.)	46

PART I – THE SCHEDULE

SECTION A – AGREEMENT/CONTRACT FORM

A.1 Introduction (JUL 06)

The Defense Logistics Agency (DLA), Defense National Stockpile Center (DNSC), is soliciting Quotes for the sale of up to 520,000 carats of Industrial Diamond Stones in Fiscal Year 2006.

A.2 Basic Ordering Agreement (BOA) (JUN 99)

- a.** The terms and conditions of this Basic Ordering Agreement shall be incorporated in any resulting contract, unless otherwise specified in the Acceptance Letter or the **Quote/Award Form, I.1**.
- b.** Contracts awarded under this Agreement shall be fixed price.
- c.** An executed Section **I.1 Quote/Award Form**, signed by a Contracting Officer, together with this Agreement and the Acceptance Letter shall constitute the Contract.

A.3 Web Page (JUL 06)

- a.** All requests for Quotes under this Agreement shall be posted on the first Monday of each month on the DNSC website (<https://www.dnsc.dla.mil>) by 1:00 p.m., local time, Ft. Belvoir, VA. Quoters shall check the website to determine if DNSC is soliciting Quotes for the month.
- b.** While Quoters must check the website to determine if DNSC is soliciting Quotes, DNSC will send email notifications when new solicitations or amendments are issued. Quoters that are not already receiving such notices are therefore encouraged to provide their email address by going to the Website and clicking on “Sign Up for Email Notifications.”

A.4 Material Description (JAN 95)

- a.** A complete description of the material offered for sale is listed in Section I.2.
- b.** Government analyses indicate that the material conforms to the data listed in , Section **I.2**; however, no warranty or guarantee is made that the material so conforms or that it will be suitable for any particular purpose.

A.5 Financial Exposure Limit (JUL 06)

- a. The Defense National Stockpile Center (DNSC) will establish a financial exposure limit (maximum level of business the DNSC intends to allow) for each Quoter. The financial exposure limit shall be determined based upon the following:
 - (1) Financial Position of the Quoter
 - (2) Past Performance
 - (3) References (Suppliers, Financial Institutions)
 - (4) Credit Reports
- b. If the Contractor reaches its financial exposure limit, DNSC, solely at its discretion, may determine to make no subsequent awards to the firm until such time as the Contractor satisfactorily performs existing contracts or the DNSC increases the exposure limit.
- c. All contracts awarded to a Contractor by DNSC will be applied against the Contractor's financial exposure limit.
- d. DNSC may decide to make an award to a Quoter without the prior establishment of a financial exposure limit *only if* the Contracting Officer determines that the award is in the best interest of the Government and that waiting for the establishment of the financial exposure limit would unduly delay the sale.

A.6 Inspection (SEP 02)

- a. A Quoter that has been pre-qualified (see Section B) may, at its own expense, visually inspect the material at the storage location during the initial inspection period or during the annual inspection period. **No sampling of the material will be permitted. Quoters must be pre-qualified to quote under this solicitation prior to any inspection of material.**
- b. The initial inspection period will be for four weeks. The inspections will be held on an annual basis following the initial inspection period. The annual inspection period will held in the month of April. Requests for an appointment to visually inspect the industrial diamond stones exhibited at the Government vault, DNSC Diamond Sales Center, located in the Citibank Vault, 640 Fifth Avenue, New York, NY must be made in writing or by facsimile submission on company letterhead to the Point of Contact identified in subparagraph A.6.c, at least five (5) working days prior to the date of the requested inspection. Requests shall include the name and title of each individual wishing to visually inspect the material. Quoters will be notified by telephone of the date the material will be available for inspection. The Government reserves the right to limit the number of individuals granted access to the vault.

- c. Inspection of the industrial diamond stones shall be **by appointment only** between the hours of 9:00 a.m. and 2:30 p.m., local time, New York, New York. The initial inspection period will begin Monday, July 24, 2006, and continue through close of business on August 21, 2006. A request for an appointment shall be made in writing on the firm's letterhead to the address below:

Ms. Mary Jackson
DNSC-O
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Fort Belvoir, VA 22060-6223
Telephone: (703) 767-7606
Facsimile: (703) 767-7608

- d. The request to inspect shall include the name and title of each individual wishing to examine the material at the vault. **No more than two (2) representatives per firm will be permitted to examine the samples at any one time and the number of days allowed for each firm to make inspections will be limited to no more than three (3) days.** Appointments will be scheduled on a first-come, first-served basis. To insure that a Quoter receives an appointment to inspect material, it is recommended that the Quoter submit a request for inspection as soon as possible.
- e. The following inventory control procedures will be in effect during the inspection of industrial diamonds:
- (1) Each sample of stones to be inspected will be weighed by the Government prior to inspection. The weighing shall be witnessed by the Quoter's representative.
 - (2) The Government will maintain an inspection log showing the weight of each sample of stones to be released to the Quoter's representative conducting the inspection. Prior to beginning the inspection, both the Government representative and the Quoter's representative will indicate, by signature in the log, confirmation of the weight of each sample.
 - (3) After the completion of each inspection, the inspected sample of stones shall be returned to the Government and will be weighed again. This weighing shall be witnessed by the Quoter's representative who conducted the inspection.

- (4) The weight of the returned sample of stones and any difference in the weights prior to and after the inspection shall be noted in the inspection log. Both the Government representative and the individual who conducted the inspection will indicate, by signature in the log, confirmation of the weight of each sample returned to the Government after inspection.
 - (5) Any discrepancy between the weight of the sample of stones upon release and upon its return shall be documented and reported to the proper authorities for appropriate action.
 - (6) There will be no sieving of industrial diamond stone samples.
- f. Quoters, their agents and representatives shall comply at all times with the rules of the storage location.

A.7 Foreign Trade Statistics Regulations (MAR 02)

- a. The Contractor shall determine any export license requirements, obtain any export license or other official authorization required for export, and carry out any U.S. Customs formalities for the export of any material awarded under this Agreement.
- b. The Contractor shall comply with United States Bureau of Export Administration Foreign Trade Statistics and Export Administration Regulations as set forth in 15 CFR Parts 30 and 732 (as amended by 65 FR 42556-42575, July 10, 2000 or any subsequent rule making).
- c. If the Contractor is not a United States domestic entity or does not have a physical presence in the United States, and the material is to be exported, the Contractor shall either --
 - (1) Engage a United States forwarding agent or other agent in accordance with 15 CFR 30.4(a) and (c); or
 - (2) Engage a United States Order Party, in accordance with 15 CFR 30.4(a)(1)(iii), to conduct all negotiations, correspondence, and arrangements for sale, and to arrange for export of the material purchased.
- d. The Defense National Stockpile Center shall not be named as the United States Principal Party in Interest and will not execute any Shipper's Export Declaration required by the Foreign Trade Statistics regulations.

END OF SECTION A

SECTION B – PREQUALIFICATION (JUL 06)

1. Quoters must be pre-qualified in order to inspect material, submit Quotes and be considered for award.
2. Quoters shall complete the following documents and submit them to the address shown in paragraph 3, below:
 - a. Basic Ordering Agreement (See page 2); and
 - b. Sections I.4 through I.9.
3. Quoters shall submit the documentation requested in paragraph 2 to the following address/facsimile number:

Attn: DNSC-C, Industrial Diamond Stones Contract Specialist
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Fort Belvoir, VA 22060-6223
Fax: (703) 767-5494/5484

4. Quoters shall submit copies of the most recent income statement, balance sheet, and list of credit references for the company and any other documentation that will verify the financial level of business transactions.
5. Quoters shall submit the financial documentation requested in paragraph 4 to the following address/facsimile number:

Attn: DNSC-DI
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Fort Belvoir, VA 22060-6223
Fax: (703) 767-4074

6. The Government will evaluate the documentation to determine whether or not the Quoter is considered responsible and eligible for award or inspect material. Quoters will not be pre-qualified or eligible to inspect material unless the Contracting Officer makes an affirmative determination of responsibility.
7. To be determined responsible and eligible for award and inspect material, Quoters shall have adequate financial resources, a satisfactory performance record with DNSC, and a satisfactory record of integrity and ethics. For example, a Quoter may be determined to be non-responsible and therefore ineligible to inspect material, submit Quotes under this Agreement, or the Agreement may be terminated, if there is a record of poor payment (e.g., checks returned for insufficient funds) or poor performance (e.g., failure to pay for or remove material on time) on any of a Quoter's contracts.

In addition to looking at past performance, DNSC will also review the financial statements and references submitted by the Quoter, as well as the current Dun & Bradstreet report and any other credit reports.

8. If the Contracting Officer determines that the Quoter is responsible, the Contracting Officer will sign the Agreement and return one copy to the Quoter. The Contracting Officer will also transmit an Acceptance Letter that will set forth the financial exposure limit and identify whether or not any specially requested terms have been granted.
9. The Quoter will not be eligible to inspect material or to submit Quotes until receipt of the Agreement and the Acceptance Letter signed by the Contracting Officer.
10. DNSC may require the Contractor to submit updated information at any time during the Agreement period.
11. The term of the Agreement shall be for approximately two years unless the Agreement is withdrawn by the Government or superseded by another Agreement before that time. The Contracting Officer shall specify the Agreement period at the time the Agreement is executed by the Government. Quoters shall be required to re-qualify prior to the end of the Agreement period.

END OF SECTION B

SECTION C – QUOTES

C.1 Submission of Quotes (JUL 06)

- a. DNSC will post any material being offered for sale on its web site at <https://www.dnsc.dla.mil> on the first Thursday of each month at 1:00 p.m., local time, Ft. Belvoir, VA.
- b. All pre-qualified Quoters are invited to quote.
- c. Facsimile quotes and modifications shall be submitted in accordance with Section **C.7 Facsimile Submissions (JUN 99)**. Online quotes and modifications shall be submitted in accordance with Section **C.3 Online Submissions (JUL 03)**.
- d. Quoters submitting quotes by facsimile shall submit quotes on Section **I.1, Quote/Award Form**. Quotes shall be faxed to: (703) 767-5541, ATTENTION: BID CUSTODIAN.
- e. For facsimile submissions, Section **I.1 Quote/Award Form** shall include the date of Request for Quotes and shall contain the following additional information or documentation:
 - (1) Item;
 - (2) Commodity Description and Location;
 - (3) Quantity;
 - (4) Unit price in carats;
 - (5) Total price;
 - (6) Company name;
 - (7) Title and signature of authorized Contractor's representative (See Section I.8);
and
 - (8) Initials signifying compliance with I.3 and I.4.
- f. Quoters seeking to alter the provisions of the BOA or other terms previously agreed upon shall be considered nonresponsive and ineligible for award.
- g. Online quotes and modifications shall be submitted in accordance with the procedures provided in Section **C.3 Online Submissions (JUL 03)**.
- h. **Quotes must be received by 1:00 p.m., local time, Ft. Belvoir, VA on the fourth Thursday** of each month (**three weeks after the posting date**) and shall remain valid for two (2) business days after the time set for receipt of Quotes.

- i. If a Quote is accepted by the Government by the time set in paragraph **h.**, above, after receipt of quotes, the Quoter agrees to purchase any or all material quoted on at the price quoted and to take delivery within the contract period specified in the executed Section **I.1 Quote/Award Form**.

C.2 Web Site Information (JUL 06)

- a. The Government shall not be responsible for any technical problems related to the publication of the Request for Quotes on the Internet, including but not limited to, any difficulties in accessing the site.
- b. Quoters experiencing problems accessing the web site or needing additional information on sales for any given day should contact one of the following:

Danny W. Lester	(703) 767-5482	danny.lester@dla.mil
K. Watt Lough	(703) 767-5402	kevin.lough@dla.mil
DNCS Contracting:	(703) 767-6500	

- c. The Government shall not be responsible for any technical problems related to the publication of the Requests for Quotes on the Internet, including but not limited to difficulties encountered by Quoters in attempting to access the requests. Widespread access difficulties or other compromises of the Quote process may provide grounds for canceling a Request for Quotes.
- d. **Note: Adobe Acrobat Reader is required to view the attachments on the website (i.e. Basic Ordering Agreement, Quote Form.) Adobe Acrobat Reader is available to download through the Internet at www.adobe.com. There is no charge to download this program.**

C.3 Online Submissions (JUL 03)

- a. Quotes submitted electronically constitute an electronic signature certifying that the official submitting the quote has the authority to bind the company.
- b. In order to register to submit online quotes, quoters must pre-qualify in accordance with Section **B** and receive an executed copy of the Agreement. In addition, quoters must register on the DNCS website at <https://www.dnsc.dla.mil>. Detailed instructions for registration are provided on the website.
 - (1) To register, quoters must access the DNCS website and click the “Register” button.
 - (2) Quoters will be prompted to complete online the certification clauses identified in Section **I**.
 - (3) Each authorized Quoter must create a login and password unique to that Quoter.

- (4) After completion of all requested information, the Quoter shall submit the registration for review.
 - (5) After review, DNSC will activate the login and password, allowing the authorized Quoter to submit quotes online on behalf of a company with an executed Agreement.
 - (6) Quoters will be notified via e-mail that their accounts have been activated.
 - (7) After a Quoter's account has been activated, pre-qualified Quoters may proceed to the "Login" screen and submit quotations online under the Basic Ordering Agreement.
- c. After accessing the "Login" screen, detailed instructions for submitting a quote online are available on the DNSC website by clicking on the "Help" button. For further information, quoters may contact the following:

Danny W. Lester	(703) 767-5482	danny.lester@dla.mil
K. Watt Lough	(703) 767-5402	kevin.lough@dla.mil
DNSC Contracting:	(703) 767-6500	

- d. Submission of an online quote will result in the generation of a **Section I.1 Quote/Award Form.**

C.4 Offer Price (JUN 99)

Quotes shall be expressed as a fixed dollar and cent value per carat.

C.5 Minimum Quantity (JAN 95)

The minimum quote quantity shall be one entire lot unless otherwise stated on the DNSC Website. A quote for less than the minimum quantity will be considered nonresponsive and ineligible for award.

C.6 Late Submissions, and Modifications of Quotes (JUL 03)

- a. Any Quote received at the office designated in the Agreement after the exact time specified for receipt of Quotes will not be considered unless it is received before award is made and –
- (1) There is acceptable evidence to establish that it was received at the activity designated for receipt of Quotes and was under the Government's control prior to the time set for receipt of Quotes, and the Contracting Officer determines that accepting the late Quote would not unduly delay the sale; or
 - (2) It is the only Quote received.

- b. Any modification to a Quote, including a modification resulting from the Contracting Officer's request for confirmation, is subject to the same conditions stated in subparagraph a. of this provision.
- c. The only acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of the facsimile machine, the time/date stamp on the online submission, or oral testimony or statement of Government personnel.
- d. Notwithstanding paragraph a. of this provision, a late modification of an otherwise successful Quote that makes its terms more favorable to the Government will be considered if it is received at any time prior to award and may be accepted.
- e. If an emergency or unanticipated event interrupts normal Government processes so that Quotes cannot be received at the office designated for receipt of Quotes by the exact time specified in the Agreement and the Government is unable to provide timely notice of an extension of the time set for receipt of Quotes, the Request for Quotes for that day will be deemed cancelled.

C.7 Facsimile Submissions (JUN 99)

Facsimile Quotes and modifications will be accepted any time prior to the exact time set for receipt of Quotes. Facsimile withdrawals will be accepted any time before the time set for receipt of Quotes. **Quoters must submit Quotes to facsimile number (703) 767-5541.**

- a. Definition: "Facsimile submission," as used in this Agreement, means a written Quote, modification of a Quote, or withdrawal of a Quote that is transmitted to and received by the Government via electronic equipment that communicates and reproduces both printed and handwritten material.
- b. Quoters may submit facsimile submissions as responses to this Agreement. These responses must arrive at the place, and by the time, specified in the Agreement.
- c. Facsimile submissions that fail to furnish required information, that reject any of the terms, conditions, and provisions of the Agreement, that contain garbled information, or are otherwise incomplete, may be excluded from consideration.
- d. Facsimile submissions must contain the required signatures.
- e. The Government reserves the right to make award solely on the facsimile submission. However, if requested to do so by the Contracting Officer, the apparently successful Quoter agrees to promptly submit the complete original signed submission.

- f.** The Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile submission including, but not limited to, the following:
- (1) Receipt of garbled or incomplete submission.
 - (2) Availability or condition of the receiving facsimile equipment.
 - (3) Incompatibility between the sending and receiving equipment.
 - (4) Delay in transmission or receipt of submission.
 - (5) Failure of the Quoter to properly identify the submission.
 - (6) Illegibility of submission.
 - (7) Security of submission data.

C.8 Consideration of Quotes (JUN 99)

- a.** The Government reserves the right to –
- (1) Reject any or all Quotes;
 - (2) Waive any informalities and minor irregularities in a Quote;
 - (3) Award a quantity less than the quantity quoted at the unit price quoted;
 - (4) Accept any one item or group of items in a Quote, as may be in the best interest of the Government;
- b.** Quoters may submit multiple Quotes for multiple quantities at various unit prices and may specify a maximum quantity.

C.9 Responsiveness of Quotes (JUN 99)

- a.** To be considered for award, Quotes must be responsive. A responsive Quote is one that **fully complies** with the terms of the Agreement and in which the intent of the Quoter is clear on its face.
- b.** A Quote must clearly state the unit price (fixed price only) for each line item.
- c.** Any Quote that requires the Government to exercise judgment with respect to quantity or price will render the Quote nonresponsive and ineligible for award. For example, failure to fill in the unit price for **each** line item on the Quote/Award Form for which a Quote is submitted may render the Quote(s) nonresponsive and ineligible for award.

- d. Any Quote submitted for less than the minimum quantity set forth in Section **C.5** shall be rendered nonresponsive.
- e. Any Quote that does not include **I.1 Award/Quote Form** fully executed (filled out and signed) will be rendered nonresponsive unless:
 - (1) The Quoter accepts all terms and conditions of the Agreement; and
 - (2) Award on the Quote would result in a binding contract with terms and conditions that do not vary from the terms and conditions of the Agreement.
- f. Quotes that reject, modify or add terms, conditions or provisions shall render the Quote nonresponsive and ineligible for award.

C.10 Evaluation of Quotes (JUN 99)

- a. Quotes will be evaluated on the basis of prices offered as may be adjusted by any special terms previously negotiated.
- b. To participate in sales and be considered for award, Quoters must be pre-qualified in accordance with Section **B**.

C.11 Tie Quote Procedures (JUN 99)

In the event that quotes of an equal unit price are received for the same quantity of material, lots will be drawn to determine the successful Quoter for the material.

C.12 Contract Award (JUN 99)

A written award or acceptance of a Quote signed by the Contracting Officer and furnished to the successful Quoter(s) within (2) two days of the time set for receipt of Quotes, as specified in Section **C.1**, paragraph **h.**, shall result in a binding contract incorporating all the terms and conditions of the Agreement unless otherwise stated in the executed Section **I.1 Quote/Award Form**.

C.13 Unsuccessful Quoters (JUN 99)

The Contract Specialist will notify unsuccessful Quoters telephonically at the earliest practicable time.

END OF SECTION C

SECTION D – PAYMENT

D.1 Payment (JUL 06)

- a. Payment shall be made in U.S. dollars.
- b. Payment *for material* shall be made *only* by wire transfer (Fedwire). Payment for storage charges, interest, penalty charges, or administrative charges may be made by wire transfer or electronic funds transfer. If attempted payments for material are made by electronic funds transfer or check, the payment shall be returned to the sender. The Contractor may incur charges if payments are delinquent.
- c. Payment by wire transfer (Fedwire).
 - (1) Wire transfer payment shall be made in accordance with instructions in **Section J.4**. Fees for wire transfers are the responsibility of the Contractor. Payment shall be accompanied by **identifying information including the contract number, invoice number (if applicable), and a description of the material purchased**.
 - (2) If wire transfer payment is not made in accordance with the instructions in **Section J.4**, or if identifying information is not provided, shipment of material may be delayed by up to one week, the wire transfer may be returned to the sender or a Contractor may incur charges if payments are delinquent.
- d. Payment by electronic funds transfer.
 - (1) Electronic funds transfer payment shall be made in accordance with instructions in **Section J.4**. Any fees for electronic funds transfers are the responsibility of the Contractor. Payment shall be accompanied by **identifying information including the contract number, invoice number, and a description of the material purchased**.
 - (2) If payment by electronic funds transfer is not made in accordance with the instructions in **Section J.4**, or if identifying information is not provided, payment may be returned to the sender and the Contractor may incur charges if payments are delinquent.
- e. Invoices issued for storage charges, interest, penalty charges, or administrative charges shall be paid promptly.
- f. If payment is not made in full within 30 calendar days of issuance of an invoice as specified in **D.1.e.**, the Contractor will be considered delinquent and any outstanding charges will be reduced by any subsequent payments. No material will be released until all delinquent charges are paid. (See Sections **F.1.a.** and **G.12.**)

D.2 Payment Due Date (MAY 05)

- a. Payment will be made before shipment of material and before the end of the contract period specified in the executed **Section I.1 Quote/Award Form (JUL 06)**. If payment is not received by 2:00 p.m., local time Fort Belvoir, VA, on the payment due date, payment will not be credited until the next Government business day. Interest and penalty charges will accrue accordingly.
- b. In the event the payment due date falls on a Saturday, Sunday, or holiday, then the payment due date will be extended to the next Government business day.

D.3 Interest (MAY 04)

- a. All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 611, which is applicable to the period in which the amount becomes due, as provided in paragraph **b.**, below.
- b. Amounts shall be due at the earliest of the following dates:
 - (1) The final day of the contract period specified in **Section I.1 Quote/Award Form (JUL 06)** (with or without the issuance of an invoice by the Government);
 - (2) The date of the first written demand for payment under the contract, including any demand resulting from a default termination, unless paid within 30 days of becoming due.

D.4 Penalty and Administrative Charges (MAY 04)

In addition to interest charges specified in **Section D.3**, above, a penalty charge of 6 percent per annum shall be assessed on any debt principal that is delinquent more than 90 calendar days. Penalty charges shall accrue from the date the principal amount due becomes delinquent until paid. Additional administrative charges may be assessed, if needed. Administrative charges relate only to delinquent debts and will be assessed to cover expenses incurred by the Government in the recovery of such debts.

END OF SECTION D

SECTION E – MATERIAL REMOVAL

E.1 Removal of Material (JAN 02)

- a. The contract period for any quantity of material awarded is 30 calendar days from the date of contract award.
- b. If the Contractor fails to pay for and remove the material on or before the last day of the contract period, the Contract will be considered delinquent and terminated for default.
- c. The contract period includes Saturdays, Sundays, and holidays. If the last day of the contract period is a Saturday, Sunday, or holiday, or the storage location is otherwise closed that day, the period of contract performance will be extended to the next Government workday.

E.2 Storage Charges (JUL 97)

- a. Storage charges shall be assessed on all material remaining after the last day of the contract period. The Government reserves the right to remove any remaining material to a commercial storage facility and be reimbursed by the Contractor for any expenses incurred. Storage charges continue to accrue until all the material has been removed or the contract is terminated for default, in which case the Contractor will be liable for damages, as set forth in Section **G.8 Default** of the Solicitation.
- b. The storage charge is the greater of the following: (1) **\$0.005 per carat** (if a fraction of a carat remains, the charge will be for a full carat per 30 day period regardless of whether the material remains in storage a period of 30 days or less than 30 days; or (2) commercial storage charges, if applicable.
- c. Storage charges will be invoiced upon shipment. Payment shall be made promptly.
- d. Payment of storage charges shall not relieve the Contractor of its obligation to remove the material in a timely manner. Acceptance of storage payments by the Government is not a waiver of the Government's right to default the Contractor for failure to remove the material (See Section **G.8 Default**).

END OF SECTION E

SECTION F – SHIPPING

F.1 Request for Shipment (JUL 06)

- a. Delivery is F.O.B. carrier's conveyance. At least (5) five working days prior to the date the shipment is required to commence the Contractor shall submit shipping instructions to the Contracting Officer, either by: (1) completing and faxing the form in **Section J.2 Shipping Instructions**; or (2) submitting the shipping instructions via the Internet through the Defense Working Capital Fund Accounting System (DWAS) (see **Section J.3 DWAS WEB Access Request Form**). The Government will only accept shipping instructions (either written or online) from those individuals designated in **Section I.6, Persons Authorized to Request Shipment of Material**. **No material will be shipped under the provisions of this contract or any other contract the Contractor has with DNSC until all outstanding delinquent charges and payments have been satisfied.**
- b. "Shipping Instructions" shall include the following:
- (1) Quantity of material to be shipped, unit price and total dollar value.
 - (2) Designation of type and kind of conveyance.
 - (3) Name of the carrier (please include a telephone number where this contact can be reached).
 - (4) "Ship to" location.
 - (5) Minimum load per conveyance (optional).
 - (6) Desired shipping schedule.
 - (7) Name and telephone number of an agent who can furnish additional shipping information if needed.
 - (8) Any additional pertinent information.
- c. The shipping schedule shall allow sufficient time for the depot to reasonably meet such schedule prior to the last day of the contract removal period commensurate with existing loading facilities and other commitments at the Government's storage locations. Information regarding Government commitments may be obtained from the address specified in **Section J.1**.
- d.. Requests for shipment shall be for a minimum of (1) one lot, or if the remaining balance is less than (1) one lot then for the balance at the location. Shipping instructions and information requested in paragraph **b.**, above, are to be furnished to the following address (if **Section J.2** is submitted by facsimile message):

ATTN: DNSC-C, Industrial Diamond Stones Contracting Officer
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Ft. Belvoir, VA 22060-6223
Facsimile Number: (703) 767-5494/5484

Shipping instructions and information requested in paragraph **b.** may also be submitted online through DWAS.

- e. The Government shall determine the order in which the material is scheduled, coordinated, and outloaded.
- g. The Contractor shall pay \$100 per day if the Contractor's conveyance fails to report to an unstaffed storage location as scheduled. See Section **J.1** for identification of unstaffed locations.

F.2 Insurance Requirements (APR 95)

The Contractor shall procure and maintain, and require any subcontractor to procure and maintain, during the entire period of performance under this contract, such insurance as stipulated herein.

- a. Workers' compensation and employer's liability. The Contractor is required to comply with applicable Federal and State workers' compensation and occupational disease statutes. Employer's liability coverage of at least \$100,000 is required, except in States with exclusive or monopolistic funds that do not permit workers' compensation to be written by private carriers.
- b. General liability. Bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$500,000 per occurrence.
- c. Automobile liability insurance written on the comprehensive form of policy is required. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies covering automobiles operated in the United States shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage. The amount of liability coverage on other policies shall be commensurate with any legal requirements of the locality and sufficient to meet normal and customary claims.

F.3 Weighing (JUL 06)

No outweighing of material will be performed by the Government. The Government weights of record shall govern.

F.4 Weight Discrepancy (JUL 06)

No adjustment will be made on the certified Government weights after the shipment is made.

F.5 Assumption of Risk and Disclaimer of Liability (JAN 02)

The Contractor, its assigns or agents, assumes full responsibility for all injury or damage to persons or property occasioned by or occurring in connection with or incident to any use or possession of this material by the Contractor, Contractor's

employees, or any person subject to the Contractor's control. The Government assumes no liability for any damages to the property of the Contractor, any other person or property, or any personal injury, illness, disability or death to the Contractor, Contractor's employees or any other person subject to Contractor's control, or for any other consequential damages arising from or incident to the purchase, use, loading, processing, disposition, or any subsequent operation performed upon, exposure to or contact with any component, part, constituent or ingredient of this item, material or substance.

F.6 Environmental Policy (NOV 05)

The Contractor, its agents and employees shall comply with the Environmental Safety and Occupational Health Policy of the Defense National Stockpile Center while on storage facilities where stockpile material is stored. The Contractor shall review information on DNSC's Environmental Safety and Occupational Health Policy on the DNSC Website at <https://www.dnsc.dla.mil> by clicking on "I Am The Key."

F.7 Environmental Protection (JUN 95)

a. Transportation Requirements

- (1) The transportation of hazardous material is governed by Department of Transportation (DOT) Hazardous Materials Regulations (Title 49 Code of Federal Regulations, Parts 170-189). If the material being transported is covered by DOT Regulations, the Contractor or its agent is responsible for certifying to DOT that hazardous materials are properly classified, described, packaged, marked, and labeled and are in a condition safe to transport based on the Contractor's or its agent's own examination of the material. (See especially 49 CFR 173.7(a) (1).)
- (2) The Government reserves the right to conduct reasonable inspection of the Contractor's or its agent's transportation conveyances or other equipment utilized to effect removal of the material purchased under this Agreement. Inspection may occur prior to, during, or subsequent to removal of the material from Government storage locations. The Contractor or its agent shall provide Government representatives with access and any reasonable assistance required to conduct this inspection.

b. Use and Disposition

- (1) The Contractor certifies that it shall use and ultimately dispose of any hazardous material purchased under this Agreement in accordance with all applicable Federal, state, local and international laws and regulations and in a manner safe for the public and the environment.
- (2) The material offered under this Agreement is not, in its present form, subject to EPA Hazardous Waste Regulations (40 CFR Part 260, et seq.) issued under the Resource Conservation and Recovery Act. However, it is possible that use of

this material will lead to the creation of a hazardous waste. 40 CFR Part 260, et seq., details the responsibilities of generators, transporters, treaters, storers, and disposers of hazardous waste. Failure to comply with these regulations can lead to civil and criminal penalties.

END OF SECTION F

SECTION G – CONTRACT ADMINISTRATION DATA

G.1 Effective Period (JUL 06)

The term of this Agreement shall be for a period of approximately two years and shall be specified by the Contracting Officer at the time the Agreement is executed by the Government. The Agreement shall be in effect during this term unless withdrawn by the Government or superseded by another Agreement.

G.2 Amendments and Modifications (JAN 95)

- a.** Changes in terms and conditions of this Agreement shall be accomplished by written amendment only.
- b.** Changes in terms and conditions of any resulting contract shall be accomplished only by written modification signed by the Contracting Officer.

G.3 Title (JUL 02)

Title to the material shall pass to the Contractor after payment is received and the material is shipped.

G.4 Risk of Loss (JUL 02)

- a.** After the award of the contract and prior to receipt of payment for or shipment of the material, whichever occurs first, the Government shall be responsible for the care and protection of the material, and any loss, damage or destruction occurring during such time will be adjusted by the Government.
- b.** After receipt of payment but prior to either shipment or the end of the contract period, the Government shall be responsible only for the exercise or reasonable care for the protection of the material.
- c.** After shipment or the end of the contract period, whichever occurs first, all risk of loss, damage, or destruction from any cause whatsoever, shall be borne by the Contractor.

G.5 Limitation on Government's Liability (JAN 95)

- a.** Except as provided in paragraph **b.** in any case where liability of the Government to the contractor has been established, the measure of the Government's liability shall not exceed refund of whatever portion of the purchase price the Contractor has paid.
- b.** Where specifically authorized in writing by the Contracting Officer, the Contractor may recover reasonable costs of packing, loading, and transportation incurred in connection with return of material to the Government.

G.6 Protests (NOV 02)

a. General. Companies may file a protest over sales under this Agreement with the -

- (1) General Accounting Office (GAO);
- (2) Director, Directorate of Stockpile Contracts, DNSC, for a decision at a level above the Contracting Officer; or
- (3) Contracting Officer.

Unless otherwise specified, protests will be presumed to be protests to the Contracting Officer.

b. Pre-Award Protests:

A protest by a company concerning the terms of this Agreement shall be filed before the company submits a completed Basic Ordering Agreement package as specified in Section **B**. Protests concerning the terms of any Request for Quotes hereunder shall be filed prior to the time set for receipt of quotes.

c. Post-Award Protests:

Protests after award shall be filed not later than 10 calendar days after the basis of the protest is known or should have been known, whichever is earlier, except for challenging a sale under which a debriefing is requested and provided. In that situation, and where the basis was not known prior to the debriefing, the initial protest shall be filed not later than 10 calendar days after the date of the debriefing.

d. Service of Protest:

- (1) Protests to the General Accounting Office shall be filed in writing, in accordance with 4 CFR 21, at the following address:

General Counsel
Attn: Procurement Law Control Group
U.S. General Accounting Office
441 G. Street, NW
Washington, DC 20548

A copy of any protest to the GAO shall be served on the Contracting Officer at the address in (3) below, within one day of filing the protest. Firms seeking to file a protest with GAO are advised to consult the GAO regulations at 4 CFR 21 and the GAO publication, **Bid Protests at GAO: A Descriptive Guide**. Copies of these documents are available from the General Accounting Office.

- (2) As an alternative to filing a protest with the Contracting Officer, quoters may seek an independent review by filing an agency-level protest with the DNSC Director, Directorate of Stockpile Contracts. This process allows for a higher level decision on the initial protest. It is not a review of Contracting Officer's decision on a protest filed with the Contracting Officer. A protest seeking an agency-level decision should clearly state that it is an "Agency Level Protest Under Executive Order 12979". The protest shall be served in writing at the following address and may be filed by mail, hand delivery, commercial carrier, or fax:

Attn: DNSC-C, Director, Directorate of
Stockpile Contracts and Marketing
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Ft. Belvoir, VA 22060-6223
Facsimile No.: (703) 767-5411

- (3) Protest seeking a decision by the Contracting Officer shall be served in writing at the following address and may be filed by mail, hand delivery, commercial carrier, or fax:

Attn: DNSC-C, (Jennifer Iribarren)
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Ft. Belvoir, VA 22060-6223
Facsimile No.: (703) 767-5484 or (703) 767-5494

G.7 Disputes (FEB 03)

- a.** This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).
- b.** Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- c.** "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.

- d. (1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
- (2) (i) The Contractor shall provide the certification specified in paragraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."
- (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- e. For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.
- f. The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- g. If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the offer
- h. The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- i. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

G.8 Default (JUL 06)

If, after award, Contractor breaches the contract by failure to make payment within the time allowed by the contract provision D.2, or by failure to remove the property as required by contract provision E.1, then the Government may send the Contractor a 15-day written notice of default (calculated from day of mailing), and upon the Contractor's failure to cure such default in that time period (or such further time period as the Contracting Officer may allow) the Contractor shall lose all right, title, and interest which Contractor may have otherwise have acquired in and to such property as to which default has occurred. The Contractor agrees that in the event Contractor fails to pay for property or remove the same within the prescribed period(s) of time, the Government shall be entitled to retain (or collect) as liquidated damages a sum equal to the greater of (a) 10 percent of the purchase price of the item(s) as to which default has occurred, or (b) \$250, whichever is greater: Provided, That in the event of multiple awards of items under a single solicitation, the amount to be charged, if the minimum charge provided in (b) above is applicable, shall be determined by the total purchase price reflected in the award documents: Provided further, That the maximum sum which may be recovered by the Government as damages for failure of the Contractor to pay for and remove the property shall be the formula amount. The Government shall specifically notify the Contractor, either in its written notice of default (or in separate subsequent written notice), that upon expiration of the period prescribed for curing the default, the formula amount will be retained (or collected) by the Government as liquidated damages. However, if the property was sold on a "per lot" basis and the Contractor removes a portion of the lot but fails to remove the balance, no portion of the purchase price will be refunded. If the Contractor otherwise fails in performance of his obligations, the Government may exercise such rights and may pursue such remedies as are provided by law or under the contract.

G.9 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (JUNE 06)

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

G.10 Termination for Convenience of the Government (DEC 97)

- a. The Contracting Officer, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Government shall only be liable for actual costs incurred by the Contractor before the effective date of termination.
- b. If a bona fide requirement for the material develops or exists prior to removal of the material from Government control, the Government may withdraw that material from the sale. In the event of a withdrawal under this condition, the Government shall be liable only for the refund of the contract price of the withdrawn material or such portion of the contract price as it may have received plus simple interest at the rate established by the Secretary of the Treasury.

G.11 Excusable Delays (MAY 95)

- a.** In the event either party should be prevented from performing under this contract by reason of any unforeseeable cause beyond its control and without its fault or negligence, including, but not restricted to, acts of God or of the public enemy, sovereign acts of the United States, acts of a foreign Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, performance under the contract shall be suspended in whole or in part until the cause ceases to exist and thereafter the time for fulfillment of the contract shall be extended by the length of time during which the cause prevented performance under the contract.

- b.** This section shall also apply to an excusable delay condition that prevents delivery at a consignee's plant if –
 - (1) the delay meets the criteria in paragraph **a.** above; and
 - (2) the identity of the consignee is known to the Government prior to commencement of the excusable delay condition.

- c.** The Contractor shall notify the Contracting Officer, in writing, of the nature and extent of the excusable delay condition promptly after the commencement thereof, but in any event prior to outloading of the material from the storage location from which it is to be shipped. The Contractor shall notify the Contracting Officer, in writing, within ten (10) calendar days when the excusable delay condition ceases to exist.

G.12 Setoff of Funds (MAY 04)

The Contractor agrees that the Government may use all or a portion of any monies received by Government to satisfy, in whole or in part, any debt (e.g. delinquent payments, interest, penalty charges, administrative charges, or storage charges), arising out of this or any other transaction.

G.13 Indemnification Agreement (JAN 02)

The Contractor shall save and hold harmless and indemnify the Government against any and all liabilities, claims, and costs of any kind and nature for injury to or death of any person or persons and for loss or damage to any property (Government or otherwise) occurring in conjunction with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work resulting from the acts or omissions of the Contractor, Contractor's employees, or any person subject to the Contractor's control in connection with the contract. Whether due to negligence or not of the Contractor, the Contractor agrees to reimburse the United States for any legal expenses (including salaries of attorneys) incurred by the United States in defending any and all claims or suits against the United States, whether well-founded or not, in any way whatsoever

alleged to have arisen from the acts or omissions of the Contractor, Contractor's employees, or any person subject to the Contractor's control.

G.14 Covenant Against Contingent Fees (JAN 95)

- a. The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to add to the contract price or consideration, or otherwise recover, the full amount of the contingent fee.
- b. "Bona fide agency," as used in this paragraph, means an established commercial or selling agency, maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.
- c. "Bona fide employee," as used in the paragraph, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.
- d. "Contingent fee," as used in this paragraph, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.
- e. "Improper influence," as used in this paragraph, means any influence that induces or tends to induce a Government employee or office to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

END OF SECTION G

SECTION H – DEFINITIONS (APR 02)

As used throughout this Agreement, the following terms shall have the meaning set forth below:

- a.** The term “Contracting Officer” means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings.
- b.** The terms “Quoter”, “Purchaser”, or “Contractor” may be used interchangeably.
- c.** The term “Agreement” means the BOA, Acceptance Letter, Quote/Award Form and executed Agreement.
- d.** The terms “shall” and “must” are used interchangeably.

END OF SECTION H

SECTION I – SUBMITTALS

COMPLETE AND RETURN THE FOLLOWING:

INITIAL SUBMISSION IN RESPONSE TO THIS BASIC ORDERING AGREEMENT:

Basic Ordering Agreement Cover Page (Page 2 of 46)

- I.4 Certification Regarding Debarment, Suspension, Proposed Debarment, Environmental Compliance, and Other Responsibility Matters (JUL 97)—Initial Submission
- I.5 Type of Business Organization (APR 96)
- I.6 Persons Authorized to Request Shipment of Material (JUL 06)
- I.7 Contractor’s Billing Address (JUL 96)
- I.8 Persons Authorized to Submit Quotes for Industrial Diamond Stones Under the Basic Ordering Agreement (JUL 06)
- I.9 Disputes: Agreement to Use Alternative Dispute Resolution (JUL 06)

Section **B** Financial Information as appropriate in response to Section **B**, Item 4.

SUBMISSION WITH QUOTE:

Clauses I.3 and I.4 are self-certified by the Quoter on the I.1 Quote/Award Form

- I.3 Certificate of Independent Price Determination (JAN 02)
- I.4 Certification Regarding Debarment, Suspension, Proposed Debarment, Environmental Compliance, and Other Responsibility Matters (JUL 97)

I.1 Quote/Award Form (JUL 06)

QUOTE/AWARD FORM UNDER DLA-DIAMONDS-001		CONTRACT NUMBER			PAGE
FROM: _____ _____ _____ _____		TO: DEFENSE NATIONAL STOCKPILE CENTER ATTN: DIAMONDS CONTRACTING OFFICER, DNSC-C-c 8725 JOHN J. KINGMAN ROAD, SUITE 3229 FORT BELVOIR, VA 22060-6223 FAX: (703) 767-5484 or (703) 767-5494			1 of
DATE OF QUOTE:	PLEASE FAX QUOTE TO THE FOLLOWING NUMBER: (703) 767-5541		INVOICE/PAYMENTS TO: ATTN: DNSC-R, ACCOUNTS RECEIVABLE DEFENSE NATIONAL STOCKPILE CENTER 8725 JOHN J. KINGMAN, SUITE 3229 FORT BELVOIR, VA 22060-6223		
This contract is entered into by and between the United States of America, hereinafter called the "Government," represented by the Contracting Officer executing this contract and the Contractor identified below. The Government agrees to sell and the Contractor agrees to buy the material described below in accordance with the terms and conditions of the Basic Ordering Agreement (BOA), DLA-DIAMONDS-001. In the event of a conflict between the terms of the BOA, the Acceptance Letter and the Quote/Award Form, the terms of the Quote/Award Form govern.					
ITEM	COMMODITY DESCRIPTION AND LOCATION	QUANTITY (No. of lbs)	LBS.	PRICE/LB	TOTAL
CONTRACTOR QUOTE:					
Quote was prepared in accordance with I.3 and I.4 of the BOA _____ (Offeror's initials required)					
AWARD BY THE GOVERNMENT					
CONTRACT PERIOD EXPIRES ON:					
EXECUTION BY CONTRACTOR			ACCEPTANCE BY GOVERNMENT		
DATE (Day, Month, Year)		UNITED STATES OF AMERICA BY (Signature):		DATE:	
SIGNATURE OF CONTRACTOR (IDENTIFIED BELOW)					
TYPE OR PRINT NAME AND TITLE OF PERSON AUTHORIZED TO SIGN THIS QUOTE:		NAME AND TITLE OF CONTRACTING OFFICER			
Name: _____ Title: _____ Email: _____		Name: _____			
Telephone Number: () _____ Facsimile Number: () _____		Title: _____			

I.2 Shopping List (JUL 06)

Item #	Lot No.	Description of Material	Quantity In Carats	Unit Price Bid Per Carat	Total Bid Price
37	3A	CORE DRILLING STONES 3-10 PC	9,000.00	\$	\$
38	3B	CORE DRILLING STONES 3-10 PC	9,000.00	\$	\$
39	3C	CORE DRILLING STONES 3-10 PC	9,000.00	\$	\$
41	3E	CORE DRILLING STONES 3-10 PC	5,000.00	\$	\$
42	3F	CORE DRILLING STONES 3-10 PC	5,000.00	\$	\$
43	3G	CORE DRILLING STONES 3-10 PC	3,000.00	\$	\$
44	3H	CORE DRILLING STONES 3-10 PC	1,500.00	\$	\$
45	3I	CORE DRILLING STONES 3-10 PC	1,500.00	\$	\$
46	3J	CORE DRILLING STONES 3-10 PC	1,500.00	\$	\$
47	3K	CORE DRILLING STONES 3-10 PC	1,000.00	\$	\$
50	5A	GRIND WHEEL DRESS .25 CT	9,000.00	\$	\$
51	5B	GRIND WHEEL DRESS .25 CT	9,000.00	\$	\$
52	5C	GRIND WHEEL DRESS .25 CT	9,000.00	\$	\$
53	5D	GRIND WHEEL DRESS .25 CT	9,000.00	\$	\$
54	5E	GRIND WHEEL DRESS .25 CT	9,000.00	\$	\$
56	5G	GRIND WHEEL DRESS .25 CT	5,000.00	\$	\$
57	5H	GRIND WHEEL DRESS .25 CT	5,000.00	\$	\$
58	5I	GRIND WHEEL DRESS .25 CT	3,000.00	\$	\$
59	5J	GRIND WHEEL DRESS .25 CT	3,000.00	\$	\$
60	5K	GRIND WHEEL DRESS .25 CT	3,000.00	\$	\$
61	5L	GRIND WHEEL DRESS .25 CT	3,000.00	\$	\$
62	5M	GRIND WHEEL DRESS .25 CT	1,500.00	\$	\$
63	5N	GRIND WHEEL DRESS .25 CT	1,500.00	\$	\$
64	5O	GRIND WHEEL DRESS .25 CT	1,500.00	\$	\$
65	5P	GRIND WHEEL DRESS .25 CT	1,000.00	\$	\$
66	5Q	GRIND WHEEL DRESS .25 CT	1,000.00	\$	\$
103	13F	CORE DRILL STONES 20-40 PC	1,000.00	\$	\$
210	1K	Core Drill Stones 3-10 PC	857.10	\$	\$
218	2H	Core Drill Stones 20-40 PC	506.80	\$	\$
231	3M	Core Drill Stones 10-20 PC	998.85	\$	\$
243	4L	Core Drill Stones 10-20 PC	504.25	\$	\$
264	6N	Core Drill Stones 10-20 PC	505.20	\$	\$
277	7M	Grind Wheel Dress .25	549.30	\$	\$
286	8I	Grind Wheel Dress .25	788.95	\$	\$
292	9F	Grind Wheel Dress 1.50 CT	984.45	\$	\$
297	10E	Flats 3PK & SM	827.70	\$	\$

I.3 Certificate of Independent Price Determination (JAN 02)

a. The Contractor certifies that:

- (1) The prices in each Quote have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Quoters or competitor relating to (i) each Quote, (ii) the intention to submit a Quote, or (iii) the methods or factors used to calculate the price quoted;
- (2) The prices in each Quote have not been and will not be knowingly disclosed by the Quoter, directly or indirectly, to any other Quoter or competitor before contract award unless otherwise required by law; and
- (3) No attempt has been made or will be made by the Quoter to induce any other concern to submit or not to submit a Quote for purposes of restricting competition.

b. Each signature on the Quote is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the Quoter's organization responsible for determining the prices being quoted, and that the signatory has not participated and will not participate in any action contrary to subparagraph a.(1) through a.(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent;

(ii) As an authorized agent, does certify that the principals have not participated, and will not participate, in any action contrary to subparagraphs a.(1) through a.(3) above.

c. If the Quoter deletes or modifies subparagraph a.(2) above, the Quoter must furnish with its Quote a signed statement setting forth in detail the circumstances of the disclosure.

I.4 Certification Regarding Debarment, Suspension, Proposed Debarment, Environmental Compliance and Other Responsibility Matters (JUL 97)

- a. (1) The Contractor certifies, to the best of its knowledge and belief, that –
- (i) The Contractor and/or any of its Principals –
 - (A) Are (___) are not (___) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - (B) Have (___) have not (___), within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of Quotes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statement, or receiving stolen property; and
 - (C) Are (___) are not (___) presently indicted for, or otherwise criminally or civilly charged by a government entity with, commission of any of the offenses enumerated in subdivision a.(1)(i)(B) of this provision.
 - (D) Are (___) are not (___) presently indicted for or otherwise criminally or civilly charged by a Federal, state or local entity with violation of any environmental laws;
 - (E) Have (___) have not (___) within the three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for violation of a Federal, state or local environmental statute or regulation.
 - (ii) The Contractor has (___) has not (___), within a three-year period preceding this Agreement, had one or more contracts terminated for default by any Federal agency.
- (2) “Principals,” for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).
- (3) If the Contractor answers affirmatively to anything in a.(1), above, the Contractor shall include in its Agreement an explanation of the circumstances, including the outcome.

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code.

- b. The Contractor shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- c. A certification that any of the items in paragraph a. of this provision exists will not necessarily result in withholding of an award under this Agreement. However, the certification will be considered in connection with a determination of the Contractor's responsibility. Failure of the Contractor to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Contractor nonresponsible.
- d. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith, the certification required by paragraph a. of this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- e. The certification in paragraph a. of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to the other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this Agreement for default.

I.5 Type of Business Organization (APR 96)

The Contractor represents that –

- a. It operates as () a corporation incorporated under the laws of the State of _____, () an individual, () a partnership, () a nonprofit organization, or () a joint venture.
- b. If the Contractor is a foreign entity, it operates as () an individual, () a partnership, () a nonprofit organization, () a joint venture, or () a corporation registered for business in _____ (country).
- c. If the Contractor is a corporation, it is () independent (not owned or controlled by another company), () owned or controlled by _____ corporation company registered for business in _____ (state/country).
- d. If the Contractor is owned or controlled by another, state the relationship (e.g., wholly owned subsidiary, etc.): _____

e. The Contractor agrees to provide additional information relating to the above representations if requested to do so by the Contracting Officer.

I.6 Persons Authorized to Request Shipment of Material (JUL 06)

The Contractor shall provide the name(s), title(s), signature(s), and telephone number(s) of representative(s) authorized to sign Section J.2 Shipping Instructions or to submit shipping instructions via the Internet through DWAS:

Typed Name

Title

Signature

Telephone

Typed Name

Title

Signature

Telephone

Typed Name

Title

Signature

Telephone

I.7 Contractor's Billing Address (JUL 96)

The Contractor shall provide its billing address and billing facsimile number below, if different from the address in Section I.1 Quote/Award Form.

I.8 Persons Authorized to Submit Quotes for Industrial Diamond Stones Under the Basic Ordering Agreement (JUL 06)

The Contractor represents that, as of _____, the following individuals are
[insert date]
current employees of _____ and are authorized to sign and submit
[insert name of firm]
quotes for Industrial Diamond Stones on behalf of _____
[insert name of firm]

Typed Name

Title

Signature

Telephone

Typed Name

Title

Signature

Telephone

Typed Name

Title

Signature

Telephone

Signature of Authorized Representative

Name of Authorized Representative

Title

Date

I.9 Disputes: Agreement to Use Alternative Dispute Resolution (JUL 06)

- a.** The parties agree to negotiate with each other to try to resolve any disputes that may arise. If unassisted negotiations are unsuccessful, the parties will use alternative dispute resolution (ADR) techniques to try to resolve the dispute. Litigation will only be considered as a last resort when ADR is unsuccessful or has been documented by the party rejecting ADR to be inappropriate for resolving the dispute.
- b.** Before either party determines ADR inappropriate, that party must discuss the use of ADR with the other party. The documentation rejecting ADR must be signed by an official authorized to bind the contractor, or, for the Agency, by the contracting officer, and approved at a level above the contracting officer after consultation with the ADR Specialist and with legal counsel. Contractor personnel are also encouraged to include the ADR Specialist in their discussions with the contracting officer before determining ADR to be inappropriate.
- c.** If you wish to opt out of this clause, check here (___). Alternate wording may be negotiated with the contracting officer.

END OF SECTION I

SECTION J – LIST OF ATTACHMENTS

- J.1 Storage Locations (JUL 06)
- J.2 Shipping Instructions (JAN 95)
- J.3 DWAS WEB Access Request Form (JUL 06)
- J.4 Fedwire Procedures (OCT 05, Rev.)

J.1 Storage Locations (JUL 06)

DNSC Industrial Diamonds are stored at the following location:

**First National City Bank (Citibank) Vault
640 Fifth Avenue
New York, NY 10019**

To make an appointment to inspect the diamonds, please contact:

Ms. Mary Jackson
DNSC-O, Directorate of Stockpile Operations
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Fort Belvoir, VA 22060-6223

Telephone: (703) 767-7606
Facsimile: (703) 767-7608

J.2 Shipping Instructions (JAN 95)

Shipping Request Number: _____

SHIPPING INSTRUCTIONS

1. a. Contractor: _____

b. Point of Contact: _____ c. Telephone No.: _____

2. a. DNSC Contract No _____ b. Commodity: _____

3. Item/Pile: _____

4. Depot: _____

5. a. Quantity: _____

b. Unit Price: _____ c. Total Dollar Value: _____

6. Shipping Method: _____

7. a. Carrier Name: _____

b. Point of Contact: _____ c. Telephone No.: _____

8. Date Shipment Desired: _____

9. Ship To: _____

10. Minimum Load: _____

11. a. Outloader: _____ b. Telephone No.: _____

12. a. Sampler: _____ b. Telephone No.: _____

13. Copy of Payment Attached: Yes _____ No _____

14. Remarks: _____

15. Contractor's Signature: _____

Date

Telephone

16. Release Approved and Authorized: _____

Contracting Officer

Date

J.3 DWAS WEB Access Request Form (JUL 06)

Shipping instructions may be submitted via the Internet through access to the Defense Working Capital Fund Accounting System (DWAS). Contractors that wish to submit shipping instructions in this manner and that do not *already* have access to DWAS should complete and submit the attached form to the following address:

ATTN: DNSC-C, Industrial Diamond Stones Contracting Officer
Defense National Stockpile Center
8725 John J. Kingman Road, Suite 3229
Ft. Belvoir, VA 22060-6223
Facsimile Number: (703) 767-5494/5484

A separate form must be submitted for each individual requesting access and each individual must sign his/her own form. Individuals requesting online access to DWAS to submit shipping instructions must be designated in the certification Section **I.6 Persons Authorized to Request Shipment of Material (JUL 06)**.

J.3 DWAS WEB Access Request Form (JUL 06)

Defense National Stockpile (DNSC) Customer DWAS WEB Access Request Form		
TYPE OF REQUEST: <input type="checkbox"/> INITIAL <input type="checkbox"/> MODIFICATION <input type="checkbox"/> DISABLE		
PART I (To Be Completed By Customer /User)		
Company Name : <input type="text"/>		
Street: <input type="text"/>		
City : <input type="text"/>	State : <input type="text"/>	Zip Code: <input type="text"/>
Country: <input type="text"/>		
User Name: First: <input type="text"/>	Last: <input type="text"/>	
Job Title/Function: <input type="text"/>		
Phone : <input type="text"/>	Email: <input type="text"/>	
Fax : <input type="text"/>		
Statement of Accountability I understand my obligation to protect my password/login. I understand and will comply with the Instructions provided me and will not divulge the password/login to any other person.		
Signature: <input type="text"/>	Date: <input type="text"/>	
PART II (TO BE COMPLETED BY DNSC TRUSTED AGENT)		
Name: <input type="text"/>	Title: <input type="text"/>	
Phone (COMM): <input type="text"/>	(DSN): <input type="text"/>	
Authentication I certify that the User identified in Part I is authorized to be assigned to the "Customer" group in DWAS Web Production.		
Signature: <input type="text"/>	Date: <input type="text"/>	
Account # : <input type="text"/>		
PART III (TO BE COMPLETED BY DFAS-CO TASCO)		
Assigned USER ID: <input type="text"/>	Assigned PASSWORD: <input type="text"/>	
User ID/Password assigned by: <input type="text"/>	Date: <input type="text"/>	
Signature <input type="text"/>	Date: <input type="text"/>	

J.4 Fedwire and Electronic Funds Transfer Procedures (OCT 05, Rev.)

Fedwire (wire transfer)

The Sender must use a bank that offers Fedwire funds transfer capability. Information regarding Fedwire, including listings of Fedwire funds transfer participants, may be found at <http://www.frb services.org>.

To ensure the funds are credited to the Defense National Stockpile Center the following information is required for any wire transfer of funds.

1. Bank Name, Location, and Routing Number.

Bank Name: TREAS NYC
Location: New York, NY
Routing Number: 021030004

2. Amount of funds to be transferred.

3. Beneficiary Name: 6355
DFAS/DNSC

4. Third Party Information – Contractor’s Name, Commodity, and Contract Number.

NOTE:

Under Item 3, the number 6355 is the ALC = Agency Location Code (this is the same as account number)

Electronic Funds Transfer

The following information is required for payments made through electronic funds transfer.

1. Bank Name, Location, Bank Number, SWIFT Code, and Account Number.

Bank Name: Mellon Bank
Location: Pittsburgh, PA
Bank Number: 043000261
Bank SWIFT Code: MELNUS3P
Account Number: 910-1027

2. Amount of funds to be transferred.

3. Beneficiary Name: Department of Defense DFAS

4. Addendum Information: Payment for DNSC Contract No. _____
Invoice No. _____